

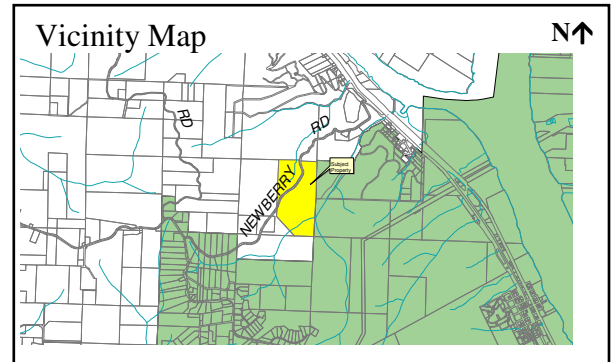


MULTNOMAH COUNTY
LAND USE AND TRANSPORTATION PROGRAM
1600 SE 190TH Avenue Portland, OR 97233
PH: 503-988-3043 FAX: 503-988-3389
<http://www.multco.us/landuse>

NOTICE OF DECISION

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

Case File: T2-2012-2387



Permit: Alteration of a Nonconforming Use and Significant Environmental Concern for Wildlife Habitat and Scenic Views, and an Accessory Use Determination

Location: 14000 NW Newberry Road
Tax Lot 100, Section 33C,
Township 2 North, Range 1 West, W.M.
R971330070

Applicant: Rollie Sivyer

Owners: Rollie Sivyer

Base Zone: Commercial Forest Use – 1 (CFU-1)

Overlays: Slope Hazard, Significant Environmental Concern for Wildlife, Views, and Streams.

Summary: Applicant proposes to build additions including a second story addition to the existing 1966 single family dwelling and retroactive approval of two storage sheds.

Decision: Approved with Conditions

Unless appealed, this decision is effective November 9, at 4:00 PM.

Issued by:

By: _____
Kevin Cook, Planner

For: Karen Schilling- Planning Director

Date: Friday, October 26, 2012

Instrument Number for Recording Purposes: # 2012081716

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 November 9, 2012 at 4:00 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): 33.4500 – 33.4570, Significant Environmental Concern; 33.2000 – 33.2110, Commercial Forest Use – 1 Zone; Chapter 37 Administration and Procedures.
Multnomah County Road Rules (MCRR): 1.000 – 22.000

Copies of the referenced Multnomah County Code (MCC) and Multnomah County Road Rules (MCRR) 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> or <http://web.multco.us/transportation-planning>.

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 4 years from the date the decision is final pursuant to MCC 37.0690(B) as applicable. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0695, 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 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 site plan (Exhibit A.2). The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and a copy filed with Land Use Planning. Recording shall be at the applicant's expense. [MCC 37.0670]
2. The property owner shall maintain a primary and a secondary fire safety zone on the subject tract as outlined below and show the fire safety zones on the building permit site plan.
 - 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. A secondary fire safety zone is a fire break extending a minimum of 100 feet in all directions around the primary safety zone on the subject property. The goal of this safety zone is to reduce fuels so that the overall intensity of any wildfire is lessened. Vegetation should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent the spread of fire up into the crowns of the larger trees. Maintenance of the secondary fire safety zone is required only on land surrounding the dwelling that is owned or controlled by the property owner.
3. The primary fire safety zone in the area on the subject tract as shown on the Fire Boundary and Plan (Exhibit A.2) shall extend a minimum of 105 feet around the storage sheds. 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 within the primary fire safety zone.
4. 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 confirm that the work performed under the building permit shall be completed with a final inspection.
5. There shall be no combustible fences erected within 12 feet of the exterior surface of the proposed building.
6. Nuisance plants as listed in MCC 33.4570(A)(7) shall not be planted on the subject property.
7. If any fencing is installed along the front property line in the future it shall meet the fencing requirements of MCC 33.4570(A)(6).
8. No new fencing is authorized by this permit except for that which is associated with the production of agriculture.

9. To provide screening of the development from the viewing areas, the property owner shall maintain the existing trees nearest to the dwelling and to the storage sheds density. Two additional trees shall be planted northeast of the dwelling within 50 feet. Trees in these areas may be removed in order to achieve the tree spacing requirements of the fire safety zones.
10. Metal siding or roofing shall not be used for siding or roofing on the exterior of the building. The property owner shall use low or none reflective building materials such as wood, wood fiber, cement composition siding and /or asphalt roofing. The exterior colors of the finished building shall match the brown paint color proposed by the applicant. The type of exterior building materials shall be noted on the building plans and color samples shall be submitted prior to County Zoning Building Permit review.
11. Outdoor lighting shall be directed downward, hooded and fully shielded. Shielding and hooding materials should be composed of nonreflective, opaque materials. If any outdoor lighting is proposed, that lighting shall be shown on the building plans and the property owner shall submit a brochure of the fixture during zoning review of the building plans that meets this condition.
12. New windows shall have a reflectivity rating of 15% or less. Evidence of the reflectivity rating for new windows shall be submitted at the time of building permit sign-off and shall be indicated on the building plans.
13. The dwelling and sheds are required to have a fire retardant roof and the dwelling must of a spark arrester for any new chimneys.

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 proposes to construct an addition to the existing 1966 dwelling that includes additional area on the first floor as well as a second story addition. The applicant also proposes SEC-v, and SEC-h review for existing sheds on the property. The sheds are also subject to Accessory Use Determination since they are located further than 100 feet from the existing dwelling. Construction of the dwelling additions require SEC-v review and the placement of the storage sheds requires SEC-h and SEC-v review as well as an Accessory Use Determination.

2.00 Property Description & History:

Staff: The property is in the CFU-1 zone adjacent to CFU zoned properties on all sides except to the east, which is in the city limits of Portland. The property is within the Significant Environmental Concern for Wildlife Habitat for View.

3.00 Base Zone Criteria:

3.01 § 33.2015 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 33.2020 through 33.2035 when found to comply with MCC 33.2045 through 33.2110.

§ 33.2020 ALLOWED USES

(D) Alteration, maintenance, replacement or restoration of an existing lawfully established habitable dwelling as defined in MCC 33.0005 and located within 100-feet from an existing dwelling.

(1) In the case of a replacement dwelling, the existing dwelling shall be removed, demolished or converted to an allowable nonresidential use within three months of the completion or occupancy of the replacement dwelling.

(2) Restoration or replacement due to fire, other casualty or natural disaster shall commence within one year from the occurrence of the fire, casualty or natural disaster.

Staff: The dwelling was lawfully permitted through a 1964 building permit (ExhibitA.17). A single family dwelling was allowed in F-2 zone in 1964 (Exhibit X). The applicant submitted

photographic evidence (Exhibit A.10) indicating that the dwelling is a habitable dwelling. The dwelling is a lawfully established habitable dwelling eligible for alteration.

3.02 (T) Accessory Structures:

(1) Other structures or uses listed below when customarily accessory or incidental to any use permitted or approved in this district located within 100 feet of the dwelling.

(a) Garages or carports;

(b) Pump houses;

(c) Garden sheds;

(d) Workshops;

(e) Storage sheds;

(f) Greenhouses;

(g) Woodsheds;

(h) Shelter for pets, horses or livestock and associated buildings such as: manure storage, feed storage, tack storage, and indoor exercise area;

(i) Swimming pools, pool houses, hot tubs, saunas, and changing rooms;

(j) Sport courts;

(k) Gazebos, pergolas, and detached decks;

(l) Fences, gates, or gate support structures; and

(m) Similar structures.

(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.

(3) If the accessory structure has a bathroom or kitchen facilities, then prior to issuance of the building permit the property owner shall record a deed restriction with County Records that states that the owner understands and agrees that the structure cannot be occupied as a dwelling.

(4) Buildings in conjunction with farm uses as defined in ORS 215.203 are not subject to these provisions.

Staff: The storage sheds are accessory to the dwelling, but are located over 100 feet from dwelling and are therefore do not qualify as an Allowed Use as listed above.

3.03 § 33.2025 REVIEW USES

The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter:

(L) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the “accessory structures” standard in MCC 33.2020 Allowed Uses.

Staff: The two 100 square foot storage sheds are placed in order to securely store the applicant's personal effects. Securing personal effects in a storage shed is accessory and incidental to the residential use of the property. The sheds are uses allowed as a review use.

3.04 § 33.2050 BUILDING HEIGHT REQUIREMENTS

(A) Maximum structure height – 35 feet.

Staff: The height of the sheds is 10 feet above grade. The dwelling addition height will be 23 feet above grade. *The standard is met.*

3.05 § 33.2056 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 Setback			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
Replaced or restored dwelling in same location &/or less than 400 sq. ft. additional ground coverage; Alteration and maintenance of dwelling	May maintain current nonconforming setback(s) if less than 30 ft. to property line	30	30	Property owner is encouraged to establish Primary to the extent possible
Accessory structures located more than	N/A	30	130	Primary & Secondary required

100 ft. from the dwelling				
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(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 33.2110.

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

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

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

Staff: The dwelling addition will be on the east side of the dwelling and the primary fire safety zone and is less than 400 sq. ft. and is exempt from the fire safety zone review. The nearest property line 150 feet to the west on slopes less than 10 percent. The sheds are located on slopes of less than 25 percent which requires a primary fire safety zone of 105 feet and a secondary of 100 feet additional. The sheds are located at least 430 from the nearest property line to the west. Condition 2 requires the installation and maintenance of the required fire safety zones.

3.06 § 33.2061 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) For the uses listed in this subsection, the applicable development standards are limited as follows:

(1) Expansion of existing dwelling.

(a) Expansion of 400 square feet or less additional ground coverage to an existing dwelling: Not subject to development standards of MCC 33.2061;

(b) Expansion of more than 400 square feet additional ground coverage to an existing dwelling: Shall meet the development standards of MCC 33.2061(C);

(2) Replacement or restoration of a dwelling.

(a) Replacement or restoration of a dwelling that is within the same footprint of the original dwelling and includes less than 400 square feet of additional ground coverage: Not subject to development standards of MCC 33.2061; (b) Replacement or restoration of a dwelling that is within the same footprint of the original dwelling with more than 400 square feet of additional ground coverage: Shall meet the development standards of MCC 33.2061(C);

(c) Replacement or restoration of a dwelling that is not located within the footprint of the original dwelling but it is located where at least a portion of the replacement dwelling is within 100 feet of the original dwelling: Shall meet the development standards of MCC 33.2061(C) and the applicable driveway/road requirements of 33.2061(E);

Staff: The dwelling addition will result in 120 square feet of additional ground coverage and is therefore exempt from the development standards.

3.07 (3) Accessory buildings.

(a) Accessory buildings within 100 feet of the existing dwelling: Shall meet the development standards of MCC 33.2061(C);

(b) Accessory buildings located farther than 100 feet from the existing dwelling: Shall meet the development standards of MCC 33.2061(B)&(C);

Staff: The two 100 square foot sheds are located farther than 100 feet from the existing dwelling and are required to meet (B)&(C); see findings below.

- 3.08 (B) New dwellings shall meet the following standards in (1) and (3) or (2) and (3); restored or replacement dwellings greater than 100-feet from an existing dwelling, and accessory buildings (or similar structures) greater than 100-feet from the existing dwelling shall meet the following standards in (1) and (3) or (2) and (3):**

Staff: The storage sheds are located more than 100-feet from the existing dwelling and meet (2) and (3) below.

- 3.09 (2) The structure shall satisfy the following requirements:**

- (a) It has the least impact on nearby or adjoining forest or agricultural lands and satisfies the standards in MCC 33.2056;**
- (b) Adverse impacts on forest operations and accepted farming practices on the tract will be minimized;**
- (c) The amount of forest land used to site the dwelling or other structure, access road, and service corridor is minimized;**
- (d) Any access road or service corridor in excess of 500 feet in length is demonstrated by the applicant to be necessary due to physical limitations unique to the property and is the minimum length required; and**

Staff: The sheds will not impact nearby or adjoining forest agricultural lands because the sheds are used for storage; a relatively passive use associated with the existing residential use on the property. The sheds are located in an existing cleared area on the subject property and will not create adverse impact on future forestry and/or farming practices on the property. The sheds are located in an existing cleared area and no cutting of timberland is required. Access to the sheds is 500 feet in length as measured from the right-of-way and 250 feet as measured from the dwelling.

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

- (a) Access roadways shall be approved, developed and maintained in accordance with the requirements of the structural fire service provider that serves the property. Where no structural fire service provider provides fire protection service, the access roadway shall meet the Oregon Fire Code requirements for fire apparatus access.**
- (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 fire apparatus access standards of the Oregon Fire Code with permanent signs posted along the access route to indicate the location of the emergency water source.**

Staff: The Fire District has reviewed and signed off on the proposal.

- 3.11 (C) The dwelling or structure shall:**

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

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

Staff: No mobile homes are proposed. The dwelling and sheds are required to have a fire retardant roof and the dwelling must of a spark arrester for any new chimneys (Condition 13).

3.12 § 33.2073 ACCESS

All lots and parcels in this district shall abut a public street or shall have other access deemed by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles. This access requirement does not apply to a preexisting lot and parcel that constitutes a Lot of Record described in MCC 33.2075(C).

Staff: The property abuts a public street. The access location is permitted (Exhibit A.23).

3.13 § 33.2075 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:

(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.

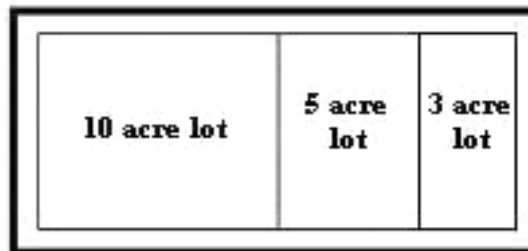
1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with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

3. Three examples of how parcels and lots shall be aggregated are shown below with the solid thick line outlining individual Lots of Record:



Example 2:
One 40 acre Lot of Record and
one 30 acre Lot of Record



Example 3:
One 18 acre Lot of Record

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, BRC, 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.

(4) Exceptions to the standards of (A)(2) above:

(a) Where two contiguous parcels or lots are each developed with a lawfully established habitable dwelling, the parcels or lots shall be Lots of Record that remain separately transferable, even if they were held in the same ownership on February 20, 1990.

(b) Where approval for a “Lot of Exception” or a parcel smaller than 19 acres under the “Lot Size for Conditional Uses” provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the same ownership on February 20, 1990.

(B) In this district, significant dates and ordinances applicable for verifying zoning compliance may include, but are not limited to, the following:

(1) July 10, 1958, F-2 zone applied;

(2) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;

(3) October 6, 1977, MUF-20 and CFU-38 zones applied, Ord. 148 & 149;

(4) August 14, 1980, MUF-19 & 38 and CFU-80 zones applied, Ord. 236 & 238;

(5) February 20, 1990, lot of record definition amended, Ord. 643;

(6) January 7, 1993, MUF-19 & 38 zones changed to CFU-80, Ord. 743 & 745;

- (7) August 8, 1998, CFU-1 zone applied, Ord. 916 (reenacted by Ord. 997);**
- (8) May 15, 2002, Lot of Record section amended, Ord. 982 & reenacted by Ord. 997;**
- (C) A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 33.2073, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.**
- (D) The following shall not be deemed 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) A Mortgage Lot;**
 - (4) An area of land created by court decree.**

§ 33.0005 DEFINITIONS.

As used in this Chapter, unless the context requires otherwise, the following words and their derivations shall have the meanings provided below.

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 72.69 acre property is found on 1977 zoning maps when the F-2 zone was in effect. The F-2 required a 2 acre minimum at the time. There was no adjacent ownership in 1990 (Exhibit X). The property is a Lot of Record.

4.00 Accessory Use Determination

4.01 § 33.0005 DEFINITIONS.

As used in this Chapter, unless the context requires otherwise, the following words and their derivations shall have the meanings provided below.

Accessory Building – A subordinate building, the use of which is clearly incidental to that of the main building on the same lot.

Staff: The two 100 square foot storage sheds are placed in order to securely store the applicant's personal effects. Securing personal effects in a storage shed is accessory and incidental to the residential use of the property. Storage sheds are permitted as an allowed use in the zone when within 100 feet of the dwelling. These storage sheds are located 250 feet from the dwelling and are obscured from the road by the dwelling and trees, which the applicant states results in a more secure location. While the sheds are located further from the dwelling than is typical, they are clearly incidental to the residential use of the property. The applicant also states that property maintenance equipment is stored in the shed.

5.00 Significant Environmental Concern for Wildlife Habitat

5.01 § 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.

(B) Any excavation or any removal of materials of archaeological, historical, prehistorical or anthropological nature shall be conducted under the conditions of an SEC permit, regardless of the zoning designation of the site.

(C) Activities proposed for lands designated as scenic waterways under the Oregon Scenic Waterways System shall be subject to an SEC permit in addition to approval from the Oregon

Parks and Recreation Department.

§ 33.4515 EXCEPTIONS

(A) Except as specified in (B) below, a SEC permit shall not be required for the following:

(1) Farm use, as defined in ORS 215.203 (2)

(a), including buildings and structures accessory thereto on "converted wetlands" as defined by ORS 541.695 (9) or on upland areas;

(2) The propagation of timber or the cutting of timber for public safety or personal use or the cutting of timber in accordance with the State Forest Practices Act;

(3) Customary dredging and channel maintenance and the removal or filling, or both, for the maintenance or reconstruction of structures such as dikes, levees, groins, riprap, drainage ditch, irrigation ditches and tile drain systems as allowed by ORS

196.905 (6);

(4) The placing, by a public agency, of signs, markers, aids, etc., to serve the public;

(5) Activities to protect, conserve, enhance, and maintain public recreational, scenic, historical, and natural uses on public lands;

(6) The expansion of capacity, or the replacement, of existing communication or energy distribution and transmission systems, except substations;

(7) The maintenance and repair of existing flood control facilities;

(8) Uses legally existing on January 7, 2010; provided, however, that any change, expansion, or alteration of such use (except for changes to a structure that: [1] for the SEC, SEC-w, and SEC-v overlays, do not require any modification to the exterior of the structure, and [2] for the SEC-h and SEC-s overlays, require the addition of less than 400 square feet of ground coverage to the structure) shall require an SEC permit as provided herein;

(9) All type A Home Occupations;

(10) Type B Home Occupations that require the addition of less than 400 square feet of ground coverage to the structure;

(11) Alteration, repair, or replacement of septic system drainfields due to system failure;

(12) Single utility poles necessary to provide service to the local area;

(13) Right-of-way widening for existing rights-of-way when additional right-of-way is necessary to ensure continuous width; and

(14) Stream enhancement or restoration projects limited to removal by hand of invasive vegetation and planting of any native vegetation on the Metro Native Plant List;

(15) Enhancement or restoration of the riparian corridor for water quality or quantity benefits, or for improvement of fish and wildlife habitat, pursuant to a plan that does not include placement of buildings or structures and does not entail grading in an amount greater than 10 cubic yards.

This exemption is applicable to plans that are approved by Soil and Water Conservation District, the Natural Resources Conservation District, or the Oregon Department of Fish and Wildlife under the provisions for a Wildlife and Habitat Conservation Plan, and submitted to the County.

(16) In the SEC-v district, a solar energy system, including solar thermal and photovoltaic, that is installed on an existing building is allowed in the general zone district when:

(a) The installation of the solar energy system can be accomplished without increasing the footprint of the residential or commercial structure or the peak height of the portion of the roof on which the system is installed;

(b) The solar energy system would be mounted so that the plane of the system is parallel to the slope of the roof; and

(c) Uses materials that are designated as anti-reflective or has a reflectivity rating of eleven percent or less.

(B) Within Metro's 2009 jurisdictional boundary, an SEC-s permit is required for agricultural buildings, structures and development associated with farm practices and agricultural uses, except that agricultural fences shall not require an SEC-s permit.

Staff: The dwelling addition will add 120 square feet of ground coverage and is therefore exempt from the SEC-h review because the addition is less than 400 square feet to the existing structure. The two storage sheds are new structures and are subject to the SEC-h review.

5.02 § 33.4570 CRITERIA FOR APPROVAL OF SEC-H PERMIT -WILDLIFE HABITAT

(B) Development standards:

(1) Where a parcel contains any nonforested "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 storage sheds are located in an existing cleared area. *The standard is met.*

5.03 (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 storage sheds are located 450 feet from the nearest public road (NW Newberry Rd.). *The standard is not met.*

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

Staff: The access road is 500 feet long as measured from the NW Newberry Road right of way. *The standard is met.*

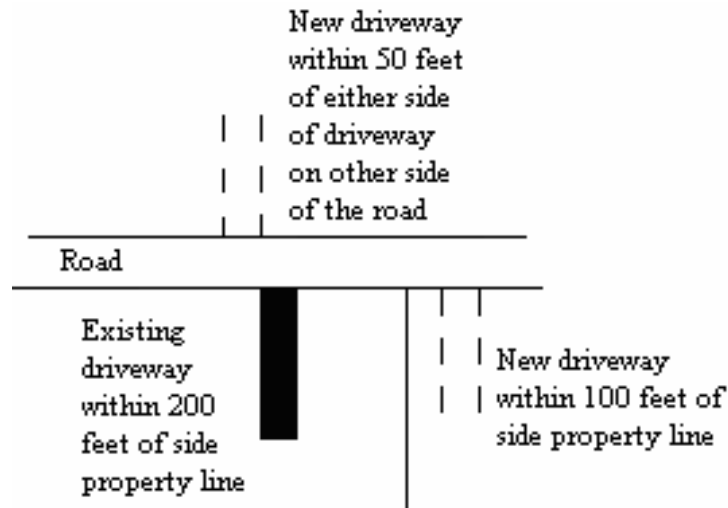
5.05 (4) For the purpose of clustering access road/driveway approaches near one another, one of the following two standards shall be met:

(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.

Staff: The driveway is existing and permitted. This standard does not apply.

5.06 (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 applicant has not proposed a modification to the standard.

5.07 (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 property to the north has structures within 200 feet of the common property line. The sheds are located over 1,300 feet from the north property line. *The standard is not met.*

5.08 (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.

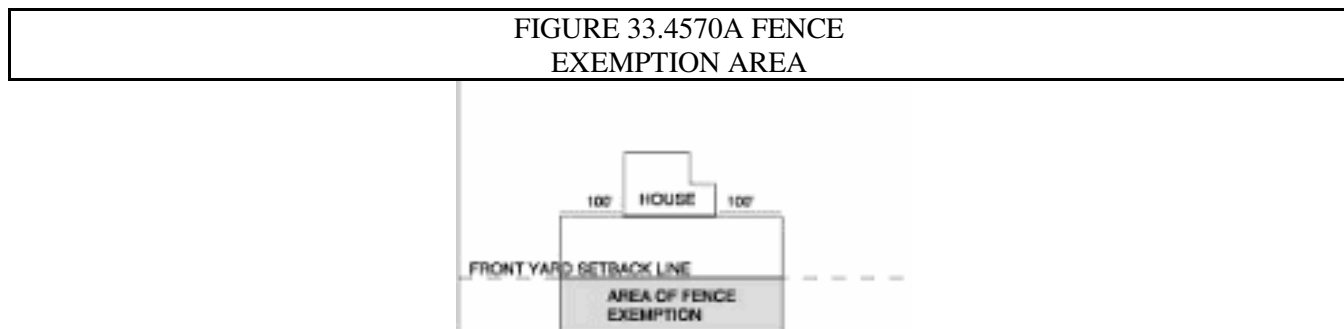
(b) Wood and wire fences are permitted.

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.



(f) Fencing standards do not apply where needed for security of utility facilities.

Staff: No fences are proposed. *The standard does not apply to the current proposal*

5.09 (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	
Chelidonium majus	Lesser celandine	
Cirsium arvense	Canada Thistle	
Cirsium vulgare	Common Thistle	
Clematis ligusticifolia	Western Clematis	
Clematis vitalba	Traveler's Joy	
Conium maculatum	Poison hemlock	
Convolvulus arvensis	Field Morning-glory	
Convolvulus nyctagineus		

Night-blooming	
Morning-glory	
Convolvulus seppium Lady's nightcap	
Cortaderia selloana Pampas grass	
Crataegus sp. except	
C. douglasii	
hawthorn, except native species	
Cytisus scoparius Scotch broom	
Daucus carota Queen Ann's Lace	
Elodea densa	
South American Water-weed	
Equisetum arvense Common Horsetail	
Equisetum telemateia Giant Horsetail	
Erodium cicutarium Crane's Bill	
Geranium roberianum Robert Geranium	
Hedera helix English Ivy	
Hypericum perforatum	
St. John's Wort	
Ilex aquafolium English Holly	
Laburnum watereri Golden Chain Tree	
Lemna minor	
Duckweed, Water	
Lentil	
Loentodon autumnalis Fall Dandelion	
Lythrum salicaria Purple Loosestrife	
Myriophyllum spicatum	
Eurasian Watermilfoil	
Phalaris arundinacea Reed Canary grass	
Poa annua Annual Bluegrass	
Polygonum coccineum Swamp Smartweed	
Polygonum convolvulus	
Climbing Binaweed	
Polygonum sachalinense	
Giant Knotweed	
Scientific Name Common Name	
Prunus laurocerasus	
English, Portugese	
Laurel	
Rhus diversiloba Poison Oak	
Rubus discolor Himalayan Blackberry	
Rubus laciniatus Evergreen Blackberry	
Senecio jacobaea Tansy Ragwort	
Solanum dulcamara Blue Bindweed	
Solanum nigrum Garden Nightshade	
Solanum sarrachoides Hairy Nightshade	
Taraxacum officinale Common Dandelion	
Utricularia vulgaris Common Bladderwort	
Urtica dioica Stinging Nettle	
Vinca major Periwinkle (large leaf)	
Vinca minor Periwinkle (small leaf)	

Xanthium spinosum Spiny Cocklebur various genera Bamboo sp.	
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Staff: The applicant acknowledges that he will not plant the listed species and will control those listed species found on the property. Condition 6 requires the continual removal of any of the listed nuisance species listed above.

5.10 (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 applicant does not meet the development standards, and has chosen to implement a wildlife management plan. The sheds in their current location are situated within the landscaped area that includes the existing dwelling and are thus located within the area previously cleared and impacted by development thus resulting in less impact than clearing a new area for the sheds and new driveways elsewhere on the property that would meet the road clustering requirements. The applicant has proposed to implement a Wildlife Habitat Conservation and Management program in consultation with the Oregon Dept. of Fish and Wildlife.

5.11 (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 sheds are located within the same cleared area as the existing dwelling. No new clearing or impacts to forest lands will result. *The standard is met.*

5.12 (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: No new cleared areas are proposed. *The standard is met.*

(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 fencing is proposed and no existing fencing is located outside of the cleared area. *The standard is met.*

- 5.13 (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: No new clearing is proposed and no revegetation is required under this provision. *The standard is not applicable to the current proposal.*

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

Staff: The applicant proposes to intensively manage nuisance species on the entire property including any riparian areas (Condition 6). *As conditioned, the standard is met.*

- 5.15 (4) For Protected Aggregate and Mineral (PAM) resources within a PAM subdistrict, the applicant shall submit a Wildlife Conservation Plan which must comply only with measures identified in the Goal 5 protection program that has been adopted by Multnomah County for the site as part of the program to achieve the goal.**

Staff: The property is not within a PAM overlay district. *The standard is not applicable to the current proposal.*

6.00 Significant Environmental Concern for Scenic Views

6.01 § 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.

(B) Any excavation or any removal of materials of archaeological, historical, prehistorical or anthropological nature shall be conducted under the conditions of an SEC permit, regardless of the zoning designation of the site.

(C) Activities proposed for lands designated as scenic waterways under the Oregon Scenic Waterways System shall be subject to an SEC permit in addition to approval from the Oregon

Parks and Recreation Department.

§ 33.4515 EXCEPTIONS

(A) Except as specified in (B) below, a SEC permit shall not be required for the following:

- (1) Farm use, as defined in ORS 215.203 (2)**
 - (a), including buildings and structures accessory thereto on "converted wetlands" as defined by ORS 541.695 (9) or on upland areas;**
- (2) The propagation of timber or the cutting of timber for public safety or personal use or the cutting of timber in accordance with the State Forest Practices Act;**
- (3) Customary dredging and channel maintenance and the removal or filling, or both, for the maintenance or reconstruction of structures such as dikes, levees, groins, riprap, drainage ditch, irrigation ditches and tile drain systems as allowed by ORS 196.905 (6);**
- (4) The placing, by a public agency, of signs, markers, aids, etc., to serve the public;**
- (5) Activities to protect, conserve, enhance, and maintain public recreational, scenic, historical, and natural uses on public lands;**
- (6) The expansion of capacity, or the replacement, of existing communication or energy distribution and transmission systems, except substations;**
- (7) The maintenance and repair of existing flood control facilities;**
- (8) Uses legally existing on January 7, 2010; provided, however, that any change, expansion, or alteration of such use (except for changes to a structure that: [1] for the SEC, SEC-w, and SEC-v overlays, do not require any modification to the exterior of the structure, and [2] for the SEC-h and SEC-s overlays, require the addition of less than 400 square feet of ground coverage to the structure) shall require an SEC permit as provided herein;**
- (9) All type A Home Occupations;**
- (10) Type B Home Occupations that require the addition of less than 400 square feet of ground coverage to the structure;**
- (11) Alteration, repair, or replacement of septic system drainfields due to system failure;**
- (12) Single utility poles necessary to provide service to the local area;**
- (13) Right-of-way widening for existing rights-of-way when additional right-of-way is necessary to ensure continuous width; and**
- (14) Stream enhancement or restoration projects limited to removal by hand of invasive vegetation and planting of any native vegetation on the Metro Native Plant List;**
- (15) Enhancement or restoration of the riparian corridor for water quality or quantity benefits, or for improvement of fish and wildlife habitat, pursuant to a plan that does not include placement of buildings or structures and does not entail grading in an amount greater than 10 cubic yards.**

This exemption is applicable to plans that are approved by Soil and Water Conservation District, the Natural Resources Conservation District, or the Oregon Department of Fish and Wildlife under the provisions for a Wildlife and Habitat Conservation Plan, and submitted to the County.

- (16) In the SEC-v district, a solar energy system, including solar thermal and photovoltaic, that is installed on an existing building is allowed in the general zone district when:**

(a) The installation of the solar energy system can be accomplished without increasing the footprint of the residential or commercial structure or the peak height of the portion of the roof on which the system is installed;

(b) The solar energy system would be mounted so that the plane of the system is parallel to the slope of the roof; and

(c) Uses materials that are designated as anti-reflective or has a reflectivity rating of eleven percent or less.

(B) Within Metro's 2009 jurisdictional boundary, an SEC-s permit is required for agricultural buildings, structures and development associated with farm practices and agricultural uses, except that agricultural fences shall not require an SEC-s permit.

Staff: The addition to the dwelling results in exterior changes and is subject to the SEC-v standards. The two storage sheds are new and are subject to the SEC-v standards.

6.02 § 33.4565 CRITERIA FOR APPROVAL OF SEC-V PERMIT -SIGNIFICANT SCENIC VIEWS

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

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

Staff: The two storage sheds, while located in an existing cleared area, are substantially screened from view in all directions. The screening is achieved by substantial woodland to the north, east, and south. The existing dwelling, screens the sheds to the west. *The location of the sheds meets the above standard.*

The dwelling is existing in its current location and is topographically visible from all Identified Viewing Areas (Exhibit X). The first floor addition to the east side of the dwelling will be screened by the dwelling from the west and by existing vegetation to the east but not towards the northeast. The second floor addition will increase the overall visibility of the dwelling. The dwelling additions will necessitate measures other than relative location in order to achieve visual subordination.

6.03 (2) Use of nonreflective or low reflective building materials and dark natural or earthtone colors.

Staff: The two sheds have wood siding and brown paint and brown shingles. *The standard is met for the sheds.* The dwelling additions will consist of wood cedar siding, brown or black composition roof material, and windows with a 15% reflectivity rating (Conditions 10 and 12).

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

Staff: No lighting is proposed for the two sheds. The applicant indicates that a light may be proposed for the second story deck proposed off of the second floor; this light will be required to be fully shielded and directed downward (see condition 11). *As conditioned, the standard is met.*

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

Staff: There is substantial screening vegetation surrounding the sheds and Condition 9 requires maintenance of the nearest trees to the sheds within the constraints of the required fire safety zones. The dwelling has some screening vegetation to the east and west that helps break up the visual expanse of the structure as seen from Identified viewing areas. Additional trees to the northeast will provide an additional level of screening of the dwelling. Because the topography drops down from the dwelling to the north east, it is recommended that at least two new conifer trees be planted northeast of the dwelling within 50 feet of the structure. Because the topography at 50 feet out is at least 10 feet below the dwelling, the effectiveness of plantings beyond 50 feet would diminish rapidly with further distance. Condition 13 requires the addition of two conifers to the northeast of the dwelling within 40 feet.

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

Staff: The two storage sheds, while located in an existing cleared area, are substantially screened from view in all directions. The screening is achieved by substantial woodland to the north, east, and south. The existing dwelling, screens the sheds to the west. *The location of the sheds meets the above standard.*

The dwelling is existing in its current location and is topographically visible from all Identified Viewing Areas. The first floor addition to the east side of the dwelling will be screened by the dwelling from the west and by existing vegetation to the east but not towards the northeast. The second floor addition will increase the overall visibility of the dwelling. The dwelling additions will necessitate measures other than relative location in order to achieve visual subordination. No visible grading is proposed.

- 6.07 (6) Limiting structure height to remain below the surrounding forest canopy level.**

Staff: The storage sheds are well below the forest canopy on three sides on the order of tens of feet. There are several trees to the east, west and south that are at least 30 feet tall. The dwelling with the second floor addition will achieve 23 feet in height. The dwelling will remain below the height of existing trees in three directions.

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

Staff: The storage sheds are well below the forest canopy as seen from Identified Viewing Areas on the order of tens of feet. The dwelling will top out at 23 feet above grade. A substantial stand of trees at 30 feet or taller exists to the north of the dwelling and will provide a backdrop to the dwelling thus eliminating the skylining affect. Condition 9 requires the maintenance of nearest existing conifer trees within the limits of the requirements of the fire safety zone requirements.

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

Staff: Conditions are imposed in order to achieve and maintain visual subordination for the dwelling additions and the two storage sheds.

7.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Significant Environmental Concern for Habitat and Views overlays to establish a dwelling additions and storage sheds as accessory use in the CFU-1 zone. This approval is subject to the conditions of approval established in this report.

8.00 Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

Exhibits are available for review in Case File T2-2012-2387 at the Land Use Planning office.

Exhibit #	Description of Exhibit
A.1	Significant Environmental Concern for Scenic Views

	Application Form – addresses dwelling additions
A.2	Site Plan
A.3	Contour Map
A.4	Septic System Plot Plan
A.5	First-Floor Plan showing First-Floor addition
A.6	Dwelling North Elevation
A.7	Proposed Dwelling North Elevation
A.8	Dwelling East Elevation
A.9	Proposed Dwelling East Elevation
A.10	Photographic Evidence showing Habitable Dwelling
A.11	Original Property Deed. Deed Record 45779 recorded on October 27, 1953.
A.12	Applicants confirmation of materials (wood siding).
A.13	Site Photographs of existing dwelling and sheds.
A.14	Cert of Onsite Sewage Disposal
A.15	Fire Service Agency Review
A.16	Proposed Paint Colors (Miller Paint: Brownstone H0133N, Tankard Gray H0130A, Toffee H0124A, Palomino H0128A.
A.17	Original 1964 Building Permit (# 35248) for existing dwelling).
A.18	Applicants supplemental narrative
A.19	Completed SEC-h Permit Application Worksheet for storage sheds.
A.20	Completed SEC-v Permit Application Worksheet for storage sheds.
A.21	Photographs of Existing storage sheds
A.22	Confirmation of proposed window reflectivity
A.23	Driveway Permit
‘B’	Staff Exhibits
B.1	A&T Property Information
B.2	A&T Tax Map with Property Highlighted
B.3	Zoning Map with Aerial Photo
B.4	
B.5	
B.6	

'C'	Administration & Procedures
C.1	Incomplete Letter
C.2	Applicant's Acceptance of 180 Day Clock
C.3	Complete Letter (Day 1)
C.4	Opportunity to Comment