



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

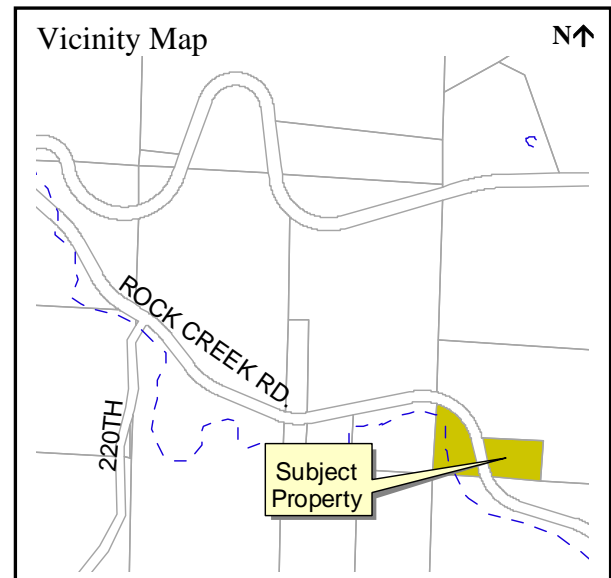
This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

Case File: T2-07-086

Permit: New Forest Dwelling, Exception,
Adjustment and Significant
Environmental Concern Wildlife
Habitat and Streams Permit

Location: 14010 NW Rock Creek Rd.
Tax Lots 800& 900, Section 26D,
Township 2 North, Range 2 West, W.M
Alt. Acct # R972260340 & R972260360

**Applicant/
Owner:** David B. Nadal
3042 SW Florida Ct. #D
Portland, OR 97219



Summary: Request to establish a new forest dwelling in the Commercial Forest Use – 2 (CFU-2) Zone District (template test dwelling) and within the Significant Environmental Concern for Wildlife Habitat (SEC-h) and Streams (SEC-s). The request includes an Exception to the secondary fire safety zone and an Adjustment to the forest practices setback for both the side yards.

Decision: **Approved with Conditions** - A New Forest Dwelling and SEC Permit with an Exception to secondary fire safety zones and Adjustment to both side-yard forest practices setbacks with a reduction from 130 feet to 78 feet for the north side-yard property line and 80 feet for the south side-yard property line.

Unless appealed, this decision is effective June 18, 2008, at 4:30 PM.

Issued by:

By: _____
George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: Wednesday, June 4, 2008

Instrument Number for Recording Purposes: # 94005275 & 18072119

Opportunity to Review the Record: A copy of the Planning Director's 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 June 18, 2008 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): Multnomah County Code (MCC): Chapter 37: Administration and Procedures, MCC 33.2200 et. seq: CFU-2, MCC 33.4500 et. seq: Significant Environmental Concern, MCC 33.5500 et seq: Hillside Development and Erosion Control and MCC 33.7601 et seq: Adjustments and Variances. 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. After this decision becomes final (after the appeal period expires) and prior to building permit sign-off, the property owner shall record with the County Records the Notice of Decision cover sheet through the conditions of approvals. The 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. For the parcel (Tax Lot 900 - R972260360) included in the subject tract which will not have the proposed dwelling located on it, the property owner shall file a covenants, conditions and restrictions to the deed as shown in Exhibit B.13 with County Records that precludes all future rights to site a dwelling on that property and precludes use of the property for qualifying another tract for the siting of a dwelling. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of Multnomah County. That release may be given if the tract is no longer subject to protection under Statewide Planning Goals for forest or agricultural lands. Prior to zoning review for the building permit the property owner shall submit to County Land Use Planning a copy of the recorded covenants, conditions and restrictions. [MCC 33.2240(A)(9)]
3. Prior to any soil disturbance the property owner shall obtain a Hillside Development Permit from Multnomah County Land Use Planning Director. All storm water generated by a development shall be collected and disposed of on-site into dry wells or by other best management practice methods which emphasize groundwater recharge and reduce peak stream flows. The stormwater disposal shall be addressed in the Hillside Development Permit application submittal. The property owner shall comply with all applicable state and federal permit requirements for the development. [MCC 33.5505 and MCC 33.4575(E)(1), (5) and (7)]
4. The proposed dwelling shall meet the minimum setbacks of 78 feet from the north side-yard property line, 80 feet setback from the south side-yard property line, 80 feet from the front-yard property line along the road, and 130 feet setback from the rear-yard property line to the east, as shown on Exhibit B.14. These setbacks were established through the forest practices setbacks with adjustments to both the side-yard setbacks and fire safety zones with an exception to the secondary fire safety zone for both the side yards [MCC 33.2256, MCC 33.7611 and MCC 33.2310]. The dwelling shall meet the SEC-stream setback minimum of 100 feet from Rock Creek [MCC 33.5520]. The property owner shall maintain a primary fire safety zone as outlined in A below. The property owner shall maintain secondary fire safety zone to the extent possible on the subject property as outlined in B below. A site plan prepared by a Registered Profession Surveyor shall be submitted for both the Hillside Development Permit and the building permit zoning review. The site plan shall include a minimum of two foot contours in the area within 100 feet of the development area and shall show the locations of the primary and secondary fire safety zones. The fire safety zone shall be as described below [MCC 33.2256(D)]:
 - A. A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure. On lands steeper than 10 percent slope the primary fire safety zone shall be extended down the slope from a dwelling or structure as shown in the table below:

Percent Slope	Distance
Less than 10 percent slope:	No additional primary fire safety zone required beyond the 30 foot primary fire safety zone
Less than 20 percent slope:	50 feet additional primary fire safety zone required beyond the 30foot primary fire safety zone

Trees within the primary 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 within the primary fire safety zone
 - B. A secondary fire safety zone is a fire break extending a minimum of 100 feet in all directions around the primary safety zone on the subject property. 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 shall be removed to prevent the spread of fire up into the crowns of the larger trees. Maintenance of the secondary fire safety zone is required only on land surrounding the dwelling that is owned or controlled by the property owner.

5. Prior to starting construction work on the dwelling the property owner or their representative shall obtain the required building department permits for the type of construction proposed. It is the property owner's responsibility to confirm that the work performed under the building permit shall be completed with a final inspection. [MCC 33.2261(C)]
6. The dwelling shall be constructed in accordance with the International Fire Code Institute Urban-Wildland Interface Code Section 504 Class 1 Ignition Resistant Construction as adopted August, 1996, or as later amended. The dwelling shall have a central station monitored 13D sprinkler system. There shall be no combustible fences within 12 feet of the exterior surface of the dwelling. [MCC 33.2310(B)]
7. The proposed dwelling shall comply with the standards of the applicable building code. Prior to zoning sign off for building plan check, the property owner or their representative shall provide documentation on the building plans that the proposed dwelling complies with the following [MCC 33.2261(C)]:
 - a. A fire retardant roof; and
 - b. A spark arrester on each chimney.
8. The site plan for the Hillside Development Permit and building permit shall show that the following standards are met for the driveway including an Oregon Professional Engineer statement that they are met by the plans and can be met when installed. Prior to building permit final inspection the property owner shall install a driveway that meets the following standards [MCC 33.2261(E)]:
 - Supports 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).
 - Provide an all-weather surface of at least 12 feet in width for a driveway;
 - Provide minimum curve radii of 48 feet or greater;
 - Provide an unobstructed vertical clearance of at least 13 feet 6 inches;
 - The driveway meets fire district standards [MCC 33.2261(B)(1)(e)].
9. Prior to the approval of the building permit zoning review, the property owner shall provide proof that a well, authorized by the Oregon Department of Water Resources, has been installed on the property. If water supply is unavailable on the property, the applicant shall provide evidence that a legal easement has been obtained permitting domestic well and water lines on the properties of affected owners. [MCC 33.2261(D)]
10. The statement, in Exhibit B.12 shall be recorded with the Division of Records prior to zoning approval of the building permit, verifying that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices. [MCC 33.2307]
11. The property owner shall submit a stocking survey report to the county assessor and the assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules. [MCC 33.2240(A)(6)]

12. Soil disturbing activities within a Stream Conservation Area (within 300 feet of the Rock Creek) shall be limited to the period between June 15th and September 15th. Revegetation/soil stabilization must be accomplished no later than October 15. Best Management Practices related to erosion and sediment control shall be required within a Stream Conservation Area. [MCC 33.4575(E)(6)]
13. The property owner shall implement the mitigation plan proposed in the *Technical Memorandum* dated August 24, 2006 by Jack Dalton, Senior Wetlands Scientist, Environmental Science & Assessment, LLC attached as Exhibit A.6 (Applicant's Exhibit 21) which calls for planting understory vegetation, native shrubbery along the driveway. Additionally as mitigation to offset the impacts of the proposed development, that the property owner shall plant native trees on the small cleared area previously proposed for the dwelling, remove nuisance plants on the property that are listed in Condition Number 15 and plant both those areas with native understory vegetation including shrubs. The property owner shall annually monitor the site for a period of five years to ensure an 80 percent annual survival rate of the required plantings. If the survival rate drops to less than 80 percent the property owner shall replace the non-surviving plants with plants from the list of native species. No additional trees shall be removed unless necessary for siting the development, for meeting the primary fire safety zone requirements or the removal of is dead or dying tree that threatens development on the property. Any trees over six inches in caliper that are removed as a result of any development shall be replaced by any combination of native species whose combined caliper is equivalent to that of the trees removed. A tree removal and replacement plan shall be submitted for the Hillside Development Permit application and building permit zoning review that demonstrates this condition is met. [MCC 33.4575 (D) MCC 33.4570(C)(3) and MCC 33.4575 (E) (4)]
14. The property owner shall ensure that any exterior lighting associated with a proposed development be placed, shaded or screened to avoid shining directly into a Stream Conservation Area. Any proposed exterior lighting shall be shown on the building plans and shall be hooded so that the light is directed downward. [MCC 33.4575(E)(3)]
15. The following nuisance plants shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property [MCC 33.4570(B)(7)]:

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

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

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

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

- 16.** The driveway serving the site shall be built to have a 20-ft paved approach to Rock Creek road. This paved approach will be measured from the edge of pavement of Rock Creek Road. It shall not create any drainage problems along the County Road. [MCC 33.2273]

NOTE: Once the decision is final and all conditions of approval have been met, application for building permits may be made with the City of Portland, Building Bureau. When ready for zoning sign-off for plan check to obtain a building permit, the applicant shall call the Staff Planner, George A. Plummer at (503) 988-3043 ext. 29152, for an appointment for zoning review plan check and to sign the building permit form. Please note, Multnomah County must review and sign off the building permit form and plans before the applicant submits building plans to the City of Portland. Six (6) sets of the plans and six site plans of the building area are needed for building permit sign off. The current fee for the building permit zoning review is \$53 and for erosion control inspection is \$77.

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

Note: Written findings are contained herein in the following section of this decision. The Multnomah County Code criteria and standards are in **bold** font. The applicant's statements are italicized and identified "**Applicant**". Staff comments and analysis addressing the applicable criteria and standards are identified as "**Staff**."

1. PROPOSAL

Applicant: *A template dwelling in the Comm. Forest use Zone and SEC-H and S.*

Staff: The application is for a New Forest Dwelling (Template Dwelling) and Significant Environmental Concern for Wildlife Habitat (SEC-h) and Streams (SEC-s) Permit. The application also includes a request for an Exception to the Secondary Fire Safety Zone and an Adjustment to the Forest Practices Setback for both the side yards, a reduction from 130 feet to 78 feet.

The property is located in the West Hills Rural Plan Area within the Commercial Forest Use – 2 (CFU-2) Zone District and the SEC-h Overlay District. The portion of the property where the dwelling is proposed is also within the SEC-s and the Hillside Development Overlay Districts. The proposal includes a dwelling footprint of 22 feet by 40 feet. Conditions of approval will limit the approval to a lesser sized dwelling to meet primary fire safety zone standards (see Condition of Approval Number 4).

The applicant has chosen not to apply for the Hillside Development Permit at this time. A condition will require a Hillside Development Permit be obtained prior to any soil disturbance work including tree removal associated with the development.

2. PROPERTY DESCRIPTION & VICINITY

Staff: The subject tract includes two parcels, one on each side of NW Rock Creek Road. We will refer to these two parcels together as the tract later in this decision. No development is proposed for the 1.06 acre parcel with Rock Creek crossing it located west of Rock Road (Exhibit B.1). The 1.0 acre parcel east of NW Rock Creek Road is where the dwelling site is proposed to be located (Exhibit A.3) and will be referred to as the "property" from this point forward. The property rises up from the road at about 17 percent slope with a small intermittent tributary stream running across the property towards the front.

The properties in the vicinity are a variety of sizes (Exhibit B.3) ranging from 40 acres to less than an acre. Most have at least a portion in forest management use, several are predominately forest management. Several of the properties along NW Rock Creek Road have a dwelling on them.

3. ADMINISTRATION & PROCEDURES

3.1. Summary Of Decision Making Processes

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.

Staff: Procedures outlined in MCC 37.0530 were followed in processing this case. An "Opportunity to Comment" notice was mailed on January 4, 2008 to all owners of property within 750 feet of the subject site. They were given a 14-day period to provide comments on the application (MCC Chapter 37). No comments were submitted. An opportunity to appeal this case will be provided. If no appeal is filed, the decision will become final 14 days after the date on the decision.

3.2. INITIATION OF ACTION

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. PC (legislative) actions may only be initiated by the Board of Commissioners, Planning Commission, or Planning Director.

Staff: An application was submitted October 5, 2006 for the New Forest Dwelling and SEC Permit (Exhibit A.1) by Dave Nadal. An additional application was submitted on March 27 2008 by Mr. Nadal for an Exception to the secondary fire safety zone and an Adjustment to the forest practices setbacks (Exhibit A.2). Assessment & Taxation records show that the land is owned by David B. Nadal (Exhibit B.1). Mr. Nadal signed the application forms. This criterion has been met.

4. COMMERCIAL FOREST USE – 2 LOT OF RECORD PROVISIONS

4.1. CFU-2 Lot of Record

MCC 33.2275(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
- (2) A group of contiguous parcels or lots:
 - (a) Which were held under the same ownership on February 20, 1990; and
 - (b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

MCC 33.2210 DEFINITIONS: Contiguous - Refers to parcels or lots which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels or lots separated only by an alley, street or other right-of-way.

Applicant: *The two lots under consideration (deemed one lot of record because of their contiguous status) were owned by the applicant on February 20, 1990, and the applicant owned*

no other adjacent or contiguous parcels on that date. (Exhibit 1, Nadal Property deeds).

Staff: County Assessment records indicate the two previously identified parcels were under the same ownership on February 20, 1990. These two properties together are a Lot of Record (see finding below in Section 4.2 of this decision for MCC 33.0005).

4.2 Lot Of Record Definition

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.)**

Applicant: *(Exhibit 1, Nadal Property deeds).*

Staff: The applicant has submitted deeds for the two previously described properties that predate zoning and land division requirements. The deed for the property east of NW Rock Creek Road was filed with County Records on May 8, 1950 and recorded in Book 1402 on Page 140 (Exhibit A.6, Applicant’s Exhibit 1). For the property west of the road the applicant submitted a deed recorded in Book 1265 on Page 221 in 1944 (Exhibit A.9) These deeds demonstrate these properties were created prior to zoning and partition requirements, thus meet the standards in (a) and (b)(2) for a Lot of Record. Together the two parcels are a Lot of Record, given the requirements of MCC 33.2275(A) (see the finding above in Section 4.1), and make up the subject tract for this decision.

5. COMMERCIAL FOREST USE – 2 REVIEW USE

MCC 33.2225 (B) A Template Dwelling pursuant to all applicable approval criteria, including but not limited to MCC 33.2240(A).

Staff: The applicant is proposing a template dwelling. The findings for MCC 33.2240(A) are in the following Section 6 of this decision. Review uses are processed as Type II cases as required by MCC 37.0530.

6. COMMERCIAL FOREST USE – 2 TEMPLATE DWELLING CRITERIA

6.1. MCC 33.2240(A)(1) The lot or lots in the tract shall meet the lot of record standards of MCC 33.2275;

Applicant: *The two lots under consideration (deemed one lot of record because of their contiguous status) were owned by the applicant on February 20, 1990, and the applicant owned no other adjacent or contiguous parcels on that date. (Exhibit 1, Nadal Property deeds).*

Staff: Lot of Record findings are under Section 4 of this Staff Report. We determined that the tract, the two properties together, meets the Lot of Record standards of MCC 33.2275. The criterion is met.

7.2. MCC 33.2240(A)(2) The tract shall be of sufficient size to accommodate siting the dwelling in accordance with MCC 33.2256 and 33.2261

Applicant: *Refer to responses to MCC 2305 and MCC 33.2310, below, which deal with the exceptions. As those responses show, exemptions are requested, and the site qualifies for the exceptions.*

Additional Responses: MCC § 33.4570 (SEC-H), requests that new development occur in already cleared areas. Please see responses to MCC 33.4570 (SEC-H), below. The previously cleared areas on the Site are the farthest from Rock Creek Road on the Site, with the home proposed for within the cleared area, and approximately 150 feet from Rock Creek Road, and 40 feet from property boundaries. There are a variety of other natural resource reason for this location, as well. Refer to Mitigation Plan (Exh. 12) and 2006 Environmental Report (Exh. 21) for complete information.

Staff: In addition to the Template Dwelling application, the applicant is applying for an Adjustment to the Forest Practices Setbacks and an Exception to the Secondary Fire Safety Zone. MCC 33.2256(A) states that reductions to a Forest Practices Setback dimension may be allowed pursuant to approval of an Adjustment. MCC 33.2256(B) states that an Exception to the Secondary Fire Safety Zone may be allowed pursuant to MCC 33.2310. Findings addressing MCC 33.2256 and 33.2261 are in Section 7 and 8 of this decision. The two acre tract is sufficient size with the Adjustment and Exception approval to meet MCC 33.2256 and 33.2261. This criterion is met.

6.3. MCC 33.2240(A)(3) The tract shall meet the following standards:

* * *

6.3.1. MCC 33.2240(A)(3)(c) If the tract is predominantly composed of soils which are capable of producing above 85 cf/ac/yr of Douglas Fir timber; and

Applicant: *It has been determined that the tract soils require the standards of this section (c). This soils determination was made by county staff in the pre-application process. (Exhibit 3, Pre-Applic. Staff Notes, page 5). In addition, please refer to Exhibit 2, p. 8 at (3)(c) for soils delineation description. (From Staff Report In Re: 1995 Drevescraft template application). The*

Drevescraft property is contiguous to applicant's property and has the same soils classification. Exhibit 22, 1995 Environmental Report---Figure 4 (Mult. Co. soils survey map) and Figure 5 (key to Figure 4).

Staff: We concur with the applicant. The soil composition for this property shown in the *Soil Survey of Multnomah County* by US Soil Conservation Service as being Cascade silt loam – 7C, 7D and 7E. Given this soil composition, the property is capable of producing above 85 cf/ac/yr of Douglas Fir timber (Exhibit B.8). Given the soil capability, the applicant must demonstrate that the following criteria are met [MCC 33.2240(A)(3)(c) 1 and 2].

6.3.1.1. MCC 33.2240(A)(3)(c)1: The lot upon which the dwelling is proposed to be sited and at least all or part of 11 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject tract parallel and perpendicular to section lines; and

Applicant: *Exhibit 13 contains the cardstock and diagrams used to obtain the center of the 160 acre square. Applicant had this estimation confirmed by certified photogrammetrist Christopher Aldridge of Spencer B. Gross, Inc. (Exhibit 14b). Exhibit 14h, provided to me by planning staff from a Planning Department 1986 diagram of this same template square, also confirms the centerpoint location. (Exhibit 14h also shows the seven dwellings referred to below).*

Response to the eleven lot criteria is included in the response to #2, next below, which also responds to the five dwelling criteria.

As per personal conversations and correspondence with planners George Plummer, Gary Clifford and Adam Barber, applicant has been assured that he may use the 1995 Drevescraft Hearing Officer's decision (CU 8 95) as constituting validation for all of the 11 lots, and four of the five dwellings within the template square. (Exhibits 10 and 11 contains the applicable pages from the Staff Report and Hearing Officer Decision on CU-8-95). The Drevescraft property (now the Jersey property, R97226-0090) constitutes the entire southern boundary of the Site. The template square for the Drevescraft property has much overlap with the template square of applicant's property.

All of the 11 required lots of record were validated in the earlier Drevescraft decision. 4 of the 5 required dwellings are validated as well. Records of three more additional lawful dwellings within the applicant's template square are provided in Exhibit 9. On page one of Exhibit 9, the first three dwellings listed are marked ("Dwelling---additional.") The building permit records for these dwellings are attached to Exhibit 9. As these attachments show, all of the dwellings were lawfully completed and permitted prior to January 1, 1993. Although the required 11 lawful lots already exist through the CU-8-95 decision, lots 2 through 13 on pages one and two of Exhibit 9 are lawfully created lots that are additional to the required 11 shown in CU-8-95. (See left margin of pages one and two of Exhibit 9, marked "New Lots").

Please refer to the "Dwelling Maps Guide" (Exhibit 14 a-e) for the marked template map location of the seven dwellings.

12 lots from 1995 Drevescraft Decision (CU-8-95) (Exhibits 10 and 11): Lots 6 (Jersey), 30 (Wheeler), 18 (Johnson), 15 (HARTLEY), 40 (WALLOWER), 19 (McClure), 25 (Rollette), 27 (Hartley); 56 (Nelson), 26 (Hartley), 32 (McKinney), 31 (Mckinney).

No additional lots are needed, since 11 are required and the CU-8-95 decision provides 12 that are within applicant's template square.

Staff: The two parcels that make up the tract existed on January 1, 1993 (see Lot of Record finding in Section 4 of this decision). Additionally there are 11 legally created lots located within a 160-acre square template that existed on January 1, 1993. Located within the template when centered on the center of the subject tract, positioned parallel and perpendicular to section lines, are Lots 1, 2, 3, 4, 5, 6, 44, 45, 46, 47, and 48 Block 10 of Greenoe Heights Subdivision. Greenoe Heights Subdivision was approved by the County on March 17, 1009 and recorded in County Records that same day. For this finding the Code does not apply the Lot of Record aggregation requirement of MCC 33.2275(A). This criteria is met.

6.3.1.2. MCC 33.2240(A)(3)(c)2. At least five dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings.

Applicant: 5 DWELLINGS REQUIRED (7 DWELLINGS SHOWN)
(Exhibits 10 and 11, as well as "Dwelling Maps Guide" at Exhibit 14).

Exhibits 10 and 11 from the CU 8-95 decision show the following four lawful dwellings: Lot 18, Johnson; Lot 40, Wallower; Lot 56, Nelson, and Lot 31, Mckinney, (4 lots). For three additional lawful dwellings both outside and inside the Drevescraft CU 8-95 template square, refer to Exhibit 9 and attached supporting documents.

Staff: The applicant refers to old tax lot numbers in his narrative, for lots which have a dwelling for which he states qualify as lawfully existed on January 1, 1993 within the 160-acre square and which continues to exist or have been replaced by lawful replacement dwellings. The old tax lot number is contained within the County Assessor's nine digit alternative account number shown in County Assessment records included as Exhibit B.8. The old tax lot number appears in the last digits of the alternative account number for example old tax lot number 18 appears as the 2nd and 3rd to the last numbers in R972260180, the underlined portion of the number. Below is a table which lists the properties that the applicant has stated in his narrative as meeting this criterion. Staff includes an additional dwelling located at on property described as R972260170 at 4109 NW Rock Ck Rd.

For the table below we verified that year established and the continued existence of a dwelling on the property using County Assessment records included as Exhibit 2.8. We also used these records to verify the value of the improvements are a value equivalent to that of a dwelling. For example the property listed under old Tax Lot # 18 (R972260180) at 14628 NW Rock Ck Rd. has an improvement value of \$158,600, a value equivalent to that of a dwelling. Where as the property listed under old Tax Lot # 56 (R972260560) with no site address has an improvement value listed at \$860 which is not a value equivalent to that of a dwelling. For this reason we the structure excluded without additional evidence on old Tax Lot # 56 as a dwelling that continues to exist. We verified that dwellings were legally established through the date year built on County Assessment record and through building permit (BP) documents or a finding in Case CU 8-95 that the dwelling was legally established.

Lot#	Alt. Account #	Current Address	Year Built	Verified dwellings are lawfully created, existed 1/1/1993 and continue to exist
17	R972260170	14109 NW Rock Ck Rd.	1935	Verified no BP necessary
18	R972260180	14628 NW Rock Ck Rd.	1967	Verified Case CU 8-95
31	R972260370	14660 NW Rock Ck Rd.	1987	Verified Case CU 8-95
37	R972260310	13611 NW Rock Ck Rd.	1992	Verified BP issued 1991
39	R972260390	14625 NW Rock Ck Rd	1963	Verified receipt for BP in 1961 and remodel BP in 2004 in file
40	R972260400	14027 NW Rock Ck Rd.	1958	Verified Case CU 8-95
56	R972260560	No address	1937	Not verified

We have verified that there are at least six single family dwellings that were lawfully established existed on January 1, 1993 located within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings. This criterion is met.

6.3.2. MCC 33.2240(A)(3)(d) Lots and dwellings within urban growth boundaries shall not e counted to satisfy (a) through (c) above.

Applicant: *Applicant's property is not within a UGB.*

Staff: None of the lots or dwelling used for the criteria above are located in the UGB. This criterion is met.

6.3.3. MCC 33.2240(A)(3)(e) There is no other dwelling on the tract,

Applicant: *There is no dwelling on applicant's tract.*

Staff: We concur with the applicant that there is no dwelling on the subject tract. This criterion is met.

6.3.4. MCC 33.2240(A)(3)(f) No other dwellings are allowed on other lots (or parcels) that make up the tract;

Applicant: *There is no dwelling on applicant's tract.*

Staff: There is no dwelling on the two parcels that make up the applicant's tract. This criterion is met.

6.3.5. MCC 33.2240(A)(3)(g) Except as provided for a replacement dwelling, all lots (or parcels) that are part of the tract shall be precluded from all future rights to site a dwelling; and

Staff: For the parcel west of the road, Tax Lot 800 (R972260340) included in the subject tract which will not have the proposed dwelling located on it, the property owner shall file a covenant

to the deed as shown in Exhibit B.13 with County Records that precludes all future rights to site a dwelling.

6.3.6. MCC 33.2240(A)(3)(h) No lot (or parcel) that is part of the tract may be used to qualify another tract for the siting of a dwelling;

Staff: As a condition of the approval the for the parcel west of the road, Tax Lot 800 (R972260340) included in the subject tract which will not have the proposed dwelling located on it, the property owner shall file a covenant to the deed as shown in Exhibit B.13 with County Records precluding the use of the property for qualifying another tract for the siting of a dwelling.

6.3.7. MCC 33.2240(A)(3)(i) Pursuant to the definition of “Date of Creation and Existence” in MCC 33.0005, if the lot, parcel or tract does not qualify for a dwelling under the standards in MCC 33.2240(A), any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the criteria for a new dwelling.

Staff: There has not been any reconfiguration of the subject tract since at least 1985 as shown on the submitted deed for the subject properties filed with County Records on March 1, 1985, recorded in Book 1807 on Page 2119 (Exhibit A.6 Applicant’s Exhibit 1) and the current County Assessment map (Exhibit B.1). This criterion is met.

6.3.8. MCC 33.2240(A)(3)(j) Pursuant to the definition of “Date of Creation and Existence” in MCC 33.0005, lots, parcels and tracts that are reconfigured after November 4, 1993 cannot be counted as meeting the “other lawfully created lots” existing on January 1, 1993 standard in MCC 33.2240(A)(3)(a), (b), and (c): 3, 7, and 11 lots respectively.

Staff: Lots 1, 2, 3, 4, 5, 6, 44,45, 46, 47, and 48 Block 10 of Greenoe Heights Subdivision approved by the County on March 17, 1909 and recorded in County Records that same day have not been reconfigured since created (Exhibit B.6 and B.7). The criterion has been met.

6.4. MCC 33.2240(A)(4) The dwelling will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife, or that agency has certified that the impacts of the additional dwelling, considered with approvals of other dwellings in the area since acknowledgment of the Comprehensive Plan in 1980, will be acceptable.

Applicant: *The dwelling is not located in a big game winter habitat area. (Exhibit 4, Sensitive Big Game Wintering Areas map, from Multnomah County).*

Staff: We concur that the Comprehensive Plan Big Game Habitat Map shows the subject property is not located within an area designated as habitat for big game (Exhibit A.6, Applicant’s Exhibit 4). This criterion is met.

6.5. MCC 33.2240(A)(5) Proof of a long-term road access use permit or agreement shall be provided if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the Bureau of Land Management, or the United States Forest Service. The road use permit may require the applicant to agree to accept responsibility for road maintenance;

Applicant: *Road access is via Rock Creek Road, an established county road maintained by both Multnomah and Washington counties. Also refer to Exhibit 5, the county driveway permit for the site.*

Staff: The property is accessed from NW Rock Creek Road, a County Public Road (Exhibit B.1). The criterion is not applicable.

- 6.6. MCC 33.2240(A)(6) A condition of approval requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules, provided, however, that:**
- (a) The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;**
 - (b) The property owner shall submit a stocking survey report to the county assessor and the assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules. The assessor will inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report or where the survey report indicates that minimum stocking requirements have not been met;**
 - (c) Upon notification by the assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the department determines that the tract does not meet those requirements, the department will notify the owner and the assessor that the land is not being managed as forest land. The assessor will then remove the forest land designation pursuant to ORS 321.339 and impose the additional tax pursuant to ORS 321.372;**

Applicant: *The property is currently under the Forest Deferral program. (Exhibit 6, Dept. Forestry Stocking forms.)*

Staff: A condition will require a stocking report be submitted to County Assessment and Taxation. This criterion can be met through a condition.

- 6.7. MCC 33.2240(A)(7) The dwelling meets the applicable development standards of MCC 33.2256 and 33.2261;**

Staff: The findings of compliance with MCC 33.2256 and 33.2261 can be found in the following sections of this staff report. Under MCC 33.2256(A) and (B) an adjustment to forest practices setbacks and an exception to secondary fire safety zone can be granted if the criteria are met for those actions. The applicant requested an exception to the secondary fire safety zone and an adjustment to forest practices setbacks. The exception findings are in Section 9 of this decision. The adjustment findings are in Section 11. The proposal was found to meet the criteria for both the exception and the adjustment. The criteria under MCC 33.2256 and 33.2261 that can affect building construction techniques are included as conditions. As conditioned, this criterion can be met.

- 6.8. MCC 33.2240(A)(8) A statement has been recorded with the Division of Records that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices;**

Applicant: *Exhibit 7.*

Staff: A condition of approval will require a covenant be filed with County Records that acknowledges the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices. The covenant to be recorded is provided by County Land Use Planning in Exhibit B.12. As conditioned, this criterion can be met.

- 6.9. MCC 33.2240(A)(9) Evidence is provided, prior to the issuance of a building permit, that the covenants, conditions and restrictions form adopted as "Exhibit A" to the Oregon Administrative Rules (OAR), Chapter 660, Division 6 (December, 1995), or a similar form approved by the Planning Director, has been recorded with the county Division of Records;**
- (a) The covenants, conditions and restrictions shall specify that:**
 - 1. All lots (or parcels) that are part of the tract shall be precluded from all future rights to site a dwelling; and**
 - 2. No lot (or parcel) that is part of the tract may be used to qualify another tract for the siting of a dwelling;**
 - (b) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of Multnomah County. That release may be given if the tract is no longer subject to protection under Statewide Planning Goals for forest or agricultural lands;**
 - (c) Enforcement of the covenants, conditions and restrictions shall be as specified in OAR 660-06-027 (December, 1995).**

Applicant: *Exhibit 7.*

Staff: A condition of approval will require the property owner to file a covenant, conditions and restrictions to the deed as shown in Exhibit B.13 with County Records for the parcel included in the subject tract which will not contain the dwelling. The condition will apply to the parcel west of NW Rock Creek Road described as Tax lot (R972260340). The covenant, conditions and restrictions document will preclude all future rights to site a dwelling and will preclude use of the property for qualifying another tract for the siting of a dwelling. The condition will require the covenants, conditions and restrictions state that they are irrevocable, unless a statement of release is signed by an authorized representative of Multnomah County. That release may be given if the tract is no longer subject to protection under Statewide Planning Goals for forest or agricultural lands. The condition will require that prior to zoning review for the building permit the property shall submit to County Land Use Planning a copy of the recorded covenants, conditions and restrictions. This standard is met through conditions.

7. COMMERCIAL FOREST USE – 2 FOREST PRACTICES SETBACKS AND FIRE SAFETY ZONES

- 7.1. 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:**

Table 1

Use	Forest Practice Setbacks			Fire Safety Zones
Template Dwelling	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: *The applicant is requesting an adjustment of 40 percent, as allowed under MCC 33.7611.*

An exception to some standards is being requested, because of extraordinary fire prevention measures proposed by applicant, required by the county, and required by the Tualatin Valley Fire and Rescue District. (It is requested that no secondary fire safety zone be required, a condition that, after inspection, is acceptable to the Fire District). Please refer to exception responses to MCC 33.2305(A)(5) and 33.2310, below. Also refer to Exhibit 16, Fire Access and Fire Water Flow approval forms from Tualatin Valley Fire and Rescue. Exceptions are allowed under MCC 33.2310.

In addition, as is also required for such an exception, the additional measures required by MCC 33.2310(B) are assented to by applicant and will be required. (See response to 33.2310(B) below).

Staff: The proposed dwelling will not meet the forest practice setbacks for both side-yards. The applicant has requested an Adjustment to the forest practice setbacks for the side-yard setbacks and has requested an exception to the secondary fire safety zone are addressed in Section 9 and Section 11 of this decision below.

- 7.2. 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: In a memorandum dated March 19, 2008 (Exhibit B.11) J. Michael Lynch, County Transportation Planning Specialist, states, "The county standard right of way for a Rural Local facility includes 50 feet." Mr. Lynch continues, "Currently, 50 feet of right of way exists adjacent to the site for Rock Creek Road, which meets this standard. No increase in the setback is needed."

- 7.3. 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).

Applicant: *An exception to some standards is being requested, because of extraordinary fire prevention measures proposed by applicant, required by the county, and required by the Tualatin Valley Fire and Rescue District. (It is requested that no secondary fire safety zone be required, a condition that, after inspection, is acceptable to the Fire District). Please refer to exception responses to MCC 33.2305(A)(5) and 33.2310, below. Also refer to Exhibit 16, Fire Access and Fire Water Flow approval forms from Tualatin Valley Fire and Rescue. Exceptions are allowed under MCC 33.2310.*

In addition, as is also required for such an exception, the additional measures required by MCC 33.2310(B) are assented to by applicant and will be required. (See response to 33.2310(B) below).

Staff: The primary fire safety zone must extend a minimum of 30 feet in all directions around a dwelling except when the slope down slope from the dwelling is more than 10 percent. Staff measured the slope down slope from the proposed dwelling site and determined it to range from 12 to 18 percent to the west and to the south. The primary fire safety zone will need to be expanded to 80 feet to the west and to the south of the dwelling. This requirement reduces the foot print of the dwelling to 20 feet by 38 feet (shortest point) as shown on Exhibit B.14, to meet the primary fire safety zone and the Adjustment criteria.

The property owner shall maintain secondary fire safety zone to the extent possible on the subject property as outlined in B below. A site plan prepared by a Registered Profession Surveyor will need to be submitted for both the Hillside Development Permit and the building permit zoning review to determine the impacts of the tree remove on slope stability and potential for erosion. The site plan will need to include minimum of two foot contours within a 100 feet of the development area and shall show fire safety zones for us to determine that the condition is met. Findings for the Exception to secondary fire safety zones are in Section 9 of this decision. A condition of approval will require the primary fire safety zone be established and maintained and the secondary fire to established and maintained to the extent possible on the property.

8. CFU-2 DEVELOPMENT STANDARDS FOR DWELLINGS AND STRUCTURES

MCC 33.2261: All dwellings and structures shall comply with the approval criteria in (B) through (E) below except as provided in (A):

Staff: MCC 33.2261(B) through (E) are addressed in the following findings.

8.1. MCC 33.2261(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):

Staff: The proposal is a new dwelling. No accessory building is proposed. There is no existing dwelling to be replaced. The proposed dwelling can not meet the standards in (1) thus the findings below show that it meets the standards in (2) and (3).

8.1.1. MCC 33.2261(B)(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;**
- (b) Adverse impacts on forest operations and accepted farming practices on the tract will be minimized;**
- (c) The amount of forest land used to site the dwelling or other structure, access road, and service corridor is minimized;**
- (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;**

Applicant: *Adverse impacts on forest operations are minimized by being sited on an existing county road, and the access factors cited above in the responses to 33.2245 (Use Compatibility Standards). No access roads or service corridors are over 500 feet. The driveway for the site is under 200 feet. (Site Plan, Exhibit 18).*

Staff: The proposed dwelling location is as far from the adjacent properties as possible given the configuration of the subject property. As required by the Exception to the Secondary Fire Safety Zone standards the dwelling will be required by a condition to 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. The Exception has other requirements that will reduce the risk the dwelling being the source of a fire including a sprinkler system and an alarm. These requirements reduce potential impact to the nearby or adjoining forest by reducing the risk of fire resulting from the dwelling or the

dwelling being damage by a wildfire. The nearest farm land is more than 450 feet to the northeast from the proposed dwelling site, thus the dwelling will not impact any farm land. The proposed dwelling location has the least impact on nearby or adjoining forest or agricultural lands. The standards in MCC 33.2256 are setback and fire safety zone standards which also allow for an adjustment and an exception if certain standards are met (see Sections 9 and 11). The property owner will be required to maintain a primary fire safety zone and a secondary fire safety zone to the extent possible. The property owner will be required to 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. Given these requirements the proposed development meet the standard of having the least impact on nearby or adjoining forest or agricultural lands possible for the subject property.

The property is too small to practicably manage for a commercial forest or farm operation, therefore there will be no impact to these types of practices on the property. The development area on the property including the driveway will be minimal. The proposed driveway will be a little more than 100 feet long. These criteria have been met.

8.1.2. MCC 33.2261(B)(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;**
- (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: *Please refer to Exhibit 16, Fire District approval forms for water flow and site access. The Fire District forms include measures and conditions for minimizing fire risks. The dwelling is in the Tualatin Valley Fire and Rescue District.*

Staff: The proposed dwelling is within the Tualatin Valley Fire and Rescue fire protection district. The applicant has submitted a signed fire district form stating the property can be served (Exhibit A.6, Applicant's Exhibit 16). As required by the Exception to the Secondary Fire Safety Zone standards the dwelling will be required by a condition to 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. The Exception has other requirements that will reduce the risk the dwelling being the source of a fire including a sprinkler system and an alarm. There is a perennial water source, Rock Creek located across the NW Rock Creek Road from the driveway however, the stream is small and would not provide 4,000 gallons water at one time thus (b) is not applicable. The applicable criterion has been met.

8.2. MCC 33.2261(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;**
- (2) If a mobile home, have a minimum floor area of 600 square feet and be attached to a foundation for which a building permit has been obtained;**
- (3) Have a fire retardant roof; and**

(4) Have a spark arrester on each chimney.

Staff: The applicable criteria area (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.” A condition will require that the dwelling meet the applicable criteria.

8.3. MCC 33.2261(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: *Exhibit 17, Multnomah County Water District and Well Water Supply form, with attachments.*

Staff: The applicant proposes to provide water with an on-site well. He has submitted well reports from nearby properties which indicate that serving the property with well water is likely feasible. A condition of approval will require a well authorized by the Oregon Department of Water Resources be installed on the property prior to the approval of the building permit zoning review. This standard is met through a condition.

8.3.1. MCC 33.2261(D)(1) If the water supply is unavailable from public sources, or sources located entirely on the property, the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.

Applicant: *The proposed water supply is a well located on the subject tract. Therefore this criterion is not applicable.*

Staff: A condition will require that if water supply is unavailable on the property, the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners. This standard is met through a condition.

8.3.2. MCC 33.2261(D)(2) Evidence of a domestic water supply means:

- (a) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or**
- (b) A water use permit issued by the Water Resources Department for the use described in the application; or**
- (c) Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.**

Staff: The applicant proposes to provide water with an on-site well. He has submitted well reports from nearby properties which indicate that serving the property with well water in likely feasible. A condition of approval will require a well authorized by the Oregon Department of Water Resources be installed on the property prior to the approval of the building permit zoning review. This standard is met through a condition.

8.4. MCC 33.2261(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:

Staff: Findings in the following sections.

- 8.4.1. MCC 33.2261(E) (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;**

Applicant: *The proposed driveway siting can be seen in white in Exhibit O.2. and will be constructed of rock and gravel. The driveway will be constructed to support loads of 52,000 lbs. There are no bridges or culverts required by the proposed siting of the driveway. Criterion met.*

Staff: The proposed driveway includes a culvert crossing of an intermittent stream. If the culvert must be replaced then it will need to meet the requirements of the SEC-s standard in MCC 33.4575(E)(1) discussed in Section 12.6.1 of this decision. A condition will require that the driveway and culvert has to meet this standard.

- 8.4.2. MCC 33.2261(E) (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;**

Staff: A condition will require that the driveway has been constructed to this standard.

- 8.4.3. MCC 33.2261(E) (3) Provide minimum curve radii of 48 feet or greater;**

Staff: A condition will require that the driveway has been constructed to this standard.

- 8.4.4. MCC 33.2261(E) (4) Provide an unobstructed vertical clearance of at least 13 feet 6 inches;**

Staff: A condition will require that the driveway has been constructed to this standard.

- 8.4.5. MCC 33.2261(E) (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;**

Applicant: *Maximum grade is not exceeded. (Exhibit 19, Geotechnical Report). All Fire Access road conditions are covered under the Fire District Approval forms at Exhibit 16.*

Staff: The Tualatin Valley Fire district has approved the access driveway of 12 percent. This standard is met.

8.4.6 MCC 33.2261(E) (6) Provide a turnaround with a radius of 48 feet or greater at the end of any access exceeding 150 feet in length;

Staff: The proposed driveway is less than a 150 feet. A condition will require that the driveway has been constructed to this standard.

8.4.7. MCC 33.2261(E) (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.

Staff: The proposed driveway is less than 200 feet long (Exhibit A.3). This standard is met.

9. EXCEPTIONS TO SECONDARY FIRE SAFETY ZONES

9.1. MCC 33.2310 (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.**

Applicant: *The exception to the Secondary Fire Safety Zone is requested. Averages on the Site Parcel are far less than 330 feet of width and depth, so the exception applies to this application. (The site parcel has dimensions of 170' x 276' x 178' x 218'.) Refer to site plan (Exhibit 18) and accompanying boundary measurements that show all dimensions of applicant's property are less than 330 feet. Also refer to the most recent survey of the property for a separate verification of these measurements (Exhibit 23).*

As stated in the response to 33.2260 (c), above, in order to preserve the forest stock along with the forest canopy and other environmental features, applicant is requesting that no secondary fire zone be required. Please note that the Fire District concurs with this request in their review, and is requiring only the primary fire safety yard of 30 feet. (Exhibit 16). After inspection, and because of other fire prevention mitigation measures being undertaken by applicant, as well as conditions of Fire District approval (Exhibit 16, Fire District Access and Flow Forms), the Fire District is requiring that only a "defensible 30 foot" primary fire zone around the property be required.

Please also refer to Exhibit 21, 2006 Environmental Report, Mitigation Plan, page seven, and the Mitigation Plan, Exhibit 12), for the many environmental reasons why the secondary fire zone should not be required by Multnomah County. As the 2006 Environmental Report states, applicant has planned his Site Plan to minimize the removal of forest stock and other vegetation.

Staff: The applicant proposed setbacks from the side-yard property lines of 78 feet. The tract is bisected by NW Rock Creek Road. The property on which the dwelling is proposed at its widest point (north to south) is less than 330 feet wide. The tract meets this criterion for an Exception to

the Secondary Fire Safety Zones and a condition will require the dwelling meet the provisions of 33.2310 (B).

9.2. MCC 33.2310 (B) Exceptions to secondary fire safety zones shall only be granted upon satisfaction of the following standards:

- (1) If the proposed secondary fire safety zone is between 50 and 100 feet, the dwelling or structure shall be constructed in accordance with the International Fire Code Institute Urban– Wildland Interface Code Section 505 Class 2 Ignition Resistant Construction as adopted August, 1996, or as later amended, or**
- (2) If the proposed secondary fire safety zone is less than fifty feet, the dwelling or structure shall be constructed in accordance with the International Fire Code Institute Urban-Wildland Interface Code Section 504 Class 1 Ignition Resistant Construction as adopted August, 1996, or as later amended, and**
- (3) There shall be no combustible fences within 12 feet of the exterior surface of the dwelling or structure; and**
- (4) A dwelling shall have a central station monitored alarm system if the secondary fire safety zone equivalents of MCC 33.2310 (B) (1) are utilized, or**
- (5) A dwelling shall have a central station monitored 13D sprinkler system if the secondary fire safety zone equivalents of MCC 33.2310 (B) (2) are utilized.**

Applicant: *Please see Exhibit 16, Fire District forms). Applicant agrees to these conditions, if the county requires, as well as any added conditions under (3) through (6), below, if it will help facilitate retaining the forest canopy through eliminating the need for a secondary setback. Please realize that if the slope is under 20 percent, the Fire District, under the approvals they have granted to applicant, does not believe that a secondary zone is required. They require only a defensible 30 foot primary fire zone. (Exhibit 16, Fire District forms). No such fence is proposed or existing.*

Staff: The proposed setback to both of the side-yard property lines (north and south lines) is 78 Given that the slope is 12 to 18 percent down slope to the west and south of the dwelling the primary fire safety zone will require 80 feet to the west and south property lines (Exhibit B.14). With the expanded primary fire safety zone, the secondary fire safety zone will be less than 50 feet to the west, south and directly north. The proposed development will need to meet MCC 33.2310 (B)(2) because the secondary fire safety zone in those areas is less than 50 feet. A condition of approval will require the dwelling meet the following requirements:

- Shall be constructed in accordance with the International Fire Code Institute Urban-Wildland Interface Code Section 504 Class 1 Ignition Resistant Construction as adopted August, 1996, or as later amended;
- There shall be no combustible fences within 12 feet of the exterior surface of the dwelling or structure; and
- Shall have a central station monitored 13D sprinkler system if the secondary fire safety zone equivalents of MCC 33.2310 (B) (2) are utilized.

10. CFU REQUIRMENTS

10.1. Single Family Dwellings Condition of Approval - Prohibition on Claims Alleging Injury from Farm or Forest Practices

MCC 33.2307 As a condition of approval of a single family dwelling, the landowner for the dwelling shall sign and record in the deed records for the county a document binding the

landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

Applicant: *The site shares no driveways with forest lands, and in applicant's personal knowledge of surrounding properties, all adjacent forest parcels have their own separate accesses, and are neither dependent or accustomed to use of applicant's property for either fire prevention or forestry uses. Owner is required in the building permit process to record a statement acknowledging the rights of nearby forest property owners to conduct forestry practices (Exhibit 7). This is a single family dwelling application, and any ingress and egress or general transportation needs for the property, and Rock Creek Road usage, will be minimal.*

Staff: A condition will require that prior to zoning signoff for the building permit, the property owner will provide a copy of the covenant that has been recorded at County Records (Exhibit B.12).

10.2. 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: In a memorandum dated March 19, 2008 from J. Michael Lynch, County Transportation Planning Specialist, states that, "The county standard right of way for a Rural Local facility includes 50 feet." Mr. Lynch continues, "Currently, 50 feet of right of way exists adjacent to the site for NW Rock Creek Road, which meets this standard." Mr. Lynch continues:

"The driveway serving the site must have a 20-ft paved approach to Rock Creek road. This paved approach will be measured from the edge of pavement of Rock Creek Road. It must not create any drainage problems along the County Road. This paved approach will help protect the county road from debris from the new driveway and will improve the safety of the access."

11. ADJUSTMENT APPROVAL CRITERIA

MCC 33.7611: 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:

Staff: The applicant proposes a dwelling location that reduces the both side-yard forest practices setbacks minimum from 130 feet to 78 feet, a 40 percent reduction. However the primary fire safety zone requires 80 feet to the south side-yard property line and 80 feet to the front (west) property line due to the 12 to 18 percent slopes down slope from the dwelling site (Exhibit B.14). While the forest practices setback is 30 feet for the front yard the primary fire safety zone expands that out to 80 feet given the slope. The rear-yard forest practices setback minimum of 130 feet will be met by the proposed 130 foot setback from the east property line. That allows for a 20 foot by 38 foot dwelling footprint. Findings for standards in (A) through (E) are in the following sections of this decision. The adjustment can be permitted and authorized for the requested 40 percent reduction, reducing the both side-yard forest practices setback dimensional standards, listed in

MCC 33.7606, given the findings that all the following standards in (A) through (E) have been met by the proposed development.

11.1. MCC 33.7611 (A) Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Applicant: *By locating the home so that it fronts closer to Rock Creek Road, a year-round paved road, the requirement for a 130 foot front setback is eliminated, making it easier to comply with the adjustment standards for the other three property lines (two side and one back setback). As shown on Exhibit 18A, if the 40 percent adjustment reduction is allowed, applicant can still site the home and comply with the Forest Practices setbacks in all directions. (Two 78 foot side setbacks, one 130 setback in back, and one 78 foot setback from Rock Creek Road in the front). The two 78 foot setbacks proposed represent the adjusted dimensions, and are 40% reductions from the 130 foot setback requirement. The previously proposed home location (see previous application Exhibit 18, page 1) could not provide the required 130 foot setback from the rear property line, and even an adjustment of 40% would not provide it.*

Staff: The applicant is proposing the Adjustment due the size of the property. The purpose the forest setback is to provide an area large enough that any impacts from the proposed development forest practices on adjacent properties will be minimized. The proposed reduction of the setback is the minimum necessary to site a dwelling on the property with the width of the dwelling being only 20 feet wide. The proposal places the dwelling close to the center of the property resulting in the greatest setback possible for both the north and south side-yards.

The Code provides for an Adjustment from the forest practices setbacks for situations where the setback can not be met. This is the case for this property. Reducing the setbacks also reduces the secondary fire safety zone. However, due to this reduction the proposed dwelling will be required to be built to a higher standard for fire protection as required by the exception to the secondary fire safety zone which also allows for the . This decision will required the dwelling to be constructed in accordance with the International Fire Code Institute Urban-Wildland Interface Code Section 504 Class 1 Ignition Resistant Construction as adopted August, 1996, or as later amended and must have a central station monitored 13D sprinkler system. Given these requirements, the reduction will meet the standard of being the equivalent of the secondary fire safety zone equivalents of MCC 33.2310(B)(2) the regulation modified. This requirement along with a requirement that the secondary fire safety zone be maintained to the extent possible will provide for this adjustment to equally or better meet the purpose of the modified forest practices setbacks by reducing the potential impact of the proposed dwelling related to fire. This criterion is met through conditions of approval.

11.2. MCC 33.7611 (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: *Mitigation will include replanting the previously proposed homesite (see location 1A on Exhibit 18A) with native-species conifers. Light and privacy to adjoining properties is not effected by the change in setback or home location. (There are no existing homes within eye or earshot of the new home location).*

Some tree trimming will be required in the Primary Fire Zone, but this will be mitigated by the elimination of the previously planned Primary Fire Zone for the former home location shown on Exhibit 18, page 1. Finally, the Mitigation Plan requires planting of all the cleared areas o the property (plus the previously proposed homesite), with native-species conifers.

Access is not impacted, except the path of the driveway is changed on the new map Exhibit 18A.

Site topography factors are the same as for the previously proposed homesite., because the new homesite location is in a location of the same grade and general topography (between 10 and 20 percent) as the old homesite. The new homesite does represent a small new clearing, but this will be mitigated by the replanting of the old homesite with native species conifers as an amendment to the Mitigation Plan.

Please see original Exhibit 18, pages 7 and 8, for the vegetation map and planting plans.

Staff: The proposed reduction of the setback is the minimum necessary to site a dwelling on the property with the width of the dwelling being only 20 feet wide. The proposal places the dwelling close to the center of the property resulting in the greatest setback possible for both the north and south side-yards. The impact are equally share to the north and the south and the minimum possible to site a dwelling on the property.

The condition to construct the dwelling in accordance with the International Fire Code Institute Urban-Wildland Interface Code Section 504 Class 1 Ignition Resistant Construction and have a central station monitored 13D sprinkler system. These requirements along with a requirement that the secondary fire safety zone be maintained to the extent possible will mitigate impacts resulting from the adjustment to the extent possible. This criterion is met through conditions of approval.

11.3. MCC 33.7611 (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;

Applicant: *The two adjustment types being requested (from 130 foot setback to 78 foot) are for both sides of the home. They are of the same type, and create no hindrance to the purposes of the zoning district. In fact, they allow placing of the home closer to the year round paved road, Rock Creek Road, which slightly improves Fire District access.*

Staff: The applicant proposes a dwelling location that reduces the both side-yard forest practices setbacks minimum from 130 feet to 78 feet. The primary fire safety zone requires an 80 foot area between the southern property line and the dwelling, that requirement must be met (Exhibit B.14). The purposes of the Commercial Forest Use District are to conserve and protect designated lands for continued commercial growing and harvesting of timber and the production of wood fiber and other forest uses; to conserve and protect watersheds, wildlife habitats and other forest associated uses; to protect scenic values; to provide for agricultural uses; to provide for recreational opportunities and other uses which are compatible with forest use; implement Comprehensive Framework Plan Policy 11, Commercial Forest Land, the Commercial Forest Use policies of the West Hills Rural Area Plan, and to minimize potential hazards or damage from fire, pollution, erosion or urban development.

The CFU-2 District allows for a new forest dwelling for properties that meet template test requirements. While the cumulative effect of the adjustments will also result in reduction to the

secondary fire safety zone. That reduction is allowed through the exception process given the condition that the dwelling is constructed in accordance with the International Fire Code Institute Urban-Wildland Interface Code Section 504 Class 1 Ignition Resistant Construction provides mitigation and have a central station monitored 13D sprinkler system. These requirements along with a requirement that the secondary fire safety zone be maintained to the extent possible will result in a project which is still consistent with the overall purpose of the zoning district. The small, subject tract will continue to be predominately forested, including no disturbance along Rock Creek on the portion of the property west of the road. The proposed development conserves and protects the watershed, wildlife habitats and other forest associated uses by siting the development more than 100 feet from Rock Creek. The rest of the property will continue to be forested as well. This criterion is met through the conditions of approval.

11.4 MCC 33.7611 (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.

Applicant: *The properties are zoned CFU. All of the neighboring properties were logged in approximately 1992. Since Rock Creek road is not an access road for logging neighboring properties, and since this adjustment will place the homesite closer to Rock Creek Road, there will be no net effect on the purposes of the CFU district.*

Staff: Finding for this criterion are the same as those required for the finding in Section 8.1.1 of this decision. Those finding are adopted for this finding.

12. SIGNIFICANT ENVIRONMENTAL CONCERN REVIEW

12.1. SEC Permit Required

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

Finding: The proposed development is within the Significant Environmental Concern for Wildlife Habitat and Streams Overlay Districts, thus an SEC-h and SEC-s Permit is required.

12.2. 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 by the applicant and can be found in Exhibits A.1 through A.9.

12.3. 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.

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

Applicant: *Except for Rock Creek Road, all parts of all adjacent properties within 200 feet of the Site are undeveloped and forested with 75% or more crown closure. (Section 13, page 6, Exhibit 21, 2006 Envir. Report).*

Staff: The staff site visit confirmed that the proposed dwelling site is in an area that is forested. A review of the 2004 aerial photo shows no cleared areas on the property. The applicant refers to a small cleared area without trees (confirmed during staff site visit, May 27, 2008) where he had previously proposed for the dwelling location but that area did not meet minimum forest practices setbacks or fire safety zone standards. Staff confirmed a small area about 30 feet by 50 feet that is cleared. However, this cleared area is not proposed for the dwelling site because it doesn't meet setback minimums and standards for the fire safety zone standards. This area would require additional exception and adjustment beyond what is proposed for the amended dwelling site. Additionally it appears this area would not meet the primary fire safety zone standards. For these reasons this requirement does not apply to the existing cleared area, and dwelling is proposed in a more suitable area to meet the primary fire safety zone and adjustment setback requirements. Given there are no other cleared areas this standard is met.

12.3.2. 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 within 200 feet of NW Rock Creek Road, a public road capable of providing reasonable practical access to the developable portion of the site (Exhibit A.3). This standard is met.

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

Staff: The driveway is less than 500 feet in length (Exhibit A.3). This standard is met.

12.3.4. MCC 33.4570(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.
- (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

Applicant: *Site Plan (Exhibit 18).*

Only two roads or service corridors exist, as shown on the Site Plan (Exh. 18). These are the Site driveway, and Rock Creek Road. Rock Creek Road is a paved road of approximately 50 feet width, not including rights of way. As shown on the Site Plan, driveway widths are currently 10 to 12 feet, and will be widened to a uniform 12 feet.

Staff: There is no adjacent property on the same side of NW Rock Creek Road that has an existing access road or driveway approach within 200 feet of either side property line nor is there a driveway approach within 50 feet onto the public road for properties on the opposite side of the road. This standard is met.

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

Applicant: *There are structures and developed areas on adjacent properties to the south (see items 4 & 5 in Exhibit Y.2) . The proposed development is within 300’ of the southern boundary of the subject property. Criterion met.*

Staff: There are no developed areas on adjacent properties within 200 feet of any property boundary of the tract (Exhibit B.4). The standard is met.

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

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

Applicant: No fencing is proposed in the site.

Staff: No fencing exists or is proposed. This standard is met.

12.3.7. 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).

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 roberianum</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

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>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.

Applicant: As stated in the 2006 Environmental Report (Exhibit 21, page 16), nuisance plants will not be planted, and the Mitigation Plan (Exhibit 12) addresses any concerns for the very small number of nuisance plants on the Site Parcel. The Environmental Report (Exhibit 21,

sections 8 and 14) details the few nuisance plants existing on the Site, and their very limited extent.

To make this report shorter, I have deleted the lengthy county code charts that list these plants, but incorporate these plant lists herein by reference.

Staff: During the site visit staff noted there is Himalayan Blackberry established on the property. A condition of approval will require that listed nuisance plants shall not be planted and any that exist shall be removed. This standard is met through a condition.

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

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

Applicant: *Applicant meets the standards of (B), and so does not need to propose a wildlife conservation plan. However, applicant wishes to go beyond the standards voluntarily. For the measures being proposed, please see the Mitigation and Wildlife Conservation Plan (Exhibit 12), and the 2006 Environmental Report (Exhibit 21), sections 5, 6, 11b, and 16.*

Additionally, and as indicated in the 2006 Environmental Report, applicant plans to implement a conservation easement on the Rock Creek Parcel as further mitigation and enhancement. (This is the contiguous parcel Applicant wishes to see that parcel preserved for study because of the unique sinuosity in Rock Creek in this stream reach, and because of the extensive development of the forest canopy and understory.) Applicant is negotiating with Three Rivers Conservancy regarding mutual acceptance of such an easement. Virginia Bowers, Executive Director of the Conservancy, gave her consent to this being stated in this application. However, in the case that applicant and Three Rivers cannot come to an agreement on the details of a Conservation Easement, applicant would be willing for the county to make appropriate deed restriction a condition of approval. Applicant wishes to preserve the Rock Creek parcel primarily for research and educational purposes in cooperation with local schools and colleges. Applicant will restrict development to raised walkways and platforms, and one pedestrian bridge over Rock Creek, for nature observation, both day and night. Applicant will also restrict development by any future owner to one very small pole foundation garage within 40 feet of Rock Creek Road, provided that the top of such garage is built to function additionally as a wildlife viewing platform. No other structures than those detailed above would be allowed to be built by any future owner. Applicant plans to pursue these deed restrictions whether or not the county requires them as a condition of approval for this application. Applicant volunteers to meet with county staff to draw up conservation easement deed restrictions that could be made conditions of this conditional use permit approval. The local neighborhood association will also be considered a potential party to a conservation easement.

Staff: The proposed development meets the standard in Section (B), thus a wildlife conservation plan is not required. This permit is for a dwelling and the driveway access to that

dwelling and does not include any of the development discussed by the applicant in addressing this section. Any additional development on the property will need to be addressed through additional permits when that development is proposed.

12.5. SEC-s Development standards

12.5.1. MCC 33.4575(C) In addition to other SEC Permit submittal requirements, any application to develop in a Stream Conservation Area shall also include:

12.5.1.1. MCC 33.4575(C) (1) A site plan drawn to scale showing the Stream Conservation Area boundary, the location of all existing and proposed structures, roads, watercourses, drainageways, stormwater facilities, utility installations, and topography of the site at a contour interval equivalent to the best available U.S. Geological Survey 7.5' or 15' topographic information;

Applicant: *Exhibit 18, Site Plan and Vegetation Map, and Geotechnical Report, Exhibit 19, and Exhibit 24, SEC map. Though the homesite is not within the SEC, part of the west most driveway path is. All proposed or existing developments are described on the Site Plan.*

Staff: The Stream Conservation Area boundary is shown on Site Plan (Exhibit A.3). The plans show the required information. The applicant has submitted the required materials.

12.5.1.2. MCC 33.4575(C) (2) A detailed description and map of the Stream Conservation Area including that portion to be affected by the proposed activity. This documentation must also include a map of the entire Stream Conservation Area, an assessment of the Stream Conservation Area's functional characteristics and water sources, and a description of the vegetation types and fish and wildlife habitat;

Applicant: *2006 Environmental Report, Sections 11a-c, pp. 4-5. (Conservation zone and Rock Creek assessment of functional characteristics, water sources, and impacts to Rock Creek and Conservation Zone from Site Plan proposals). Also see Exhibit 24, SEC Zone Map, and Site Plan and Site Vegetation, maps, Exhibit 18, for details of SEC zone in development area.*

Staff: The applicant has submitted a map of the Stream Conservation Area including the portion to be affected by the proposed development (Exhibit A.3). The applicant has submitted an assessment of the Stream Conservation Area's functional characteristics in a *Technical Memorandum* dated August 24, 2006 by Jack Dalton, Senior Wetlands Scientist, Environmental Science & Assessment, LLC (Exhibit A.6, Applicant's Exhibit 21). The memorandum refers to findings in an assessment done for Case CU 8-95 (Exhibit A.6, Applicant's Exhibit 22) for the property directly south of the subject property. Mr. Dalton states, "During the site visit I confirmed that the 1995 report's findings are essentially accurate with respect to Rock Creek, all the forested areas along Rock Creek (including the upland areas across the road from Rock Creek) and the entire property owned by the applicant." Mr. Dalton states, "this 2006 report supplements that 1995 report with site specific data obtained during the site visit for both of the applicant's parcels." This standard is met.

12.5.1.3. MCC 33.4575(C) (3) A description and map of soil types in the proposed development area and the locations and specifications for all proposed draining, filling, grading, dredging, and vegetation removal, including the amounts and methods;

Applicant: *See above, response to MCC 33.2240(A)(3)(C) for soils descriptions and maps. The Mitigation and Wildlife Conservation Plan (Exhibit 12), describes any proposed grading and vegetation removal. There is no dredging or draining proposed or envisioned. Any such development proposals would require a Hillside development permit prior to building.*

Staff: The applicant has submitted several maps of the property with these details including the location of the proposed septic drain field, the driveway, existing vegetation that will need to be removed and contours (Exhibit A.6, Applicant's Exhibit 18). However most of the maps show previously proposed dwelling location. One site plan map shows the amended proposed dwelling location and driveway, included as Exhibit A.3. These details will need to be addressed with more specifically for the Hillside Development Permit which will be required before any soil disturbance is authorized to occur. This has been made a condition of approval. The applicant has provided the minimum site information to meet the requirement for this permit. This standard is met.

12.5.1.4. MCC 33.4575(C) (4) A study of any flood hazard, erosion hazard, and/or other natural hazards in the proposed development area and any proposed protective measures to reduce such hazards as required by (E) (5) below;

Applicant: *There are no flood or other natural hazards involved with either the Site Parcel or development activities proposed at the Site Parcel. Geotechnical report, Exhibit 19, and Exhibit 15, Flood, Erosion and Natural Hazard Study.*

Staff: There is no flood hazard mapped for the property. The applicant has submitted a Geotechnical evaluation (Exhibit A.6, Applicant's Exhibit 19) for the property by Craig C. La Vaille, PE/GE provide a preliminary assessment of the property indicating there are no concerns for natural hazards for the site. Any erosion hazard and other natural hazards will need to be addressed with more specific detail for the amended dwelling site during the Hillside Development Permit review. A condition of approval requires the property owner to obtain a Hillside Development Permit prior to any soil disturbance on the property. The applicant has provided the minimum site information to meet the requirement for this permit. This standard has been met.

12.5.1.5. MCC 33.4575(C) (5) A detailed Mitigation Plan as described in subsection (D), if required; and

Applicant: *This is not required, but a Mitigation and Wildlife Conservation Plan is described at Exhibit 12.*

Staff: The applicant has submitted a Mitigation Plan.

12.5.1.6. MCC 33.4575(C) (6) A description of how the proposal meets the approval criteria listed in subsection (D) below.

Staff: See the findings in the following Section 12.4.2.

12.5.2. MCC 33.4575 (D) For stream resources designated "3-C" the applicant shall demonstrate that the proposal:

- (1) Will enhance the fish and wildlife resources, shoreline anchoring, flood storage, water quality and visual amenities characteristic of the stream in its pre-development state, as documented in a Mitigation Plan. A Mitigation Plan and monitoring program may be approved upon submission of the following:**
 - (a) A site plan and written documentation which contains the applicable information for the Stream Conservation Area as required by MCC 33.4575 (C);**
 - (b) A description of the applicant's coordination efforts to date with the requirements of other local, State, and Federal agencies;**
 - (c) A Mitigation Plan which demonstrates retention and enhancement of the resource values addressed in MCC 33.4575 (D) (1);**
 - (d) An annual monitoring plan for a period of five years which ensures an 80 percent annual survival rate of any required plantings.**

Applicant: *See sections 5, 6, 11 and 16 of the 2006 Environmental Report (Exhibit 21), which details the mitigation plan and the many ways in which the proposed development plan will enhance resource values, including improvements over the pre-development state. Some aspects of the mitigation and monitoring plan are included in that report, and at Exhibit 12, Mitigation and Wildlife Conservation Plan. No activities have been undertaken which require coordination with other agencies. 2006 Environmental Report at sections 5, 11, and 16, for some of the mitigation and enhancement measures. For a full description, see Exhibit 12, Mitigation and Wildlife Conservation Plan.*

Staff: The applicant has submitted a map of the Stream Conservation Area including the portion to be affected by the proposed development (Exhibit A.3). The applicant has submitted an assessment of the Stream Conservation Area's functional characteristics in a *Technical Memorandum* dated August 24, 2006 by Jack Dalton, Senior Wetlands Scientist, Environmental Science & Assessment, LLC (Exhibit A.6, Applicant Exhibit 21). The memorandum refers to findings in an assessment done for Case CU 8-95 (Exhibit A.6, Applicant Exhibit 22) for the property directly south of the subject property. Mr. Dalton states, "During the site visit I confirmed that the 1995 report's findings are essentially accurate with respect to Rock Creek, all the forested areas along Rock Creek (including the upland areas across the road from Rock Creek) and the entire property owned by the applicant." Mr. Dalton states, "this 2006 report supplements that 1995 report with site specific data obtained during the site visit for both of the applicant's parcels." The *Technical Memorandum* includes a mitigation and planting plan. The plan includes plant of understory vegetation, shrubs along the driveway.

The applicant will be required to replace trees removed for the development by planting similar native species in the small cleared area on the property where the dwelling was previously proposed (Exhibit A.6, Applicant's Exhibit 18). The applicant will also be required to remove nuisance plants from the property and replace the removed plants with native shrubbery.

The riparian area on the property is in good condition, with an 85 percent canopy, only a small area about 30 feet by 50 feet has been previously cleared. Through planting this cleared area, limiting tree removal, the removal of invasive plant species and planting understory vegetation along the driveway and in areas where invasive species have been removed the applicant will meet the requirements for a Mitigation Plan. Such a plan will enhance the fish and wildlife resources. It will also provide retention and enhancement of the resource values addressed in MCC 33.4575 (D) (1). A condition of this approval requires this mitigation plan to be implemented and an annual monitoring for a period of five years to occur ensuring an 80 percent annual survival rate of the required plantings.

12.6. SEC-s Design Specifications

The following design specifications shall be incorporated, as appropriate, into any developments within a Stream Conservation Area:

Staff: Findings for the design specifications are in the following sections of this decision.

12.6.1. MCC 33.4575 (E) (1) A bridge or arched culvert which does not disturb the bed or banks of the stream and are of the minimum width necessary to allow passage of peak winter flows shall be utilized for any crossing of a protected streams.

Staff: There is an existing culvert on the property for the driveway crossing of the intermittent stream. The applicant has stated that there will be no change to this crossing. Given this stream is a very small intermittent stream, if the culvert needs to be replaced because it does not meet the requirement that it supports a minimum gross vehicle weight of 52,000 lbs, it is feasible to replace the culvert with an arched culvert that will allow a natural stream bed and not disturb the existing banks or the bed. A condition will require if there is a change to the driveway crossing of the intermittent stream, then this standard will need to be met. The condition will also require an assessment of the culvert prior to the submittal of the Hillside Development Permit submittal and if replacement is required, that it be addressed in that permit review. This standard is met through conditions.

12.6.2. MCC 33.4575 (E) (2) All storm water generated by a development shall be collected and disposed of on-site into dry wells or by other best management practice methods which emphasize groundwater recharge and reduce peak stream flows.

Staff: The storm water disposal methods will need to be addressed in the Hillside Development Permit. A condition will also require that a Hillside Development Permit be obtained prior to any soil disturbing development work on the property. This standard is met through conditions.

12.6.3. MCC 33.4575 (E) (3) Any exterior lighting associated with a proposed development shall be placed, shaded or screened to avoid shining directly into a Stream Conservation Area.

Staff: The applicant has not submitted a design for the proposed lights. A condition of approval will require this standard to be met and the lighting to be shown on the building plans.

12.6.4 MCC 33.4575 (E) (4) Any trees over 6" in caliper that are removed as a result of any development shall be replaced by any combination of native species whose combined caliper is equivalent to that of the trees removed.

Staff: Tree removal and replacement plan shall be submitted for the Hillside Development Permit application and building permit zoning review. This standard is met through a condition.

12.6.5. MCC 33.4575 (E) (5) Satisfaction of the erosion control standards of MCC 33.5520.

Staff: The proposed dwelling site and septic drainfield is located within the Hillside Development Overlay District. Prior to any soil disturbance on site a Hillside Development Permit must be obtained. A part of that permit review MCC 33.5520 Grading and Erosion Standards must be

satisfied. A condition will also require that a Hillside Development Permit be obtained prior to any soil disturbing development work on the property. This standard is met through conditions.

12.6.6. MCC 33.4575 (E) (6) Soil disturbing activities within a Stream Conservation Area shall be limited to the period between June 15 and September 15. Revegetation/soil stabilization must be accomplished no later than October 15. Best Management Practices related to erosion control shall be required within a Stream Conservation Area.

Staff: A condition of approval will require soil disturbing activities within a Stream Conservation Area to be limited to the period between June 15 and September 15. Revegetation/soil stabilization shall be accomplished no later than October 15. A condition of approval will require Best Management Practices related to erosion control. A condition will also require that a Hillside Development Permit be obtained prior to any soil disturbing development work on the property. This standard is met through conditions.

12.6.7. MCC 33.4575 (E) (7) Demonstration of compliance with all applicable state and federal permit requirements.

Staff: There are no applicable state or federal permits required for the proposed development. If the driveway culvert for the small intermittent stream will need to be replaced, that will be addressed as part of the Hillside Development Permit review. If state or federal permits are required for that work the Hillside Development Permit will require that those permit be obtained. A condition of approval will require compliance with all applicable state and federal permit requirements.

13. CONCLUSION

Staff: The proposed dwelling meets the criteria and standards for a New Forest Dwelling (Template Test Dwelling) in the Commercial Forest Use – 2 Zone District through meeting the criteria for an Adjustment of the forest practices setbacks and an Exception to the secondary fire safety zone. The application request meets the criteria for an Adjustment of the forest practices setbacks allowing a reduction of the setback from 130 foot minimum to 78 foot minimum for the dwelling setback from the north property line and 80 foot minimum for the dwelling setback from the south property line. The application request meets the criteria for an Exception to the secondary fire safety zone with conditions of approval. Additionally the proposed dwelling meets the criteria and standards for the SEC-h and SEC-s Overlay Districts with conditions of approval. In conclusion this permit request is approved with conditions.

14. EXHIBITS

14.1. Exhibits Submitted by the Applicant:

- Exhibit A.1: Application form for New Forest Dwelling and SEC Permit (1 page);
- Exhibit A.2: Application form for Adjustment and Exception (1 Page)
- Exhibit A.3: Site Plan (1 page)
- Exhibit A.4: Narrative (23 pages)
- Exhibit A.5: Addendum to Narrative (3 pages)
- Exhibit A.6: Applicant's Exhibits 1 through 25
- Exhibit A.7: Narrative for Adjustment and Exception (7 pages)
- Exhibit A.8: Storm Water Certificate completed by Lance Ludwick, PE (1 page)

Exhibit A.9: Copy of deed recorded in Book 1265 on Page 221 (1944) (3 pages)

14.2. Exhibits Provided by the County

- Exhibit B.1: County Assessment record and map for the subject properties (3 pages)
- Exhibit B.2: Current County Zoning Map with subject properties labeled (1 page)
- Exhibit B.3: 2004 Aerial Photo subject properties and vicinity (2 pages)
- Exhibit B.4: 2004 Aerial Photo of subject properties and center of subject tract (1 pages)
- Exhibit B.5: 2004 Aerial Photo showing 160 acre square template (1 pages)
- Exhibit B.6: County Assessment map of template lots in Greenoe Heights Subdivision (2 pages)
- Exhibit B.7: Greenoe Heights Subdivision Plat
- Exhibit B.8: Multnomah County Assessment records for three properties with dwellings within the template (28 pages)
- Exhibit B.9: 1962 County Zoning Map (1 page)
- Exhibit B.10: Building Permit documents (3 pages)
- Exhibit B.11: Memorandum dated March 19, 2008 from J. Michael Lynch, County Transportation Planning Specialist (3 pages)
- Exhibit B.12: Example of covenants 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. (1 Page)
- Exhibit B.13: Example of covenants, conditions and restrictions document precluding all future rights to site a dwelling and precluding use of the property for qualifying another tract for the siting of a dwelling which is required to be filed. (1 page)
- Exhibit B.14: 2004 Aerial Photo showing setbacks and approved dwelling footprint