

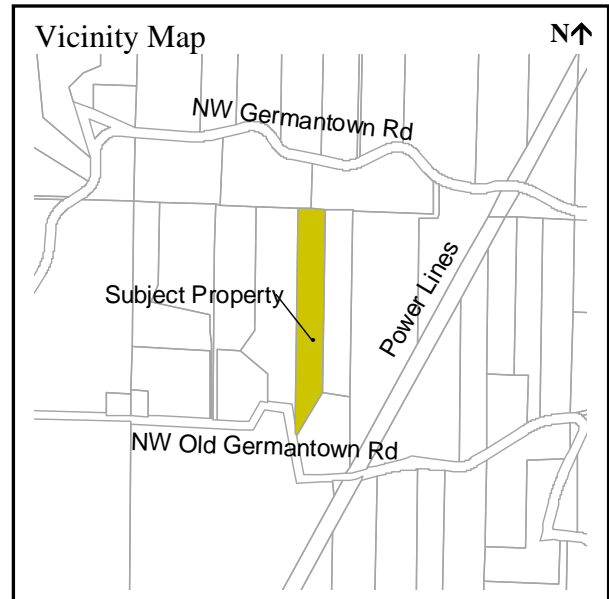


MULTNOMAH COUNTY
LAND USE AND TRANSPORTATION PROGRAM
1600 SE 190TH Avenue Portland, OR 97233
PH: 503-988-3043 FAX: 503-988-3389
<http://www.co.multnomah.or.us/landuse>

NOTICE OF DECISION

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

Case File: T2-09-006
Permit: Significant Environmental Concern
Permit – Wildlife Habitat
Location: 14125 NW Old Germantown Road
TL 800, Sec 09C, T1N, R1W, W.M.
Tax Account #R026700830
Applicant: John Froning – Rev.ent Architecture
Owner: Ken Sinansky



Summary: The applicant is requesting a remodel of an existing single-family dwelling with a 215 square foot two-story addition, the construction of a detached 660-square foot garage, a new deck on the east side of the dwelling and a second story deck/carport on the north side of the dwelling between the home and garage.

Decision: Approved With Conditions.

Unless appealed, this decision is effective Tuesday, June 9, 2009, at 4:30 PM.

Issued by:

By: _____
Don Kienholz, Planner

For: Karen Schilling- Planning Director

Date: Tuesday, May 26, 2009

Instrument Number for Recording Purposes: # 94097957

Opportunity to Review the Record: A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact Don Kienholz, Staff Planner at 503-988-3043, ext. 29270.

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 Tuesday, June 9, 2009 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): 33.0560 Code Compliance; 33.3155 Dimensional Requirements; 33.3185 Access; 33.4570 Approval Criteria for Significant Environmental Concern Permit for Wildlife Habitat – SEC-h.

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

Scope of Approval

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

Note: Once this decision is final, application for building permits may be made with the City of Portland. When ready to have building permits signed off, the applicant shall call the Staff Planner, Don Kienholz, at (503) 988-3043 ext. 29270, for an appointment for review and approval of the conditions and to sign the building permit plans. Please note, Multnomah County must review and sign off the building permits before the applicant submits building plans to the City of Portland. Five (5) sets each of the site

plan and building plans are needed for building permit sign off. At the time of building permit review, a fee of \$53.00 will be collected. In addition, an erosion control inspection fee of \$77.00 may be required.

- 1. After the decision is final and prior to building permit sign-off, the property owner shall record the Notice of Decision cover sheet through the conditions of approval with the County Recorder along with a copy of the applicant's "Enlarged Site Plan" showing an enlarged view of the development area (Exhibit A2). The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and a copy filed with Land Use Planning. Recording shall be at the applicant's expense. [MCC 37.0670]**
- 2. If any fencing is installed along the front property line in the future it shall meet the fencing requirements of MCC 33.4570(6).**
- 3. No nuisance plants as listed in MCC 33.4570(B)(7) shall be planted on the subject property. The owner shall also conduct on-going maintenance to the development area to keep it free of the listed nuisance plants.**
- 4. The property owner shall install the stormwater system designed by Scott A. Walker, PE as shown on the site plan/erosion control plan (Exhibit A5). This system shall collect and disposed of stormwater from new impervious surfaces and shall properly control the rate of flow for a 10year/24hour storm event with the runoff no greater than that which existed prior to development. [MCC 29.345(A)(1)(d)]**
- 5. Any excess spoil materials over 50-cubic yards shall be removed from site and disposed of in an area that meets the applicable code provisions [MCC 33.5510].**

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

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

Findings of Fact

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

1.00 Project Description:

Staff: The applicant is seeking approval for a 215-square foot addition to the existing dwelling consisting of a nook, two new decks and the and the construction of a 660-square foot detached garage.

2.00 Property Description & History (if needed):

Staff: The subject property is located in the West Hills area between NW Skyline and unincorporated Washington County near the Bonneville Power Administration power lines. The property contains severe slopes throughout with a flat bench where the dwelling is located. The majority of the property is heavily forested.

The property changed to its current configuration through the County approved Property Line Adjustment T2-08-033.

Criterion met.

3.00 Rural Residential Zone Requirements

A. MCC 33.3115 Uses

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 33.3120 through 33.3130 when found to comply with MCC 33.3155 through 33.3185.

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MCC 33.3120 ALLOWED USES

(F) Accessory Structures:

(1) Structures or uses listed below when customarily accessory or incidental to any use permitted or approved in this district:

(a) Garages or carports;

(2) If the accessory structure is a building, then to be an “allowed use” the foot print of the building in combination with the footprint of all other accessory buildings on the property shall not exceed 2500 square feet.

Staff: A detached garage is an allowed use in the zoning district. No other accessory structures are on the property and the cumulative square footage of the new accessory structure is below 2500 square feet.

B. MCC 33.3155 DIMENSIONAL REQUIREMENTS

(C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

Staff: As seen on the submitted site plans (Exhibit A1 and A2), the addition and detached garage are all more than 40-feet from any property line. The elevation drawings (Exhibit A3) show the garage to be 12-feet in height and the addition to be 28-feet in height. No new lot is being created therefore the lot line requirement is not applicable.

Criteria met.

4.00	Lot of Record
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MCC 33.3170 Lot of Record

(A) In addition to the Lot of Record definition standards in MCC 33.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

- (1) July 10, 1958, SR zone applied;**
- (2) July 10, 1958, F-2 zone applied;**
- (3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;**
- (4) October 6, 1977, RR zone applied, Ord. 148 & 149;**
- (5) October 13, 1983, zone change from MUF-19 to RR for some properties, Ord. 395;**
- (6) October 4, 2000, Oregon Administrative Rules Chapter 660 Division 004, 20 acre minimum lot size for properties within one mile of Urban Growth Boundary;**
- (7) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.**

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

(C) Except as otherwise provided by MCC 33.3160, 33.3175, and 33.4300 through 33.4360, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

(D) The following shall not be deemed to be a lot of record:

- (1) An area of land described as a tax lot solely for assessment and taxation purposes;**
- (2) An area of land created by the foreclosure of a security interest.**
- (3) An area of land created by court decree.**

MCC 33.0005 Definitions

Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) complies with the criteria for the creation of new lots or parcels described in MCC 33.7785. 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.)**

(c) Separate Lots of Record shall be recognized and may be partitioned congruent with an “acknowledged unincorporated community” boundary which intersects a Lot of Record.

1. Partitioning of the Lot of Record along the boundary shall require review and approval under the provisions of the land division part of this Chapter, but not be subject to the minimum area and access requirements of this district.

2. An “acknowledged unincorporated community boundary” is one that has been established pursuant to OAR Chapter 660, Division 22.

Staff: The subject property was created through a County approved Property Line Adjustment in 2008 under case #T2-08-033. The approval meant the property met all zoning and land division rules in place at that time.

Criteria met.

5.00	Significant Environmental Concern Permit – Wildlife Habitat
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MCC 33.4570 CRITERIA FOR APPROVAL OF SEC-H PERMIT -WILDLIFE HABITAT

(B) Development standards:

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

Staff: The proposed location is clear as defined by the definition above.

Criterion met.

- 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 located 196-feet from the public road as measured on the site plan.

Criterion met.

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

Staff: The driveway is an existing driveway and is not being altered.

Criterion met.

- D. **(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.

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

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

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

Staff: The driveway is an existing driveway and is not being altered.

Criteria met.

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

Staff: The proposed addition and detached garage are within 100-feet of both side property lines.

Criterion met.

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

(a) Fences shall have a maximum height of 42 inches and a minimum 17 inch gap between the ground and the bottom of the fence.

(b) Wood and wire fences are permitted. The bottom strand of a wire fence shall be barbless. Fences may be electrified, except as prohibited by County Code.

(c) Cyclone, woven wire, and chain link fences are prohibited.

(d) Fences with a ratio of solids to voids greater than 2:1 are prohibited.

(e) Fencing standards do not apply in an area on the property bounded by a line along the public road serving the development, two lines each drawn perpendicular to the principal structure from a point 100 feet from the end of the structure on a line perpendicular to and meeting with the public road serving the development, and the front yard setback line parallel to the public road serving the development.

Staff: No fencing is proposed as part of this application.

Criteria met.

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

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

Staff: Nuisance plant removal shall be a condition of approval.

Criterion met.

6.00	Hillside Development Permit
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MCC 33.5510 EXEMPT LAND USES AND ACTIVITIES

The following are exempt from the provisions of this Chapter:

(A) Development activities approved prior to February 20, 1990; except that within such a development, issuance of individual building permits for which application was made after February 20, 1990 shall conform to site-specific requirements applicable herein.

(B) General Exemptions – Outside the Tualatin River and Balch Creek Drainage Basins, all land-disturbing activities outlined below shall be undertaken in a manner designed to minimize earth movement hazards, surface runoff, erosion, and sedimentation and to safeguard life, limb, property, and the public welfare. A person performing such activities need not apply for a permit pursuant to this subdistrict, if :

(1) Natural and finished slopes will be less than 25 percent;and,

(2) The disturbed or filled area is 20,000 square feet or less; and,

(3) The volume of soil or earth materials to be stored is 50 cubic yards or less; and,

(4) Rainwater runoff is diverted, either during or after construction, from an area smaller than 10,000 square feet; and,

(5) Impervious surfaces, if any, of less than 10,000 square feet are to be created; and,

(6) No drainageway is to be blocked or have its stormwater carrying capacities or characteristics modified.

Staff: The proposed development is exempt from the Hillside Development Permit requirement even though the area is mapped as Slope Hazard because the area of earth disturbance is less than 25% slope and relatively flat. The addition to the home is only 215 square feet while the garage is 660-square feet. When taking into account a buffer area of 5-feet around the structures for use of mechanized equipment and earth disturbance, the development area is still well under the 20,000 square foot threshold of the code. The garage will require the excavation of some earth material but the foundation and walls of the garage will support the act as a retaining wall for the soil. The excavated material will be used as backfill with the remaining material taken off site. Scott A. Walker, a registered Professional Engineer, has designed a stormwater system that will ensure runoff generated during a 10-year/24-hour storm event will be adequately handled on site. The development will not alter a water course, drainage or creek.

Exemptions met. The project does not require a Hillside Development Permit.

7.00 Conclusion

Considering the findings and other information provided herein, this application for a Significant Environmental Concern Permit the construction of an addition to the existing single family dwelling and a detached garage, as conditioned, satisfies applicable Multnomah County Zoning Ordinance requirements.

8.00 Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

Exhibit #	# of Pages	Description of Applicant Exhibits
A.1	1	Full Property Site Plan
A.2	1	Development Area Site Plan
A.3	2	Elevation Drawings
A.4	1	Floor Plans
A.5	1	Stormwater System
‘B’	#	Staff Exhibits
B.1	1	A&T Property Information
B.2	1	SEC-h Application Form