



NOTICE OF DECISION

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

Case File: T2-09-055

Permit: Template Test Forest Dwelling,
Significant Environmental Concern for
Wildlife Habitat Permit.

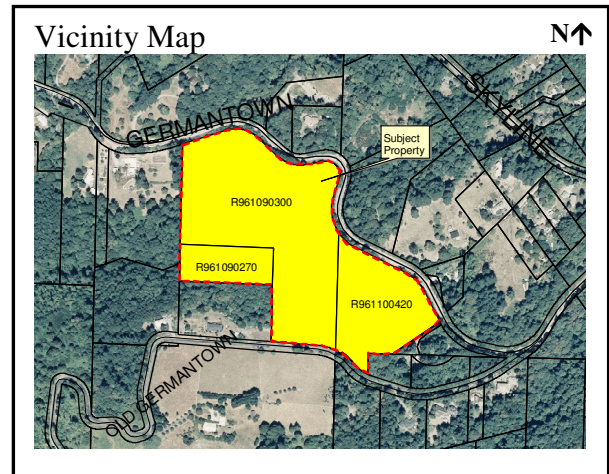
Location: 12600 NW Germantown Road
Tax Lot 2000, Section 10C,
Township 1N, Range 1W (R961100420)
Tax Lot 200, Section 9D,
Township 1N, Range 1W (R961090300)
Tax Lot 300, Section 9D,
Township 1N, Range 1W (R961090270)

Applicant: Dave Hall

Owner: Dave Hall, Beth Earnest, and Joan
Lewis.

Base Zone: Commercial Forest Use-2 (CFU-2)

Overlays: Significant Environmental Concern
Wildlife Habitat (SEC-h), Significant
Environmental Concern Streams (SEC-
s), and Slope Hazard (HD)



Summary: Application to qualify the tract for a new forest dwelling under the Template Test provisions of the Commercial Forest Use-2 (CFU-2) zoning district. Additionally, the applicant is seeking approval of the CFU-2 and Significant Environmental Concern Wildlife Habitat (SEC-h) development standards.

Decision: Approved With Conditions

Unless appealed, this decision is effective Monday, January 3, 2011, at 4:30 PM.

Issued by:

By: _____
Kevin Cook, Planner

For: Karen Schilling- Planning Director

Date: Monday, December 20, 2010

Instrument Number for Recording Purposes: # 2003219505

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 Kevin Cook, Staff Planner at 503-988-3043, ext. 26782.

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 Monday, January 3, 2010 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 37.0560 Code Compliance; MCC 33.0005 Lot of Record; 33.2240(A) Template Dwelling; 33.2250 Building Height Requirements; 33.2256 Forest Practice and Fire Safety Setbacks; 33.2261 Development Standards for Dwellings; 33.2273 Access; 33.2275 Lot of Record; 33.2307 Single Family Dwellings Condition of Approval – Prohibition on Claims Alleging Injury From Farm or Forrest Practices; 33.4570 Significant Environmental Concern – Wildlife Habitat.

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 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.

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, Kevin Cook at (503) 988-3043 ext. 26782, 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 address will need to be assigned (\$85) and an erosion control inspection fee of \$77.00 will be required.

- 1. The owners or their representative shall record the Notice of Decision though the Conditions of Approval with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and shall be filed with the Land Use Planning Division. Recording shall be at the applicant's expense. [MCC 37.0670]**
- 2. Prior to building permit sign-off, the owner or their representative shall apply for and obtain a Grading and Erosion Control permit for the dwelling, driveway, septic field, landscaping and any other ground disturbance activities associated with this approval [MCC 29.336].**
- 3. At the time of building permit sign-off, the owner or their representative shall include elevation plans that clearly show the height of the structure as defined in 'Building Height' and the calculations of the height [MCC 33.0005 and MCC 33.2250].**
- 4. The building plans submitted for plan check and sign-off shall show the internal NFPA 13D sprinkler system for the dwelling [Comprehensive Plan Policy 38].**
- 5. The property owner shall establish and maintain a primary and a secondary fire safety zone on the subject tract and show the fire primary and secondary safety zones from the dwelling on the building permit site plan [MCC 33.2256(D)]:**
- 6. The 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.**
- 7. Prior to starting construction work of 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 keep the permit active and to confirm that the work performed under the building permit shall be completed with a final inspection. [MCC 33.2261(C)].**
- 8. The owner or their representative shall obtain a sanitation permit for the area shown on the site plan prior to building permit sign-off [Comprehensive Plan Policy 37].**
- 9. The property owner shall 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. The owner shall submit a copy of the Department of Forestry's stocking requirements to the Land Use Planning Office prior to building permit sign-off. Upon submittal, Land Use Planning will notify the Assessors office of the planting requirements [MCC 33.2240(A)(6)].**

10. The statement, in Exhibit B.7, shall be recorded with the Division of Records prior to zoning approval of the building permit. The statement documents 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 33.2240(A)(8) & MCC 33.2307].
11. No nuisance plants as listed in MCC 33.4570(B)(7) shall be planted on the subject property. The property owner shall maintain the development site free of the listed nuisance plants.
12. If any fencing is installed along the front property line in the future it shall meet the fencing requirements of MCC 33.4570(B)(6).
13. Prior to building permit sign-off, the property owner shall submit a stormwater drainage certificate prepared by a professional engineer and accompanying site plan with the location of the stormwater system(s) to be used for the dwelling and driveway. Calculations shall be attached to the drainage certificate. This system shall collect and dispose 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. Stormwater shall not be discharged into the county right-of-way without a discharge permit issued by the County Engineer [Comprehensive Plan Policy 37].
14. Prior to the issuance of a building permit evidence shall be provided 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).
14. The property owner shall insure that the Fire District Conditions for building and access are carried out per the Fire District Memo (Exhibit A.13) dated March 12, 2010, including the requirements to install Fire Sprinklers in the dwelling and to meet the Districts driveway specifications.

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.

NOTICE OF APPEAL HEARING
CASE FILE T2-09-055

If an appeal of this decision is filed, a public hearing will be held on January 14, 2011. The hearing will begin at 1:00 PM or soon thereafter.

The hearing will take place in Room 103 at the Land Use Planning Division office located at 1600 SE 190th Avenue, Portland, OR 97233. If no appeal is filed, a notice canceling this hearing will be posted on the outside of the Yeon Annex Building doors. You can also call the receptionist at 503-988-5050 option '0' to inquire on the status of the hearing.

The Hearing shall be regarding the application for a New Forest Dwelling on property known as 12600 NW Germantown Road.

Applicable Approval Criteria: Multnomah County Code (MCC): **New Forest Dwelling Permit (Template)** – 33.2225 Review Uses, 33.2240 Template and Heritage Tract Dwellings, 33.2250 Building Height Requirements, 33.2256 Forest Practices Setbacks and Fire Safety Zones, 33.2261 Development Standards for Dwellings and Structures, 33.2273 Access, 33.2275 Lot of Record, 33.2285 Off-Street Parking and Loading, 33.2307 Single Family Dwellings Condition of Approval - Prohibition on Claims Alleging Injury From Farm or Forest Practices

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

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

Any issue that is intended to provide a basis for an appeal to the Land Use Board of Appeals (LUBA) must be raised prior the close of the public record. Issues must be raised and accompanied by statements or evidence sufficient to afford the County and all parties an opportunity to respond to the issue.

A public hearing to consider any appeal will be conducted before one of the following County Hearings Officer's:

Joan Chambers
Liz Fancher

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 single family dwelling on the subject tract. The dwelling is proposed at the same location of the previous dwelling that burned down 4 years ago. The opportunity to replace the previous dwelling expired one year after the dwelling was destroyed. The applicant is now seeking to qualify the property for a single family dwelling. The proposed dwelling is proposed in the same location as the previous dwelling approximately 100 feet from Germantown Road.

2.00 Commercial Forest Use-2 Template Dwelling:

MCC 33.2240 Template and Heritage Tract Dwellings

(A) A template dwelling may be sited on a tract, subject to the following:

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

Staff: Lot of Record findings are made below under Section #7.

Criterion met.

B. **(2) The tract shall be of sufficient size to accommodate siting the dwelling in accordance with MCC 33.2256 and 33.2261;**

Staff: Staff makes findings for the development standards below under Section #5.

Criterion met.

C. **(3) The tract shall meet the following standards:**

1. **(c) If the tract is predominantly composed of soils which are capable of producing above 85 cf/ac/yr of Douglas Fir timber; and**

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

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.

Staff: The definition of “template” is found under MCC 33.0005 Definitions. The code defines the template as:

Template Dwelling – A type of single family detached dwelling in the CFU zoning districts with approval criteria that includes a requirement that a certain number of parcels and dwellings exist within a 160-acre square (map template) centered on the subject tract. The complete description of requirements are in the use sections of the district.

Staff has provided a cardboard cutout of the tract (Exhibit B.8) with the location of the center of the tract marked. In order to determine the (gravitational) center of the tract as described in the definition, the cutout is balanced on a pin (Pin Test).

A 160-acre square ‘template’ must then be centered on the center of the property perpendicular with the Section Lines (east-west and north-south). Due to the soils on the property and their timber capacity (predominately Cascade Silt Loam; 140-164 cubic foot per acre per year), the template must contain 11 lawfully created dwellings and 5 lawfully established dwellings established prior to January 1, 1993.

Staff finds that there are 11 lawfully created properties that existed on January 1, 1993.

A summary of five dwellings located within the template that were lawfully established prior to January 1, 1993. They are as follows:

1. 13045 NW Germantown Rd
2. 9003 NW Skyline Blvd
3. 13000 NW Old Germantown Rd
4. 12222 NW Old Germantown Rd
5. 12130 NW Old Germantown Rd

A map showing the location of the subject properties with the dwellings is included as Exhibit B.9.

Criteria met.

2. **(d) Lots and dwellings within urban growth boundaries shall not be counted to satisfy (a) through (c) above.**

Staff: While the 160 acre square does cover a number of lots within the urban growth boundary the 11 lots and 5 dwellings evaluated for the template are not located within the urban growth boundary.

Criterion met.

3. **(e) There is no other dwelling on the tract,**

Staff: No dwellings are located on any of the lots within the tract.

Criterion met.

4. **(f) No other dwellings are allowed on other lots (or parcels) that make up the tract;**

Staff: No additional dwellings are allowed on the subject tract under the CFU zoning district (Condition 14).

Criterion met.

5. **(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: Condition 14 requires a covenant prohibiting new dwellings from being located on any of the other lots within the tract.

Criterion met.

6. **(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: Condition 14 prohibits the lots from being used to qualify another tract for the siting of a dwelling.

Criterion met.

7. **(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: The tract qualifies for a dwelling under MCC 33.2240(A).

Criterion met.

8. **(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: All the 11 lots and parcels evaluated within the template were created prior to November 4, 1993.

Criterion met.

9. **(k) “Within” as used in the context of (a)2., (b)2. and (c)2. shall mean that all of the dwellings or any part of the dwellings are in the 160-acre square.**

Staff: All of the dwellings used to qualify the property for a template dwelling are located entirely within the 160-acre square (Exhibit B.9).

Criterion met.

- D. **(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.**

Staff: The parcel does not appear on the county's maps as within an area designated as Big Game Winter Habitat. Additionally, the Significant Environmental Concern permit for Wildlife Habitat (SEC-h) reviews impacts to wildlife in the area. Findings for the SEC-h are found in Section #8.

Criterion met.

- E. **(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;**

Staff: The property has direct road access onto NW Germantown Road, so no long term proof of access is required.

Criterion met.

- F. **(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 321.359 and impose the additional tax pursuant to ORS 321.372;

Staff: A condition of approval shall require that the assessor is notified of the new dwelling and stocking requirement. The owners will also be required to plant a sufficient number of trees to meet the forestry restocking requirement.

Criterion met.

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

Staff: The development standards of MCC 33.2256 and 33.2261 are discussed in Section #5.

- H. **(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;**

Staff: This criterion will be met with a condition of approval.

Criterion met.

- I. **(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).

Staff: A condition of approval will ensure the covenant described above is recorded prior to the issuance of a building permit.

Criterion met with condition of approval.

3.00 Building Height Requirements:

MCC 33.2250 BUILDING HEIGHT REQUIREMENTS

(A) Maximum structure height – 35 feet.

(B) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirements.

Staff: The proposed dwelling will be limited to a maximum height of 35-feet as defined under MCC 33.0005 Building Height.

Criterion met.

4.00 Forest Practices Setbacks and Fire Safety Zones:

MCC 33.2256 FOREST PRACTICES SETBACKS AND FIRE SAFETY ZONES

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
Description of use and location	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)
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.

(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.

(D) Fire Safety Zones on the Subject Tract

(1) Primary Fire Safety Zone

(a) A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure. Trees within this safety zone shall be spaced with greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height.

(b) On lands with 10 percent or greater slope the primary fire safety zone shall be extended down the slope from a dwelling or structure as follows:

Percent Slope	Distance In Feet
Less than 10	No additional required
Less than 20	50 additional
Less than 25	75 additional
Less than 40	100 additional

(c) The building site must have a slope less than 40 percent.

(2) Secondary Fire Safety Zone

A secondary fire safety zone is a fire break extending a minimum of 100 feet in all directions around the primary safety zone. The goal of this safety zone is to reduce fuels so that the overall intensity of any wildfire is lessened. Vegetation should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent the spread of fire up into the crowns of the larger trees. Assistance with planning forestry practices which meet these objectives may be obtained from the State of Oregon Department of Forestry or the local Rural Fire Protection District. The secondary fire safety zone required for any dwelling or structure may be reduced under the provisions of 33.2310.

(3) No requirement in (1) or (2) above may restrict or contradict a forest management plan approved by the State of Oregon Department of Forestry pursuant to the State Forest Practice Rules; and

(4) Required Primary and Secondary Fire Safety Zones shall be established within the subject tract as required by Table 1 above.

(5) Required Primary and Secondary Fire Safety Zones shall be maintained by the property owner in compliance with the above criteria listed under (1) and (2).

Staff: As seen on the applicant's site plan (Exhibit A.15), the development meets all the required Forest Practice Setbacks and Fire Safety Zones.

Criteria met with condition of approval.

5.00 Development Standards for Dwellings and Structures:

MCC 33.2261 DEVELOPMENT STANDARDS FOR DWELLINGS AND STRUCTURES

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

- A. **(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 dwelling and accessory structures meet the non-discretionary standards of (1) below. As such, the applicant has addressed sections (1) and (3).

1. **(1) The structure shall satisfy the following Option 1, Non-discretionary Type 1 Permit requirements:**

- a. **(a) To meet the Forest Practices Setback, the structure shall be located a minimum of 30-feet from a front property line adjacent to a county maintained road and 130-feet from all other property lines;**

Staff: As seen on the submitted site plan (Exhibit A.15), the dwelling, garage, and shop building are located at least 55-feet from the front property line adjacent to a county maintained road and 130-feet from the closest other property line to the west.

Criterion met.

- b. **(b) The structure shall be located in a cleared area of at least 10,000 square feet that meets the tree spacing standards of a primary fire safety zone;**

Staff: The area proposed to be developed is within an existing cleared area of approximately 28,000 square feet. A number of evergreen trees dot the development zone but they meet the spacing standards of the primary fire safety zones.

Criterion met.

- c. **(c) The entirety of the development site is less than 30,000 square feet in total cleared area, not including the driveway;**

Staff: As shown on the applicant's site plan, the total area of disturbance, including the septic area and less the driveway is approximately 20,000 feet (Exhibit A.15).

Criterion met.

- d. **(d) The structure is sited within 300-feet of frontage on a public road and the driveway from the public road to the structure is a maximum of 500-feet in length;**

Staff: All structures are proposed to be within 300 feet from the frontage of NW Germantown Road.

Criterion met.

- e. **(e) The local Fire Protection District verifies that their fire apparatus are able to reach the structure using the proposed driveway**

Staff: The property is served by Tualatin Valley Fire & Rescue, who has reviewed the proposal and given conditional approval [Exhibits A.13]. The district has indicated their vehicles can reach the proposed development site.

Criterion met.

- 2. **(3) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:**

- a. **(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;**

Staff: The property is within the Tualatin Valley Fire & Rescue's protection district.

Criterion met.

- b. **(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;**

Staff: The development includes a swimming pool capable of providing 4,000 gallons of water.

Criterion met.

B. (C) The dwelling or structure shall:

- 1. **(1) Comply with the standards of the applicable building code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes;**

Staff: A condition of approval shall ensure that the dwelling is constructed pursuant to the applicable building codes.

Criterion met with condition of approval.

2. **(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;**

Staff: The proposed dwelling is proposed to be a conventionally built dwelling.

Criterion met.

3. **(3) Have a fire retardant roof; and**

Staff: A condition of approval will require that the dwelling be constructed with a fire retardant roof.

Criterion met with condition of approval.

4. **(4) Have a spark arrester on each chimney.**

Staff: Any chimneys included in the dwelling shall be required to have spark arresters as a condition of approval.

Criterion met with condition of approval.

- C. **(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.**

(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.

(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 well driller's report for the existing well indicates that the well supplies 12 gallons per minute (Exhibit A.8).

Criteria met with condition of approval.

- D. **(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:**

- (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;**
- (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;**
- (3) Provide minimum curve radii of 48 feet or greater;**
- (4) Provide an unobstructed vertical clearance of at least 13 feet 6 inches;**
- (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;**
- (6) Provide a turnaround with a radius of 48 feet or greater at the end of any access exceeding 150 feet in length;**
- (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.**
- (8) An existing driveway currently being utilized by the habitable dwelling may be extended to a replacement dwelling without compliance with the roadway standards above. However, nothing in this exemption removes the requirements under the county's Fire Apparatus means of Approach Standards contained in MCC 29.012.**

Staff: The Fire District has reviewed and approved the proposed access (Exhibit A.15 and A.13) and requires a fire sprinkler system to be installed in the new dwelling (Condition 15).

Criteria met with condition of approval.

6.00 Access

MCC 33.2273 ACCESS

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

Staff: The access location has been approved through Multnomah County EP-2009-051.

7.00 Lot of Record:

MCC 33.2275 LOT OF RECORD

(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:

Staff: Lot of Record is defined in MCC 33.0005 as:

A. 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 properties were created in compliance with county’s SR zoning prior to Ordinance 149 (Exhibit A.19). The three properties together make up a tract and are currently in the same ownership. The standards found in the definition of Lot of Record have been met.

Criteria met.

B. (1) A parcel or lot which was not *contiguous* to any other parcel or lot under the *same ownership* on February 20, 1990, or

(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.

1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not

result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area. See Examples 1 and 2 in this subsection.

2. There shall be an exception to the 19 acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record. See Example 3 in this subsection.

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g. MUA-20, RR, RC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

Staff: The subject lot is contiguous to two other properties that were in the same ownership on February 20, 1990. The three lots are still in the same ownership and together make up a single Lot of Record.

Criteria met.

8.00 Significant Environmental Concern:

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: As seen on the air photo, the proposed location of the home, driveway and septic system is located within an area that does not meet the definition of 'forested' as found in MCC 33.4570(A). Since the area does not meet the requirements of 'forested,' it is in an area that is 'cleared' as required 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: As seen on the submitted site plan, the closest point of the proposed structural development is within 200 feet of NW Germantown Road.

Criterion met.

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

Staff: As seen on the site plan (Exhibit A.15), the access to the dwelling is less than 500 feet in length.

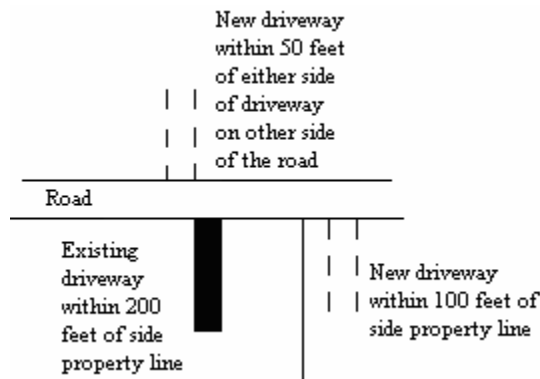
Criterion met.

- 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.

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



For illustrative purposes only.

Staff: The proposed driveway access point to NW Germantown Road is 60-feet from the access point of the property across the street. The proposed location meets the standard of (b) above.

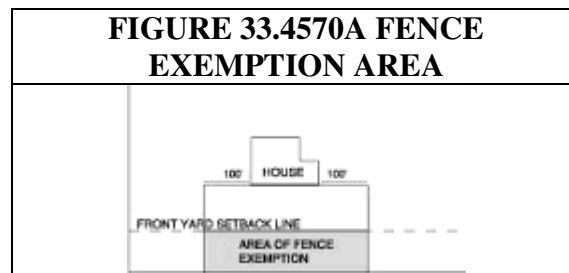
Criteria met.

- 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 adjacent properties do not contain any structures within 200 feet of the subject property.

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 has been proposed as part of this application. Fencing in the future will be required to meet the standards of this provision as a condition of approval.

Criteria met with condition of approval.

- 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 telemateia</i>	Giant Horsetail
<i>Erodium cicutarium</i>	Crane's Bill
<i>Geranium robertianum</i>	Robert Geranium
<i>Hedera helix</i>	English Ivy
<i>Hypericum perforatum</i>	St. John's Wort
<i>Ilex aquafolium</i>	English Holly
<i>Laburnum watereri</i>	Golden Chain Tree
<i>Lemna minor</i>	Duckweed, Water Lentil

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.

Staff: A condition of approval will require the removal of the listed plants from the development site as well as maintaining the area free from them into the future.

Criterion met.

9.00 Conclusion:

Based on the findings and other information provided above, the applicant has carried the burden necessary for the New Forest Template Dwelling and for a Significant Environmental Concern Permit in the Commercial Forest Use-2 zone. This approval is subject to the conditions of approval established in this report.

10.00 Exhibits:

All exhibits are available for review in Case File T2-09-055 at the Land Use Planning office.

'A' Applicant's Exhibits

'B' Staff Exhibits

'C' Procedural Exhibits

Exhibit #	Description of Exhibit	Date Submitted
A.1	General Application Form	9/29/2009
A.2	Title Report	9/29/2009
A.3	Parcel data for lots located within template area	9/29/2009
A.4	Vicinity map	9/29/2009
A.5	Aerial photograph	9/29/2009

A.6	Record of Survey number 39567 dated June 15, 1976	9/29/2009
A.7	Septic system information for existing system	3/10/2010
A.8	Well information for existing well	3/10/2010
A.9	Photographs of existing access location	3/10/2010
A.10	Fire District Access Review Form	3/25/2010
A.11	Certificate of Onsite Sewage Disposal	5/12/2010
A.12	Septic system easement for drainfield to be located on Tax Lot 200 for the benefit of septic system to be located on Tax Lot 2000.	5/18/2010
A.13	Tualatin Valley Fire & Rescue memo (dated March 12, 2010)	3/29/2010
A.14	Signed acknowledgement of incomplete application	10/16/2009
A.15	Proposed site plan (full size)	3/10/2010
A.16	Proposed site plan (11' x 17")	3/10/2010
A.17	CFU Development Standards Application Form	3/10/2010
A.18	Significant Environmental Concern for Wildlife Habitat Permit Application Form	6/15/2010
'B'	Staff Exhibits	Date Submitted
B.1	A&T Property Information for Lot 2000	9/29/2009
B.2	A&T Property Information for Lot 300	9/29/2009
B.3	A&T Property Information for Lot 200	9/29/2009
B.4	Prefile Meeting Notes	9/29/2009
B.5	Zoning Map	10/16/2009
B.6	Vicinity Map	9/29/2009
B.7	Acknowledgement of Farm and Forest Operations	8/27/2010
B.8	Pin Test – Map Cutout	8/27/2010
B.9	Template Map	8/27/2010
'C'	Administration & Procedures	Date Submitted
C.1	Incomplete Application Letter	10/15/2009
C.2	Opportunity to Comment Notice	6/25/2010