

1600 SE 190<sup>th</sup> Avenue, Portland Oregon 97233-5910 • PH. (503) 988-3043 • Fax (503) 988-3389

## NOTICE OF DECISION

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

**Case File:** T2-2014-3365

**Permits:** Significant Environmental Concern for Wildlife Habitat, Lot of Record Determination, Hillside Development, and Forest Development Standards.

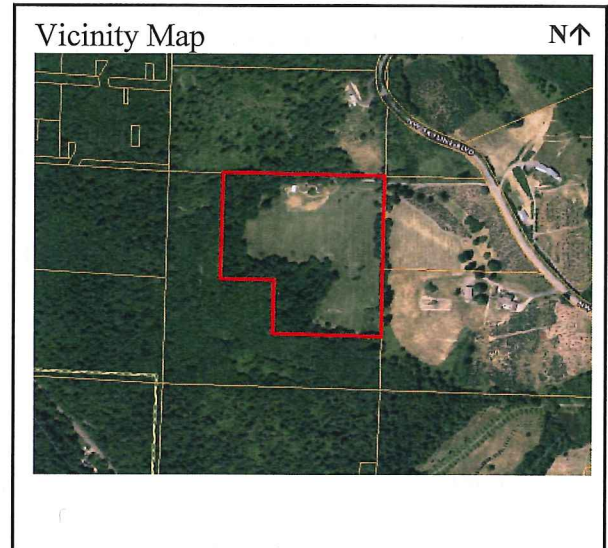
**Location:** 13941 NW Skyline Blvd.  
Tax Lot 02900, Section 25,  
Township 1 North, Range 2 West, W.M.  
Tax Account R972250240

**Applicants:** Alexander Rose

**Owners:** Alexander Rose & Robert Meadows

**Base Zone:** Commercial Forest Use - 4

**Overlays:** Significant Environmental Concern for Wildlife Habitat and Hillside Development




**Summary:** A request for approval of a replacement dwelling within the Commercial Forest Use – 2 (CFU-2) zone also within the Significant Environmental Concern for Wildlife Habitat (SEC-h) and Hillside Development Overlay (HD) Zones. Request includes a Lot of Record (LOR) Determination

**Decision:** Approved with Conditions

Unless appealed, this decision is effective Monday, December 29, 2014, at 4:00 PM.

Issued by:



George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: Monday December 15, 2014

Instrument Number for Recording Purposes: #

**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 George Plummer, Staff Planner at 503-988-0202.

**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, December 29, 2014, at 4:00 PM.**

**Applicable Approval Criteria:** Multnomah County Code (MCC) MCC 33.2200 et. al: CFU-2, MCC 33.4500 et. al: SEC-h, and MCC 33.5500: HD.

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 four 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.

1. The property owners shall meet the conditions listed on the submitted Replacement Dwelling Permit (Exhibit A.12). Within three months of occupancy of the new dwelling the existing dwelling shall be removed, demolished, or physically converted to an accessory building. If a

building permit is required for the removal, demolition, or physical conversion to an accessory building, then the property owners shall obtain the required building permits. If the dwelling will be converted to an accessory use building, then prior to issuance of building permit review for the new dwelling, the property owners shall record a statement with County Records that building is an accessory building and will not be used as a dwelling. [MCC 33.2325(A)]

2. The property owners shall establish and maintain Primary and Secondary Fire Safety Zones, as follows. The Primary and Secondary Fire Safety Zones shall be shown on the site plan and grading plan for the building permit zoning signoff.'

- (a) A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure (except as stated in (b) below). 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 with-in 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 property owners shall establish and maintain 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. [MCC 33.2256(D)]

3. The property owners shall ensure that all the Fire District Conditions listed in Exhibit A.8 and A.26 are met. [MCC 33.2361(B)]
4. The property owners shall obtain a building permit and comply with the standards of the applicable building code. The new dwelling shall have fire retardant roofing and spark arrester on each chimney. [MCC 33.2361(C)]
5. The property owner 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). Evidence of a domestic water supply means:

\* \* \*

- (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. [MCC 33.2361(D)]
6. The property owners shall implement the proposed Wildlife Conversation Plan including the Planting Plan (Exhibit A.6, Applicants' Exhibit 4) and shown on Exhibit A.4 (Applicants' Exhibit 2I). The Wildlife Conversation Planting Plan includes planting of 45 trees and 160 shrubs in the area of 11,400 square feet shown on Exhibit A.4. Proposed trees include: apple, big leaf maple, hawthorn (must be native species), grand fir, and Douglas fir. Proposed shrubs include: chokecherry, crab apple, elderberry, currant, nootka rose, and thimbleberry types selected by the property owner. The property owner shall annually monitor plantings for a period of five years and ensure an 80 percent annual survival rate of any required plantings. If the survival rate falls below 80 percent additional trees and/or shrubs shall be shall be planted to replace those that died to meet the 80 percent survival.
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 [MCC 33.4570(B)(7)]

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

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

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

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

8. Prior to zoning signoff for the building permit, the property owners shall provide a grading plan by professional registered engineer with stamp that shows existing and finished grades for the entire development area to be included as site plan and grading plan for the building permit plan packet. The plan shall show erosion control measures. All slopes exceeding 3:1 slope shall be engineered. [MCC 33.5520(A)(1)]
9. Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction. [MCC 33.5520(A)(2)]
10. The property owners shall ensure that erosion control measures are implemented prior to any soil disturbing earth work. Erosion control measures shall consist of "Best Management Practices" erosion control (those that perform as effectively as those prescribed in the currently adopted edition of the Technical Guidance Handbook) including but not limited to installing sediment fencing down-slope of all soil disturbance areas, mulching disturbed soil areas during the rainy season Oct. 1st through May 31st, covering stock-piles with plastic or mulch as well as other measures deemed necessary to prevent sediment from leaving the property. Erosion control measures shall be maintained in working condition throughout the construction phases and until permanent vegetative cover such as grass is established in the disturbance areas. Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical. [MCC 33.5520(A)(2)]
11. The property owners shall ensure that disposed spoil materials or stock-piled soil are prevented from eroding by applying mulch or other protective covering such as anchored plastic sheeting; or spread out on the property in a location at a sufficient distance (100 feet) from any drainageway and planting with grass. [MCC 33.5520(A)(2)]
12. The property owners shall ensure that the storm water control (detention) systems as detailed in Exhibits A.4 and A.27 are installed prior to the final building permit inspection for the new dwelling and prior to occupancy to meet the standard that post construction storm water runoff will be no greater than existed prior to the development. [MCC 33.5520(A)(2)]
13. The property owners shall ensure that non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and cleanup activities. [MCC 33.5520(A)(2)(n)]
14. Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the person, corporation or other entity causing such sedimentation to remove it from all adjoining surfaces and drainage systems prior to issuance of occupancy or final approvals for the project. [MCC 33.5520(B)(1)]

15. It is the responsibility of any person, corporation or other entity doing any act on or across a communal stream watercourse or swale, or upon the floodplain or right-of-way thereof, to maintain as nearly as possible in its present state the stream, water-course, swale, floodplain, or right-of-way during such activity, and to return it to its original or equal condition. [MCC 33.5520(B)(2)]

**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, George Plummer, at 503-988-0202, 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 sets each of the site plan (front) and building plans are needed for building permit sign off. At the time of zoning building permit review, a fee of \$70.00 will be collected. In addition, an erosion control inspection fee of \$82.00 may be required.

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

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

## **Findings of Fact**

**FINDINGS:** Written findings are contained herein. The Multnomah County Code (MCC) criteria and Comprehensive Plan Policies are in **bold** font. Applicants' narrative response to code section are included as needed and are identified as **Applicants'** in quotation marks and in *italic*.

Staff analysis and comments are identified as '**Staff:**' and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

### **1. PROJECT DESCRIPTION**

**Staff:** The applicants request approval of a replacement dwelling within the Commercial Forest Use – 2 (CFU-2) zone, and within the Significant Environmental Concern for Wildlife Habitat (SEC-h) and Hillside Development Overlay (HD) Zones. The request includes a Lot of Record (LOR) Determination (Exhibit A.1 through A.27).

### **2. PROPERTY DESCRIPTION**

**Staff:** The subject property is 19.39 acres. The property has an existing dwelling established in 1941 (Exhibit B.1) and an old barn located within 100 feet of the northern property line and about 450 feet east of the eastern property line.

The property does not abut a public road; it gains access through an approximately 600 foot driveway crossing another property (Exhibit B.2 and B.3). The driveway enters the property near the northeast corner of the property and closely parallels the northern property line. The property has an existing dwelling established in 1941 and an old barn located within 100 feet of the northern property line and about 450 feet east of the eastern property line. The slope south of the driveway and development drops off steeply. Immediately south of the driveway, between the east property line and the dwelling, the slope drops ranging between 25 and 40 percent (Exhibit A.27.b). South of the existing dwelling is a retaining wall. South of the barn the slope is substantially less steep, ranging between eight to 15 percent. The property is about two-thirds pastureland, located in the eastern side of the property and one-third forestland running along the western side of the property (Exhibit B.3). The replacement dwelling is proposed to be located about 85 feet south of the barn. The proposed dwelling site slopes range between 10 and 13 percent (Exhibit A.27.c).

### **3. COMMERCIAL FOREST USE - 2 :**

#### **3.1. Review Uses**

**MCC 33.2325** The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter:

**(A) Replacement or restoration of an existing lawfully established habitable dwelling more than 100 feet from the existing dwelling.**

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

**MCC 33.0005: Definition - Habitable Dwelling – An existing dwelling that:**

**(a) Has intact exterior walls and roof structure;**

- (b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
- (c) Has interior wiring for interior lights;
- (d) Has a heating system; and
- (e) Was lawfully established

**Staff:** The proposal requests to replace the existing dwelling with a new single family dwelling. The existing dwelling was established in 1941 (Exhibit B.1) prior to zoning and building permit requirements, thus is lawfully established. The application includes photos of the existing dwelling features which are required to find it as a habitable dwelling (Exhibit A.16). *The dwelling meets the lawfully established habitable dwelling standard.*

The proposed dwelling location is more than 100 feet from the existing dwelling, located at about 170 feet from the existing dwelling (Exhibit A.27.b). Following findings are the review of development standards required for a replacement dwelling located more than 100 feet from the existing dwelling.

The application submittal includes a Replacement Dwelling Agreement signed by the property owners agreeing to remove or convert the existing dwelling to an accessory use building within three months of occupying the new dwelling (Exhibit A.12). A condition requires the property owner to remove the existing dwelling or convert the dwelling into an accessory building within three months of occupying the new dwelling. If the dwelling will be converted to an accessory building, then prior to issuance of building permit review for the new dwelling, the property owners must record a statement with County Records that building is an accessory building and will not be used as a dwelling (Exhibit B.4). *The removal of existing dwelling standard is met through a condition.*

### 3.2. Forest Practices Setbacks and Fire Safety Zones

**3.2.1. MCC 33.2356 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.**

**Table 1**

Use	Forest Practice Setbacks			Fire Safety Zones	
	Description of use and location	Nonconforming Set-backs	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)
	Replaced or restored dwelling over 100 ft. from existing dwelling	Meet current setback standards	30	130	Primary & Secondary-

**Staff:** The proposed dwelling is more than 100 feet from the existing dwelling. The proposed dwelling location is more than 130 feet from all property lines (Exhibit A.27.b).

\* \* \*

### 3.2.2. MCC 33.2256(D)(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 with-in 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

**Staff:** The proposed dwelling location has a down-slope ranging from 11 to 13 percent to the west, southwest and south (Exhibit A.24.b). The primary fire safety zone will need to be 30 feet except in areas where the down-slope from the dwelling is between 10 and 20 percent the primary fire safety zone must be 80 feet in those areas. A condition will require that the primary fire safety zone be shown on the site plan (with contours) for the building permit and that the property owners maintain the primary fire safety zone. *This standard is met through a condition.*

### 3.2.3. MCC 33.2456(D)(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 33.2510.

**Staff:** Given the existing down-slope of the property west, southwest and south of the proposed dwelling, the proposed location requires the primary fire safety zone for the dwelling to be expanded to 80 feet unless the finish slope is less than 10 percent. If the finished grade between the dwelling and thirty feet from the dwelling continues to be between 10 to 20 percent, with the 80-foot primary fire safety zone, then the 100-foot secondary fire safety zone would be located at 80 feet to 180 feet from the dwelling to the west, southwest and south. There is enough area for the primary and secondary fire safety zones on the property given the distances from the dwelling to the west and south property lines which are more than 180 feet away. A condition will require that the secondary fire safety zone be shown on the site plan for the building permit and that the property owners maintain the secondary fire safety zone. *This standard is met through a condition.*

**3.2.4. MCC 33.2356(D)(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**

**Staff:** The proposed fire safety zones are exempted from State Forest Practice Rules for residential development. The dwelling and primary fire safety zone are in an existing cleared area. *This standard is met.*

**3.2.5. MCC 33.2356(D)(4) Required Primary and Secondary Fire Safety Zones shall be established within the subject tract as required by Table 1 above.**

**Staff:** Table 1 states that the primary and secondary fire safety zones are required when the replacement dwelling is more than 100 feet from the existing dwelling. The proposed dwelling is more than 100 feet from the existing dwelling. A condition will require that the primary and secondary fire safety zones be shown on the site plan for the building permit for the new dwelling and that the property owners establish the fire safety zones. *This standard is met through a condition.*

**3.2.6. MCC 33.2356(D)(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:** A condition will require that the primary and secondary fire safety zones be shown on the site plan for the building permit for the new dwelling and that the property owners maintain the fire safety zones. *This standard is met through a condition.*

**3.3. Development Standards for Dwellings and Structures**

**MCC 33.2361 All dwellings and structures shall comply with the approval criteria in (B) through (E) below except as provided in (A):**

\* \* \*

**3.3.1. MCC 33.2361(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:** Findings that the proposed new dwelling meets (2) and (3) follow below. The existing dwelling to be converted to an accessory building, the pump house and the barn are existing buildings that predated the code, thus these standard are not applicable for the these buildings.

**(1) The structure shall satisfy the following requirements:**

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

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

**Staff:** A significant portion of the property is previously cleared farm land. The proposed dwelling is located in a cleared area. The area dedicated to the dwelling is less than 10,000 square feet. The entirety of the development site, including the proposed dwelling, the three accessory buildings and the coral is about 26,000 square feet in area which is less than 30,000 square feet in total cleared area allowed for development in this standard. The proposed dwelling will not be sited within 300 feet of the public road and the driveway exceeds 500 feet in length, thus the proposed dwelling must meet Numbers (2) and (3) below (following standards). *These standards are met.*

- (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 33.2356;**
  - (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 proposed replacement dwelling will be more than 100 feet from the existing dwelling. The proposed dwelling will be clustered near the existing development on the property, and the proposed dwelling is located within 85 feet of the barn. The proposed dwelling is located in a cleared area (Exhibit A.27.a and B.3). The entirety of the development site, including the proposed dwelling, the three accessory buildings and the coral is about 26,000 square feet in area (previously cleared land) which is less than 30,000 square feet in total cleared area allowed for development under this standard.

The primary fire safety zone can be met without impacting the forested area on the property. The proposed dwelling location is more than 300 feet from the nearest property line to the west. The proposed dwelling location, by clustering close to the barn (existing developed area), minimizes the impact to forest operations and accepted farming practices on the property. By locating the dwelling and driveway in the cleared area on the property and clustering the dwelling with the existing development on the property, the forested land is not used to site the dwelling or access road, minimizing impact to the forestland.

The existing driveway serving the exiting development on the property is about 1200 long (Exhibit B.3). The first 600 feet of the driveway crosses a property to the east to access NW Skyline Blvd. The location of the proposed dwelling was chosen to avoid the steep slopes adjacent to and south of the driveway between the existing dwelling and east property line, a distance of about 370 feet. The slopes in this area range between 25 and 40 percent (Exhibit A.27.b).

The existing development is located in a narrow area which drops off steeply south of the existing dwelling (Exhibit A.27.b). The applicants would like to convert the existing dwelling to an accessory building. The building envelope between the existing dwelling, the well house and the barn was not chosen for the replacement dwelling location because of limited space between these buildings. The existing dwelling location clusters the dwelling with the existing development, locating the dwelling within 85 feet of the barn (Exhibit A.27.b). Some distance from the barn is desirable to limit odors from reaching the dwelling. The proposed extension of the driveway to access the proposed dwelling will add about 140 feet to the driveway length. This is the minimum required to physical limitations, including steep slopes and existing development locations, unique to the property and is the minimum length required. *These standards are met.*

**(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 application submittal includes two completed and signed Fire Service Agency Reviews with conditions which include access design. There is no perennial water source on-site, the only water source is a well, thus (b) is not applicable. A condition will require the Fire District conditions be met. *This standard is met through a condition.*

**3.3.2. MCC 33.2361(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:** Standard (2) is not applicable. A condition will require the dwelling to comply with the standards of the applicable building code; a fire retardant roof; and spark arrester on each chimney. *These standards are met through a condition.*

**3.3.3 MCC 33.2361(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 application submittal includes a Certification of Water completed by the applicants stating the property is served by a well. This application must verify compliance with this provision through a document listed under (b). For a well, the applicant must submit the well constructor's report to the county upon completion of the well. Oregon Department of Water Resources keeps records of well reports. If the well was established prior to reporting requirements, this requirement can be met through a letter or email from the Oregon Department of Water Resources that states the well preceded reporting requirements and it is exempt from permitting requirements under ORS 537.545. A condition will require a letter or email from Oregon Department of Water Resources. *These standards are met through a condition.*

**3.4. Lot of Record**

**3.4.1. MCC 33.2375(A): In addition to the Lot of Record definition standards in MCC 33.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following: (Dates of Zoning codes)**

- (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.**

**MCC 33.005 Definition - 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 de-scribed in MCC 33.7785. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.**

**Staff:** The application submittal included a copy of a deed recorded with County Records on October 19, 1951 in Book 1504 on Page 61 which described the property in its current configuration. Given the property existing in 1951, it predated Zoning Codes adopted in

1958. In 1951 partitions of land were allowed without review. There were no contiguous lots in the same ownership in 1990. *These standards are met; the property is a Lot of Record.*

- 3.4.2 MCC 33.2375(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 33.2373, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.**

**Staff:** The subject parcel is 19.39 acres which is less than the than the minimum lot size for new parcels which is 80 acres. The parcel does not abut the road thus has less than the front lot line minimums required and does not meet the access requirements of MCC 33.2373. While the property does not meet standards listed for the CFU-2 zone, this section allows a replacement dwelling under a review use when in compliance with the other requirements of this district because the lot was created prior to establishment of the zoning standards. When conditions of approval of this decision are met the proposed dwelling will be in compliance with the other requirements of this district. *This standard is met through conditions.*

#### **4. SIGNIFICANT ENVIRONMENTAL CONCERN FOR WILDLIFE HABITAT**

##### **4.1. Development standards**

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

**Staff:** The proposed development is in a non-forested "cleared" area. *This standard is met.*

- 4.1.2. MCC 33.4570(B)(2) Development shall occur within 200 feet of a public road capable of providing reasonable practical access to the developable portion of the site.**

**Staff:** This standard can not be met due to the fact that there is a 600 wide property between NW Skyline Blvd and the subject property.. *This standard is not met thus the standard under MCC 33.4570(C) for a wildlife conservation plan must be met.*

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

**Staff:** This standard can not be met due to the fact that the first 600 feet of the driveway crosses a property in another ownership to the east, to access NW Skyline Blvd. *This standard is not met thus the standard under MCC 33.4570(C) for a wildlife conservation plan must be met.*

- 4.1.4. MCC 33.4570(B)(4) For the purpose of clustering access road/driveway approaches near one another, one of the following two standards shall be met:**

- (a) The access road/driveway approach onto a public road shall be located within 100 feet of a side property line if adjacent property on the same side of the road has an existing access road or driveway approach within 200 feet of that side property line; or
- (b) The access road/driveway approach onto a public road shall be located within 50 feet of either side of an existing access road/driveway on the opposite side of the road.

\* \* \*

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

**Staff:** The driveway is within 50 feet of a driveway across the road.

- 4.1.5. MCC 33.4570(B)(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 nearest structures on adjacent properties are over 400 feet from the property line. *This standard is not applicable.*

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

**Staff:** The property is 600 feet from the public road. *This standard is not applicable.*

- 4.1.7. MCC 33.4570(B)(7) The following nuisance plants shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property (plant list in the conditions section):

**Staff:** A condition will require this standard be met. *This standard met through a condition.*

#### 4.2. Wildlife Conservation Plan

- 4.2.1. MCC 33.4570(C) 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).**

*Applicant: "This response addresses (C)(1) and (C)(2). The applicant's proposal does not meet the development standards of Section (B) because of physical characteristics unique to the property. Therefore, the applicant must show that the Wildlife Conservation Plan results in the minimum departure from the standards required to allow the proposed development and to continue the existing residential use of the property. The Wildlife Conservation Plan has been developed by Pacific Habitat Services. It is attached as Exhibit 4."*

**Staff:** The applicant cannot meet the development standards of Section (B) because of physical characteristics unique to the property due to the property being located 600 feet from the public road.

The applicant must show that the wildlife conservation plan results in the minimum departure from the standards required in order to allow the use. First due to the physical characteristics of the property

The location of the proposed dwelling was chosen to avoid the steep slopes adjacent to and south of the driveway between the existing dwelling and east property line, a distance of about 370 feet. The slopes in this area range between 25 and 40 percent. By avoiding this area, the area is clear for elk that visit the property to move to the properties to the north as evidenced by elk trails through this area.

The existing development is located in a narrow area of shallow slopes. The slope drops off steeply to the south of the existing dwelling (Exhibit A.27.b). The applicants would like to convert the existing dwelling to an accessory building. The building envelope between the existing dwelling, the well and the barn was not chosen for the proposed dwelling location because of significantly limited space. The proposed replacement dwelling location clusters the dwelling with the existing development, locating within 85 feet of the barn. Some distance from the barn is desirable to limit odors reaching the replacement dwelling. The proposed extension of the driveway to access the proposed dwelling will add about 140 feet to the driveway length. This is the minimum required to physical limitations, such as slope and existing development locations, unique to the property and is the minimum length required.

**4.2.2. MCC 33.4570(C)(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.**
- (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.**



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

**Applicants:** *"This response addresses (C)(3)(a)-(e). No trees will be removed to accommodate the proposed development. The extension of the driveway, the construction of the fire turnaround and new dwelling, and the expansion of the septic field, will necessitate removal of grass and other groundcovers. The existing forested areas will be fully retained. As described in the Wildlife Conservation Plan, attached as Exhibit 4, the forested area consists primarily of Douglas fir, big leaf maple, vine maple, bracken fern and sword fern. As noted in the arborist report, attached as Exhibit 3, there are eleven large trees along the western edge of the proposed limits of disturbance for construction of the development. These trees will be protected, as described in the arborist report, during construction. The total amount of disturbance area (permanent and temporary) for the proposed development is 11,400 sq ft according to the civil engineer. The disturbance area is considerably less than one acre and it includes the area of disturbance for the required fire turnaround. Attached as Exhibit 6 is the Fire Service Agency Review form signed by Tualatin Valley Fire & Rescue."*

*"No fencing exists on the site and none is proposed. The existing drainageway has seasonal flows within the property; the applicant's proposed development will not encroach into the drainageway. The Proposed Planting Plan, attached as Exhibit 2I, is submitted as mitigation for the development and enhancement of the site. The planting area totals 11,400 sq ft as shown on the site plan, and includes the installation of 45 trees and 160 shrubs. Roosevelt elk frequently visit the site. They prefer open fields where they can walk and graze easily on herbaceous vegetation; they also like edge environments for ease of cover from weather and predators. In recognition of the fact that Roosevelt elk herds frequently visit the open fields on the site, the proposed selection of plants includes those plants preferred by elk. Proposed trees include: apple, big leaf maple, hawthorn, grand fir, and Douglas fir. Proposed shrubs include: chokecherry, crab apple, elderberry, currant, nootka rose, and thimbleberry. The 45 trees and 160 shrubs to be installed will be selected from these types of plants in a combination determined by the applicant. The applicant will ensure the survival of the plants. Photos of elk on the site are included in Exhibit 14."*

**Staff:** The proposal includes measures to reduce impacts to forested areas to the minimum necessary to serve the proposed development as discussed in the arborist report, attached as Applicants' Exhibit 3 (Exhibit A.5). The proposed dwelling is to be located in an existing cleared area and the proposal does not include any new clearing of forested area.

No new fencing is proposed for the property. The applicants have plans for some agricultural use of the property, and will likely need perimeter fencing around the pasture area to keep agricultural animals in the pasture area which is allowed under this code. There is no disturbance along a stream or drainage area proposed.

The application submittal includes a Wildlife Conservation Plan developed by Pacific Habitat Services, attached as Applicants' Exhibit 4, (Exhibit A.6), including a proposed Planting Plan, attached as Applicants' Exhibit 2I (Exhibit A.4). The proposed planting plan submitted as mitigation for the development and enhancement of the site as a wildlife conservation plan. The planting areas total 11,400 sq ft as shown on the site plan, and includes the installation of 45 trees and 160 shrubs. A condition will require that the Wildlife Conservation Plan including the Planting Plan be implemented. *These standards are met through conditions.*

## **5. HILLSIDE DEVELOPMENT**

### **5.1. Application Information Required**

\* \* \*

#### **5.1.1. MCC 33.5515(E): A Hillside Development permit may be approved by the Director only after the applicant provides:**

\* \* \*

- (2) A geological report prepared by a Certified Engineering Geologist or Geotechnical Engineer certifying that the site is suitable for the proposed development; or,**

**Staff:** The application submittal includes a geological report written and stamped by Erick J. Staley, CEG and Brent A. Shipton, P.E., G.E. The report recommends a dwelling site. The proposed site is in the area the report recommends for the dwelling site. *This standard is met.*

#### **5.1.2. MCC 33.5515(F): Geotechnical Report Requirements**

- (1) A geotechnical investigation in preparation of a Report required by MCC 33.5515 (E) (3) (a) shall be conducted at the applicant's expense by a Certified Engineering Geologist or Geotechnical Engineer. The Report shall include specific investigations required by the Director and recommendations for any further work or changes in proposed work which may be necessary to ensure reasonable safety from earth movement hazards.**
- (2) Any development related manipulation of the site prior to issuance of a permit shall be subject to corrections as recommended by the Geotechnical Report to ensure safety of the proposed development.**
- (3) Observation of work required by an approved Geotechnical Report shall be conducted by a Certified Engineering Geologist or Geotechnical Engineer at the applicant's expense; the geologist's or engineer's name shall be submitted to the Director prior to issuance of the Permit.**
- (4) The Director, at the applicant's expense, may require an evaluation of HDP Form- 1 or the Geotechnical Report by another Certified Engineering Geologist or Geotechnical Engineer.**

**Staff:** The submitted geotechnical report was written and stamped by Erick J. Staley, a Certified Engineering Geologist and Brent A. Shipton, Registered Profession Engineer and a Geotechnical Engineer. The report includes specific investigations of the site and recommendations for proposed development necessary to ensure reasonable safety from earth movement hazards. The report did not require observation of the work conducted by a Certified Engineering Geologist or Geotechnical Engineer. *These standards are met.*

- 5.1.3. MCC 33.5515(G): Development plans shall be subject to and consistent with the Design Standards for Grading and Erosion Control in MCC 33.5520 (A) through (D). Conditions of approval may be imposed to assure the design meets those standards.**

**Staff:** Findings below address the proposed developments consistency with the Design Standards for Grading and Erosion Control in MCC 33.5520 (A) through (D). Conditions of approval will be imposed to assure the design meets those standards. *These standards are met through conditions.*

**5.2. Grading and Erosion Control Standards**

**Approval of development plans on sites subject to a Hillside Development Permit shall be based on findings that the proposal adequately addresses the following standards. Conditions of approval may be imposed to assure the design meets the standards:**

**5.2.1. MCC 33.5520(A)(1): Grading Standards**

- (a) Fill materials, compaction methods and density specifications shall be indicated. Fill areas intended to support structures shall be identified on the plan. The Director or delegate may require additional studies or information or work regarding fill materials and compaction;**

**Applicants:** *"Fill materials, compaction methods and density specifications are provided by the registered professional engineer, Brett Shipton. In an email dated February 28, 2014, Shipton says that "Structural fill shall be moisture conditioned to within a few percentage point of optimum moisture content and compacted to not less than 90 percent of the maximum dry density as determined by ASTM D 1557." This statement has been included on Exhibit 2E, the Preliminary Grading Plan. As noted above, the cut and fill is balanced with 250 cubic yards cut and 250 cubic yards fill. According to the civil engineer, Chris Kittredge the fill areas are not intended to support structures."*

**Staff:** The applicants' narrative (above) from Exhibit A.3 addresses this standard. *This standard is met.*

- (b) Cut and fill slopes shall not be steeper than 3:1 unless a geological and/or engineering analysis certifies that steep slopes are safe and erosion control measures are specified;**

**Staff:** The application narrative did not address this standard. The Grading Plan stamped by Chris P. Kittredge, P.E. shows grading for the proposed driveway with one area of cut steeper than 3:1. The Grading Plan does not show the grading for proposed dwelling. A condition will require the Grading Plan for the building permit shown grading for the replacement dwelling that complies with this standard and that grading be designed and stamped by a Registered Professional Engineer. *This standard is met through a condition.*

- (c) Cuts and fills shall not endanger or disturb adjoining property;**

**Staff:** The cuts and fills are located a significant distance from the adjoining properties except for minor cut grading for the driveway and placing down gravel. The driveway work is down slope from the adjoining property, the driveway cut is a foot or less, minor enough to not impact the adjoining property. *This standard is met.*

- (d) The proposed drainage system shall have adequate capacity to bypass through the development the existing upstream flow from a storm of 10-year design frequency;**

**Applicants:** *"The proposed stormwater management system is illustrated on the site plans in Exhibit 2; see 2D, the Preliminary Site and Utility Plan, and 2E, the Preliminary Grading Plan. Exhibit 9 is the Storm Water Certificate stamped by an Oregon licensed professional engineer, Chris Kittredge."*

**Staff:** The applicants' narrative (above) from Exhibit A.3 demonstrates compliance with this standard along with plans included Exhibit A.4 (Applicants' Exhibit 2D) and Exhibit A.11 (Applicants' Exhibit 9). *This standard is met.*

- (e) Fills shall not encroach on natural watercourses or constructed channels unless measures are approved which will adequately handle the displaced streamflow for a storm of 10-year design frequency;**

**Applicants:** *"Fills will not encroach on natural watercourses on the property."*

**Staff:** The applicants' narrative (above) from Exhibit A.3 demonstrates compliance with this standard. *This standard is met.*

#### **5.2.2. MCC 33.5520(A)(2): Erosion Control Standards**

- (a) On sites within the Tualatin River Drainage Basin, erosion and stormwater control plans shall satisfy the requirements of OAR 340. Erosion and stormwater control plans shall be designed to perform as prescribed by the currently adopted edition of the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)" and the "City of Portland Stormwater Quality Facilities, A Design Guidance Manual (1995)". Land-disturbing activities within the Tualatin Basin shall provide a 100-foot undisturbed buffer from the top of the bank of a stream, or the ordinary high watermark (line of vegetation) of a water body, or within 100-feet of a wetland; unless a mitigation plan consistent with OAR 340 is approved for alterations within the buffer area.**

**Applicants:** *"The property is within the Rock Creek Drainage Basin which is within the Tualatin River Drainage Basin. The proposed development will not disrupt the existing drainage area, which has intermittent flow, on the site. The drainage area is shown on the site plans in Exhibit 2. The applicant proposes to install additional vegetation in the drainage area as part of the Wildlife Conservation Plan."*

**Staff:** The property is within the Tualatin River Drainage Basin. A condition will require best practices. With a condition that silt fencing be installed down-slope of all disturbed soil areas, mulching disturbed areas during the wet season (October through May) with significant existing grass area on the property down-slope and reseeding or

covering with gravel, the erosion control plan will meet the standard. All land disturbing activities will be more than 100 feet from any stream. *This standard is met through a condition.*

- (b) Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practical area at any one time during construction;**

**Applicants:** *"The stripping of vegetation, grading, and other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as possible, and expose the smallest practical area at any one time during construction."*

**Staff:** A condition will require this standard be met. *This standard is met through a condition.*

- (c) Development Plans shall minimize cut or fill operations and ensure conformity with topography so as to create the least erosion potential and adequately accommodate the volume and velocity of surface runoff;**

**Applicants:** *"The cut and fill has been minimized to ensure the development's conformity with the topography. The development will be accomplished in the manners so as to create the least erosion potential and to adequately accommodate the volume and velocity of surface runoff."*

**Staff:** A condition can require this standard be met. *This standard is met through a condition.*

- (d) Temporary vegetation and/or mulching shall be used to protect exposed critical areas during development;**

**Applicants:** *"Temporary vegetation and/or mulching will be used to protect exposed critical areas during development."*

**Staff:** A condition will require mulch if soil disturbance is done or remains disturbed during the rainy season, between October 1<sup>st</sup> and May 31<sup>st</sup>. *This standard is met through a condition.*

- (e) Whenever feasible, natural vegetation shall be retained, protected, and supplemented;**

- 1. A 100-foot undisturbed buffer of natural vegetation shall be retained from the top of the bank of a stream, or from the ordinary high watermark (line of vegetation) of a water body, or within 100-feet of a wetland;**
- 2. The buffer required in 1. may only be disturbed upon the approval of a mitigation plan which utilizes erosion and stormwater control features designed to perform as effectively as those prescribed in the currently adopted edition of the "Erosion Prevention & Sediment Control Plans Technical Guidance Handbook (1994)" and the "City of Portland Stormwater Quality Facilities, A Design Guidance Manual (1995)" and**

**which is consistent with attaining equivalent surface water quality standards as those established for the Tualatin River Drainage Basin in OAR 340;**

**Staff:** All land disturbing activities will be more than 100 feet from any stream. *This standard is met.*

**(f) Permanent plantings and any required structural erosion control and drainage measures shall be installed as soon as practical;**

**Applicants:** *"Permanent plantings and any required structural erosion control and drainage measures will be installed as soon as practical."*

**Staff:** A condition will require this standard be met. *This standard is met through a condition.*

**(g) Provisions shall be made to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary;**

**Applicants:** *"The applicant will take provisions to effectively accommodate increased runoff caused by altered soil and surface conditions during and after development. The rate of surface water runoff shall be structurally retarded where necessary. Erosion control measures (including a sediment fence, bio bags, and inlet sediment sacks) and the stormwater management system are shown on the site plans in Exhibit 2; see 2D, the Preliminary Site and Utility Plan, and 2E, the Preliminary Grading Plan. Exhibit 9 is the Storm Water Certificate stamped by an Oregon licensed professional engineer, Chris Kittredge."*

**Staff:** A condition will require this standard be met. *This standard is met through a condition.*

**(h) Sediment in the runoff water shall be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized;**

**Applicants:** *"Sediment in the runoff water will be trapped by use of debris basins, silt traps, or other measures until the disturbed area is stabilized. Erosion control measures (including a sediment fence, bio bags, and inlet sediment sacks) and the stormwater management system are shown on the site plans in Exhibit 2; see 2D, the Preliminary Site and Utility Plan, and 2E, the Preliminary Grading Plan."*

**Staff:** A condition will require this standard be met. *This standard is met through a condition.*

**(i) Provisions shall be made to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching or seeding;**

*“The applicant will take provisions to prevent surface water from damaging the cut face of excavations or the sloping surface of fills by installation of temporary or permanent drainage across or above such areas, or by other suitable stabilization measures such as mulching or seeding. Erosion control measures (including a sediment fence, bio bags, and inlet sediment sacks) and the stormwater management system are shown on the site plans in Exhibit 2; see 2D, the Preliminary Site and Utility Plan, and 2E, the Preliminary Grading Plan.”*

**Staff:** Installation of the erosion control methods proposed by the applicants and seeding or gravel surface covering the disturbed areas will meet this standard. A condition will require this standard be met. *This standard is met through a condition.*

- (j) All drainage provisions shall be designed to adequately carry existing and potential surface runoff to suitable drainageways such as storm drains, natural watercourses, drainage swales, or an approved drywell system;**

**Applicants:** *“The proposed stormwater management system is illustrated on 2D, the Preliminary Site and Utility Plan, and 2E, the Preliminary Grading Plan. Exhibit 9 is the Storm Water Certificate stamped by an Oregon licensed professional engineer, Chris Kittredge. The drainageway on the site, with intermittent flow, is shown on the site plans.”*

**Staff:** A condition will require the installation of the stormwater management systems. *This standard is met through a condition.*

- (k) Where drainage swales are used to divert surface waters, they shall be vegetated or protected as required to minimize potential erosion;**

**Applicants:** *“The proposed stormwater management system is illustrated on 2D, the Preliminary Site and Utility Plan, and 2E, the Preliminary Grading Plan. There is one shallow swale shown on the site plans. There are other devices shown as part of the stormwater management plan on the site plans.”*

**Staff:** The revised plans show a couple small swales with riprap for the detention and infiltration of the stormwater flow from the driveway ditches (Exhibit A.27.c). *This standard is met through a condition.*

- (1) Erosion and sediment control devices shall be required where necessary to prevent polluting discharges from occurring. Control devices and measures which may be required include, but are not limited to:**

- 1. Energy absorbing devices to reduce runoff water velocity;**
- 2. Sedimentation controls such as sediment or debris basins. Any trapped materials shall be removed to an approved disposal site on an approved schedule;**
- 3. Dispersal of water runoff from developed areas over large undisturbed areas.**

**Applicants:** *“The erosion and sediment control devices, and the stormwater management system are illustrated on 2D, the Preliminary Site and Utility Plan, and 2E, the Preliminary Grading Plan. The devices used as part of the stormwater*

*management and erosion control systems are shown on the site plans; and include: the lynch type catch basin, shallow swale, catch basin outfall, roof drains, sediment fence, bio bags, and inlet sediment sacks. These items, along with natural range on the hillside slopes should keep any sediment from leaving the site."*

**Staff:** A condition will require the installation of erosion and sediment control devices prior to any soil disturbing earth work activities as proposed to meet this standard. *This standard is met through a condition.*

**(m) Disposed spoil material or stock-piled topsoil shall be prevented from eroding into streams or drainageways by applying mulch or other protective covering; or by location at a sufficient distance from streams or drainageways; or by other sediment reduction measures;**

**Applicants:** *"Disposed spoil material or stockpiled topsoil will be prevented from eroding into streams or drainageways by applying mulch or other protective covering; or by location at a sufficient distance from streams or drainageways; or by other sediment reduction measures. Erosion control measures (including a sediment fence, bio bags, and inlet sediment sacks) and the stormwater management system are shown on the site plans in Exhibit 2; see 2D, the Preliminary Site and Utility Plan, and 2E, the Preliminary Grading Plan. The disturbance areas for the house and the road are west of the drainageway on the site by a substantial distance; the disturbance area for the septic field is also west of the drainageway on the site. The distance between and the erosion control measures should prevent soil from moving into streams or drainageways on the site or off the site."*

**Staff:** Staff concurs with the applicants, that with proposed erosion control measures and distance to any drainageway or stream should prevent from moving into streams or drainageways on the site or off the site. A condition will require spoils material or stock-piled soil be mulch or covered with anchored plastic sheeting. *This standard is met through a condition.*

**(n) Such non-erosion pollution associated with construction such as pesticides, fertilizers, petrochemicals, solid wastes, construction chemicals, or wastewaters shall be prevented from leaving the construction site through proper handling, disposal, continuous site monitoring and clean-up activities.**

**Staff:** A condition will require this standard be met. *This standard is met through a condition.*

### **5.3. Responsibility**

**5.3.1. MCC 33.5520(B)(1): Whenever sedimentation is caused by stripping vegetation, regrading or other development, it shall be the responsibility of the person, corporation or other entity causing such sedimentation to remove it from all adjoining surfaces and drainage systems prior to issuance of occupancy or final approvals for the project;**

**Staff:** A condition will include this requirement. *This requirement is met through a condition.*



- 5.3.2. MCC 33.5520(B)(2)** It is the responsibility of any person, corporation or other entity doing any act on or across a communal stream watercourse or swale, or upon the floodplain or right-of-way thereof, to maintain as nearly as possible in its present state the stream, water-course, swale, floodplain, or right-of-way during such activity, and to return it to its original or equal condition.

**Staff:** A condition will include this requirement. *This requirement is met through a condition.*

## **6. Transportation Standards**

**MCRR 5.100:** To determine if a Transportation Impact is caused by a proposed development, the County Engineer will determine the number of new trips generated by a site by one of the following methods:

**Staff:** The proposal is to replace an existing dwelling with a new dwelling. There will be no new trips because the proposal use is the same as the existing use. There is no increase in transportation impact from the proposed new dwelling. There is not record of an access permit for the property. The property owners should obtain a Right-of-Way Access Permit. Contact Alan Young at 503-988-3582 to apply for a Right-of-Way Access Permit

## **7.00 Conclusion**

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Forest Development Standards, Significant Environment Concern and Hillside Development Permit to establish a replacement dwelling in the CFU-2 zone. This approval is subject to the conditions of approval established in this report.

## **8.00 Exhibits**

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Application Form	3/26/14
A.2	1	Site Plan	3/26/14
A.3	37	Narrative	3/26/14
A.4	8	Site Plans (Applicant’s Exhibits 2A – 2I) Applicants’ Exhibit 2A: Cover Sheet Applicants’ Exhibit 2B: Existing Conditions (topo) Applicants’ Exhibit 2C: Aerial site Plan Applicants’ Exhibit 2D: Site and Utility Plan Applicants’ Exhibit 2E: Grading Plan Applicants’ Exhibit 2F: Existing Septic and Improvement Applicants’ Exhibit 2G: GeoDesign Site Plan Applicants’ Exhibit 2H: Hillside Development Overlay Map Applicants’ Exhibit 2I: wildlife Conservation Planting Plan	3/26/14

A.5	4	Arborist Recommendations for Tree Protection (Applicants' Exhibit 3)	3/26/14
A.6	3	Wildlife Conservation Plan (Applicants' Exhibit 4)	3/26/14
A.7	7	Report of Geotechnical Evaluation (Applicants' Exhibit 5)	3/26/14
A.8	5	Fire District Review (Applicants' Exhibit 6)	3/26/14
A.9	2	On-Site Sewage Certification (Applicants' Exhibit 7)	3/26/14
A.10	1	Water Service Certification (Applicants' Exhibit 8)	3/26/14
A.11	1	Storm Water Certification signed and stamped by Chris P. Kittredge PE (Applicants' Exhibit 9)	3/26/14
A.12	1	Replacement Dwelling Agreement (Applicants' Exhibit 10)	3/26/14
A.13	9	Copies of 1951 and 1965 Deeds describing subject property (Applicants' Exhibit 11)	3/26/14
A.14	2	Copies of 1998 Sales Contract and 2003 Warranty Deed (Applicants' Exhibit 11)	3/26/14
A.15	2	Proposed dwelling elevation drawing and floor plans (Applicants' Exhibit 12)	3/26/14
A.16	8	Photos of existing dwelling habitable dwelling features (Applicants' Exhibit 13)	3/26/14
A.17	6	Photos of existing development cleared area and elk grazing in cleared area (Applicants' Exhibit 13)	3/26/14
A.18	1	180 Day Applicants' Response form	5/2/14
A.19	1	Memo from Tricia R. Sears, Pacific Habitat Services, INC	5/2/14
A.20	1	Email from Brett Shipton, PE, GE stating site is suitable for proposed development	5/2/14
A.21	1	Aerial Photo show drainage and fill site on the property	5/2/14
A.22	2	Site Plans showing topography	5/2/14
A.23	8	Addendum to Narrative	9/12/14
A.24	2	Addendum to Narrative	10/29/14
A.25	1	New Storm Water Certification signed and stamped by Chris P. Kittredge PE	10/29/14
A.26	13	New Fire Service Agency Review	10/29/14
A.27	4	Packet of Revised Site Plans including: A.27.a: Aerial Photo Site Plan including topographic contours A.27.b: Site Plan including topographic contours A.27.c: Grading and Utility Plan	10/29/14
'B'	#	Staff Exhibits	Date

B.1	2	A&T Property Information	
B.2	1	A&T Tax Map with Property Highlighted	
B.3	1	2012 Aerial Photo	
B.4	1	Accessory Use statement for recording	