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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: T2-09-026

Permit: Significant Environmental Concern

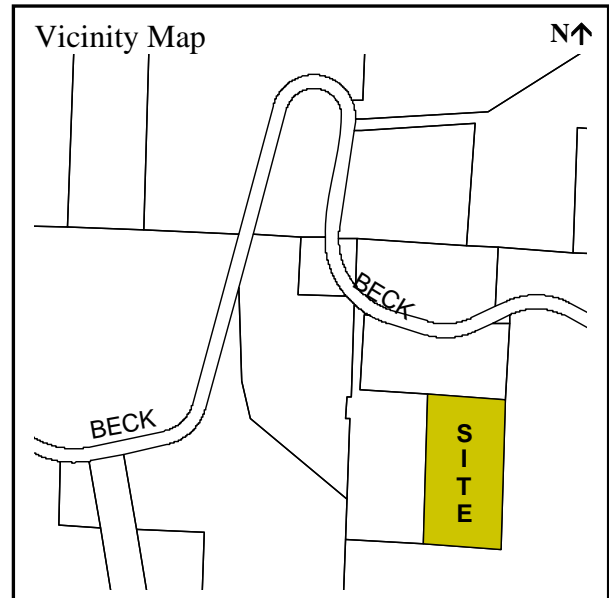
Location: 22340 NW Beck Rd
TL 700, Sec 23C, T 2N, R 2W, W.M.
Tax Account #R64976-1900

Applicant: Joshua Klug

Owner: Ryan & Ursula Lucas

Base Zone: Rural Residential

Overlays: Significant Environmental Concern for
wildlife habitat (SEC-h) & streams
(SEC-s) / Hillside Development (HD)



Summary: Applicant is requesting approval to establish a 40 ft. by 53 ft. manufactured dwelling and 24 ft. by 36 ft. carport on the vacant property in the Rural Residential (RR) zone. A Significant Environmental Concern for wildlife habitat is required in order to establish the dwelling and accessory building.

Decision: Approved with Conditions

Unless appealed, this decision is effective Friday, July 24, 2009, at 4:30 PM.

Issued by:

By: _____
Lisa Estrin, Planner

For: Karen Schilling- Planning Director

Date: Friday, July 10, 2009

Instrument Number for Recording Purposes: # 2009010498

Opportunity to Review the Record: A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact Lisa Estrin, Staff Planner at 503-988-3043, ext. 22597.

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

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Friday, July 24, 2009 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): *Rural Residential (RR)*: MCC 33.3120 Allowed Uses, MCC 33.3155 Dimensional Requirements, MCC 33.3170 Lot of Record, MCC 33.3180 Off-Street Parking and Loading, & MCC 33.3185 Access

Significant Environmental Concern: MCC 33.4510 Uses; SEC Permit Required, MCC 33.4520 Application for SEC Permit, MCC 33.4570 Criteria for Approval of SEC-h Permit -Wildlife Habitat

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office or under the link titled West Hills Rural Plan Area on our website at: **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 (2) 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 the decision is final and prior to land use sign-off of the building permit, 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 site plan (Exhibit 3 & A.7). 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. Prior to land use sign-off of the building permit, the property owners or their representative shall submit a Stormwater Certificate signed by a licensed engineer that the proposed rain drain shown on the site plan (Exhibit A.7) is of an adequate size to handle the stormwater created from the new single family dwelling and detached carport. The engineer shall certify that the stormwater collected from the 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]
3. Prior to land use sign-off of the building permit, the property owners or their representative shall add the location of the wellhouse to the site plan. If the wellhouse is to be located within the 30 ft. setback from the northern property line, the maximum height of the structure shall be 30 inches. If the structure is to be taller, it shall be moved to meet the yard requirements of MCC 33.3155(C).
4. Prior to land use sign-off of the building permit, the property owners or their representative shall identify any overhangs on the proposed carport. These overhangs shall be located outside of the 30 ft. Forest Practice Setback. [MCC 33.0005 Yard]
5. No nuisance plants shall be planted on the subject site and the areas around the home and carport shall be maintained free of these species [MCC 33.4570(B)(7)]
6. No new fencing shall be built on the subject site and existing fencing under the owner's control shall be removed outside of the areas cleared for the site development, except fencing used for agricultural purposes. [MCC 33.4570(C)(3)(c)]
7. The area surrounding the proposed dwelling and carport will be revegetated with a mixture of Douglas fir, cedar and native deciduous trees. Shrubs to be planted shall predominately be native. The areas to be planted are the only cleared areas on the property (Exhibit A.3). The planting is to occur by November 2009. [MCC 33.4570(C)(3)(d)]

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, Lisa Estrin, at (503) 988-3043 ext. 22597, 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.

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 proposing to establish a manufactured single family dwelling and detached carport on the subject property in the Rural Residential (RR) zone. The proposed development will be placed in the northwest corner of the property at nearly the minimum setbacks to limit impacts on the subject site. The entire property is located within the Significant Environmental Concern overlay for wildlife habitat (SEC-h). A SEC-h application has been applied for to authorize the dwelling and accessory structure. In the southern portion of the property, the County has adopted a Significant Environmental Concern for streams (SEC-s). In addition, the property has areas of *slope hazard* that cut diagonally across the property from the northeast to the southwest. The applicant has placed the proposed development outside of this overlay to protect the stream corridor and to avoid the Hillside Development overlay.

2.00 Property Description & History:

Staff: The applicant’s site is a little over five acres in size, located south of Beck Road, approximately one mile west of the intersection of Beck Road and Skyline Boulevard. The parcel is rectangular in shape and is currently undeveloped. The subject property is on the south face of a forested hillside. A steeply sloped drainage crosses the property from northeast to southwest, flowing into a tributary of Rock Creek, lying immediately southwest of the parcel. The far northwest corner of the property, within which development is proposed, is vegetated in grass and shrubs with a few scattered trees. The remainder of the parcel is forested. Slopes in the development area are moderate, with the ground falling away more steeply to the east and south, towards the drainage and stream respectively.

The property does not have direct access to Beck Road. To obtain such access, a prior property owner construct a new driveway through the property to the west, tying into an existing north/south driveway that serves other dwellings along the roadway easement. This driveway construction was authorized by County land use permit, SEC 00-01. The driveway was to be built within an access easement, dedicated to the benefit of the subject property with Partition Plat #1996-48.

The subject property lies within a pocket of Rural Residential (RR) zoned land, outside of the Urban Growth Boundary. Adjoining rural residential zoned properties are of comparable size and most are developed with single family residences. Larger, forested properties surround this rural residential pocket of land. These properties are zoned for commercial forest uses, and only a few are developed. The vicinity map on page 1 illustrates the location of the applicant's parcel.

3.00 Rural Residential Criteria:

3.01 § 33.3120 ALLOWED USES

(C) Residential use consisting of a single family dwelling constructed on a Lot of Record.

Staff: The submitted information documents that a single family dwelling in the form of a manufactured dwelling will be placed on the Lot of Record (Exhibit A.7, A.8 7 A.9). See additional Lot of Record findings under section 3.04 below. *This criterion has been met.*

3.02 (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 foot-print of all other accessory buildings on the property shall not exceed 2500 square feet.

Staff: Currently the subject property is vacant. The applicant is proposing to construct a 24 ft. wide by 36 ft. long (864 sq. ft.) carport within 50 ft. of the proposed dwelling. A small wellhouse will be built to house the pressure tank and other well equipment. The applicant states it will be approximately 4 ft. by 4 ft. All proposed accessory structures qualify as an allowed use.

3.03 § 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.

(D) The minimum yard requirement shall be increased where the yard 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 yard requirements in consultation with the Road Official.

Staff: The single family dwelling will be placed 40 ft. from the north (front) property line, 30 ft. from the west (side) property line, 254 ft. from the east (side) property line and approximately 575 ft. from the south (rear) property line (Exhibit A.7). The dwelling will have a height of approximately 20 ft.

The proposed carport will be placed 30 ft. from the north (front) property line, 130 ft. from the west (side) property line, 160 ft. from the east (side) property line and approximately 600 ft. from the south (rear) property line (Exhibit A.7). The carport will have a height of approximately 15 ft. The County’s Forest Practice Setbacks are measured from the property line to the closest part of the building or structure that is over 30 inches in height. The detached carport must be setback from the property line a minimum of 30 ft. to the edge of eaves.

The location of the wellhouse has not been identified. If it is located adjacent to the well, the structure would not meet the 30 ft. required front yard setback. The option for the property owner would be to reduce the overall height of the structure to 30 inches or move the wellhouse to meet the 30 ft. setback from the northern property line. A condition of approval has been included requiring that the applicant show the location of the wellhouse on the site plan prior to building permits and that it meet the yard requirements above.

The subject property does not front onto a public road. The property is accessed via an easement. No additional yard area is required at this time. The property has a front property

line of approximately 336 ft.

These criteria have been met.

3.04 § 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:...

Staff: The subject property was created by the recordation of Partition Plat No. 1996-48. The partition plat application, LD 16-94 was approved by Land Use Planning in November 1995. The final plat was recorded on March 15, 1996 (Exhibit B.4). *Parcel 2 of Partition Plat 1996-48 is a Lot of Record.*

3.05 § 33.3180 OFF-STREET PARKING AND LOADING

Off-street parking and loading shall be provided as required by MCC 33.4100 through 33.4220. MCC 33.4205(A)(1) requires a two parking spaces for a single family dwelling.

Staff: At least two parking spaces will exist in the proposed 24 ft. by 36 ft. carport. In addition, the driveway can accommodate at least two automobiles. *This criterion has been met.*

3.06 § 33.3185 ACCESS

All lots and parcels in this district shall abut a street, or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles, except as provided for Lots of Record at MCC 33.3170(B).

Staff: During the planning review for the Partition Plat 1996-48, the alternative access by easement was determined by the approval authority to be safe and convenient. The Transportation section has reviewed the proposed site plan and has determined that no additional review or approval is needed for the dwelling to access the public road approximately 245 ft. to the north. *This criterion has been met.*

4.00 Significant Environmental Concern Permit

4.01 § 33.4510 USES; SEC PERMIT REQUIRED

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

Staff: The proposed single family dwelling, detached carport and the related accessory uses will be located in the Significant Environmental Concern for wildlife habitat (SEC-h) overlay. The proposed development will remain outside of the Significant Environmental Concern for streams (SEC-s) overlay. The applicant has applied for a SEC-h permit.

4.02 § 33.4570 CRITERIA FOR APPROVAL OF SEC-H PERMIT -WILDLIFE HABITAT

(B) Development standards:

(1) Where a parcel contains any non-forested "cleared" areas, development shall only occur in these areas, except as necessary to provide access and to meet mini-

minimum clearance standards for fire safety.

Staff: The northwest corner of the property has been cleared for the homesite. The proposed dwelling will be placed within this “cleared” area. *This criterion has been met.*

4.03 (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 entire subject property is over 240 ft. away from the public road serving it. The property access Beck Road via an easement. A wildlife conservation plan is required. See Section 5.00 below for additional findings.

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

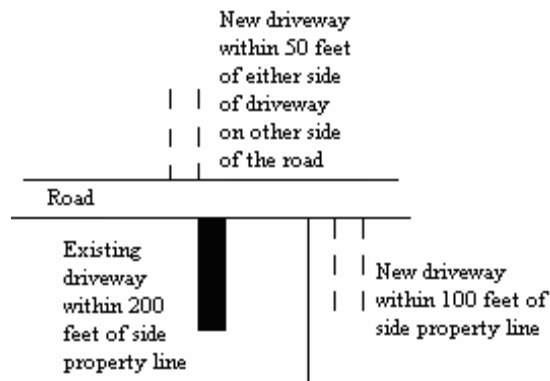
Staff: The service corridor serving the property is approximately 790 feet in length. The property accesses Beck Road via an access easement and the service corridor is the minimum necessary to serve the property. A wildlife conservation plan is required. See Section 5.00 below for additional findings.

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

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

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

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



For illustrative purposes only.

(d) The standards in this subsection (4) may be modified upon a determination by the County Road Official that the new access road/driveway approach would result in an unsafe traffic situation using the standards in the Multnomah County “Design and Construction Manual,” adopted June 20, 2000, (or all updated versions of the manual). Standards to be used by the Road Official from the County manual include Table 2.3.2, Table 2.4.1, and additional referenced sight distance and minimum access

spacing standards in the publication **A Policy on Geometric Design of Highways and Streets** by the American Association of State Highway and Transportation Officials (AASHTO) and the **Traffic Engineering Handbook** by the Institute of Transportation Engineers (ITE).

- 1. The modification shall be the minimum necessary to allow safe access onto the public road.**
- 2. The County Road Official shall provide written findings supporting the modification.**

Staff: The driveway approach to Beck Road to be used for the proposed dwelling is shared with two other dwellings. The driveway is located adjacent to the west property line. There are no existing driveways on the same side of Beck Road within 200 ft. of the shared driveway. On the opposite side of Beck Road within 500 ft. of the shared driveway. *This criterion has been met.*

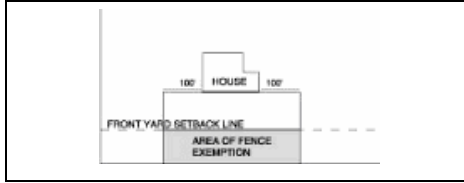
- 4.08** **(5) The development shall be within 300 feet of a side property line if adjacent property has structures and developed areas within 200 feet of that common side property line.**

Staff: The proposed single family dwelling is 30 ft. from the western side property line and 40 ft. from the northern property line. The proposed carport is 130 ft. from the western side property line and 30 ft. from the northern property line. The property to the west has an accessory structure within 233 ft. The property to the north has a structure within 194 ft. of the subject property. The proposed structures are located within 300 ft. of the side property lines. *This criterion has been met.*

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

- (a) Fences shall have a maximum height of 42 inches and a minimum 17 inch gap between the ground and the bottom of the fence.**
- (b) Wood and wire fences are permitted. The bottom strand of a wire fence shall be barbless. Fences may be electrified, except as prohibited by County Code.**
- (c) Cyclone, woven wire, and chain link fences are prohibited.**
- (d) Fences with a ratio of solids to voids greater than 2:1 are prohibited.**
- (e) Fencing standards do not apply in an area on the property bounded by a line along the public road serving the development, two lines each drawn perpendicular to the principal structure from a point 100 feet from the end of the structure on a line perpendicular to and meeting with the public road serving the development, and the front yard setback line parallel to the public road serving the development.**

**FIGURE 33.4570A FENCE
EXEMPTION AREA**



Staff: This property has no road frontage; therefore, this requirement is not applicable.

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

...

Staff: No nuisance plants have been proposed to be planted as part of the wildlife mitigation plan. The plan involves the planting of Douglas fir, cedar and native deciduous trees (Exhibit A.3). A condition of approval has been included specifying that no nuisance plants be installed and that the areas around the home and carport remain free of these species. *As conditioned, this criterion has been met.*

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

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

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

Staff: The subject site cannot meet the development standards of Section B as it has no road frontage and is accessed via a 700 ft. plus easement. Criteria (B)(2) & (B)(3) cannot be met. The subject application must provide a wildlife conservation plan that results in the minimum departure from the standards required in order to allow the use. The location of the proposed development is sited on the property to minimize the length of the driveway needed. The proposed placement of the dwelling is 40 ft from the front property line. The building cannot be placed closer to the front property line as the driveway must pass in front of it so that a turnaround can be provided at the end of the driveway. The placements of the dwelling and carport have been placed to minimize the distance from Beck Road. (C)(2) is not applicable.

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

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

Staff: The placement of the home is within 30 ft. of the west property line and 40 ft. from the north property line. The carport is located within 30 ft. of the north property line and 130 ft. from the west property line. The carport is located further into the property due to the need for

an adequate vehicle turn-around at the end of the driveway. The subject property is 5.06 acres. The area utilized for the home, septic system, driveway, soakage trench and carport is approximately 30,000 sq. ft. (0.68 of an acre). In addition, the development is placed in a previously cleared homesite area, so the least amount of forest canopy will be disturbed. *This criterion has been met.*

- 5.02 (b) That any newly cleared area associated with the development is not greater than one acre, excluding from this total the area of the minimum necessary accessway required for fire safety purposes.**

Staff: The area associated with the development is approximately 30,000 sq. ft. (0.68 of an acre) (Exhibit A.7). Approximately 1,000 sq. ft. of ground must be cleared for the construction of the detached carport. The area around the dwelling will be reforested with a mixture of evergreen and deciduous trees (Exhibit A.3 & A.11). *This criterion has been met.*

- 5.03 (c) That no fencing will be built and existing fencing will be removed outside of areas cleared for the site development except for existing cleared areas used for agricultural purposes.**

Staff: No proposed fencing will be built based on the proposed site plan (Exhibit A.7). A condition of approval has been included to remind future property owners that no fencing may be built. *This criterion can be met through a condition of approval.*

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

Staff: The area surrounding the proposed dwelling and carport will be revegetated with a mixture of Douglas fir, cedar and native deciduous trees. Shrubs to be planted will typically be native. The areas to be planted are the only cleared areas on the property and replaced at 2:1 ratio (Exhibit A.3). Planting is to occur in the Fall of 2009. Conditions of approval regarding this matter have been included herein.

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

Staff: Site plans show the development well west of the intermittent drainage that crosses this property, therefore, riparian areas adjacent to the drainage should not be impacted by this project.

6.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Significant Environmental Concern Permit to establish a single family dwelling and detached carport in the Rural Residential (RR) zone. This approval is subject to the conditions of approval established in this report.

7.00 Exhibits

- 'A' Applicant's Exhibits
- 'B' Staff Exhibits
- 'C' Procedural Exhibits

Exhibits with a "✱" after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T2-09-026 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	5/15/09
A.2	2	Driveway Site Plan	5/15/09
A.3	1	Replanted Areas	5/15/09
A.4	1	Private Landscape Swale Easement Agreement	5/15/09
A.5	2	Private Access Road Agreement	5/15/09
A.6	2	On-Site Sewage Evaluations & Services Permit #09-114410	5/15/09
A.7*	1	Site Plan	5/15/09
A.8	1	Floor Plan	5/15/09
A.9	1	Dwelling Elevation	5/15/09
A.10	1	Carport Elevation	5/15/09
A.11	2	Wildlife Mitigation Plan	6/29/09
A.12	1	Existing Vegetation Plan	6/29/09
A.13	2	Landscape Infiltration Designs	6/29/09
'B'	#	Staff Exhibits	Date
B.1	2	A&T Property Information for 2N2W23C -00700	5/15/09
B.2	2	Partition Plat 1996-48	6/26/09
B.3	15	SEC 0-1 Decision	No Date
B.4	1	Nuisance Plant Species List	No Date
'C'	#	Administration & Procedures	Date
C.1	1	Complete Letter	6/12/09
C.2	5	Opportunity to Comment	6/11/09
C.3	11	Administrative Decision	7/10/09