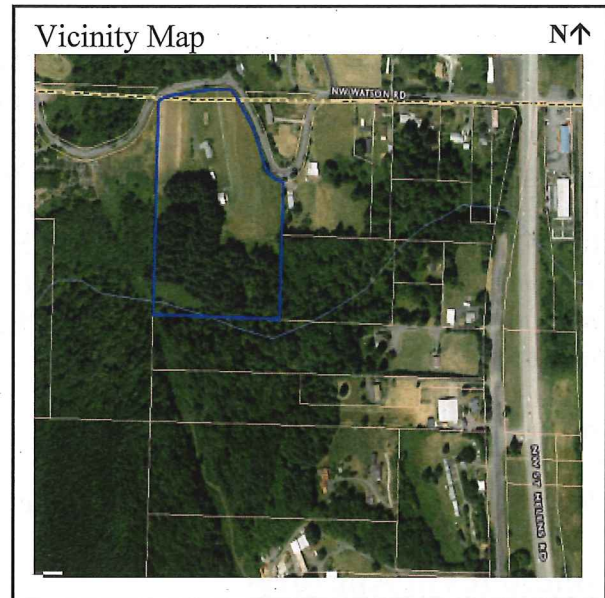


1600 SE 190th Ave, Portland OR 97233-5910 • PH. (503) 988-3043 • Fax (503) 988-3389

NOTICE OF DECISION

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

Case File: T2-2017-7825
Permit: Significant Environmental Concern
Location: 19900 NW Watson Rd.
Tax Lot 500, Section 25B
Township 3 North, Range 2 West, W.M.
Tax Account #R982250300
Applicant: Heidi & Patrick (Riley) Mahoney
Owners: Heidi & Patrick (Riley) Mahoney
Base Zone: Commercial Forest Use (CFU-2)
Overlays: Significant Environmental Concern for
Wildlife Habitat (SEC-h); Streams
(SEC-s)



Summary: Applicant is proposing to construct a new single family dwelling that will replace an existing dwelling in the CFU-2 zone.

Decision: Approved with Conditions

Unless appealed, this decision is effective August 10, 2017, at 4:00 PM.

Issued by:

By: 

Chris Liu, Assistant Planner

For: Michael Cerbone, AICP
Planning Director

Date: July 27, 2017

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 Chris Liu, Staff Planner at 503-988-2964 or chris.liu@multco.us.

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 Thursday August 10, 2017 at 4:00 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 37.0560 *Code Compliance*, MCC 33.0005 *Definitions*, MCC 33.2220 *Allowed Uses*, MCC 33.2250 *Building Height Requirements*, MCC 33.2256 *Forest Practices Setbacks and Fire Safety Zones*, MCC 33.2261 *Development Standards for Dwellings and Structures*, MCC 33.2273 *Access*, MCC 33.2275 *Lot of Record*, MCC 33.4567 *SEC-H Clear and Objective Standards*, and MCC 33.4570 *Criteria for Approval of SEC-h permit – Wildlife Habitat*.

Copies of the referenced Multnomah County Code (MCC) sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at multco.us/landuse/zoning-codes under the link Chapter 33: West Hills Rural Area and Chapter 37: Administration and Procedure.

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. 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(C):
 - (1) When construction has not commenced within four years of the date of the final decision. Commencement of construction shall mean actual construction of the foundation or frame of the approved structure.
 - (2) When the structure has not been completed within four years of the date of commencement of construction.

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.

3. No nuisance plant species listed in MCC 33.4570(B) shall be planted on the subject property as landscaping. The plants species listed in the County's Nuisance Plant list found under MCC 33.4570(B)(7) shall be kept clear from the project area.
4. All Transportation Planning and Development requirements noted in the memorandum for case# EP-2017-7259 must be completed as outlined.
5. The property owner shall ensure the building plans clearly indicate a spark arrestor will be located on any chimney and the roof will be fire retardant per MCC 33.2261(C).
6. The property owner shall ensure that the primary and secondary fire safety zones are maintained per MCC 33.2256(D)(5).
7. Prior to building permit sign-off, the property owner shall record pages 1 through 3 of the Notice of Decision with the County Recorder. The Notice of Decision shall run with the land and the conditions shall be met by the current and future property owner(s) unless amended through a later decision by an authorized authority. Proof of recording shall be submitted to Multnomah County Land Use Planning prior to the issuance of any permits. Recording shall be at the applicant's expense. [MCC 37.0670]

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, Chris Liu, at (503) 988-2964, 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 will be collected. In addition, an erosion control inspection fee may be required.

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

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

Findings of Fact

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

1.00 Project Description:

Staff: The applicant is requesting an approval of a Significant Environmental Concern permit for wildlife habitat to replace an existing dwelling.

2.00 Property Description & History:

Staff: The subject property is a 12.29-acre parcel that is located off of the public road known as NW Watson Road. The property is occupied by a dwelling constructed in 1966. The site is occupied by a number of existing outbuildings: a 16-ft wide by 32-ft long (512 sq. ft.) tool shed, a small 6-ft by 6-ft (36 sq. ft) pumphouse, 10-ft wide by 14-ft long (140 sq ft) chicken coop, and a 55-ft wide by 30-ft (1650 sq. ft) long barn. An aerial photo from 1977 shows the dwelling, the barn, and shed. Assessment & Taxation records list the shed and barn as farm buildings; these structures were constructed in 1918 prior to building permit requirements.

3.00 Commercial Forest Use Criteria:

3.01 § 33.0005 Definitions.

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 applicant has provided photos of the existing dwelling including a kitchen sink with running water, bathroom sink with running water, shower/tub with running water, toilet, interior lights and wiring for interior lights, a furnace for heat, intact exterior walls, a roof, and a sanitary waste disposal system. As mentioned in section 3.01 above, the existing house was approved by permit # 36904. *Criteria Met.*

3.02 § 33.2220 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.

Staff: The applicant is proposing to replace the existing dwelling with a 3,670 sq ft. dwelling that will be placed directly on the existing structure’s footprint. The existing dwelling was approved via Multnomah County Planning Commission Permit # 36904 (Exhibit A.4) on June 8, 1965; hence, it was lawfully established. *Criteria Met*

3.03 § 33.2250 BUILDING HEIGHT REQUIREMENTS

(A) Maximum structure height – 35 feet.

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

Staff: Building plans indicate the height of the structure will be less than 35 ft. *This criterion is met.*

3.04 § 33.2256 FOREST PRACTICES SETBACKS AND FIRE SAFETY ZONES

The Forest Practice Setbacks and applicability of the Fire Safety Zones is based upon existing conditions, deviations are allowed through the exception process and the nature and location of the proposed use. The following requirements apply to all structures as specified:

Use	Forest Practice Setbacks			Fire Safety Zones
Description of Use and location	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)
At least a portion of the replaced or restored dwelling is within 100 ft. of existing dwelling	May maintain current nonconforming setback but shall increase to 30 ft. if less than 30 ft	30	30	Primary required; Maintenance of vegetation in the Secondary is required to the extent possible

(A) Reductions to a Forest Practices Setback dimension shall only be allowed pursuant to approval of an adjustment or variance.

(B) Exception to the Secondary Fire Safety Zone shall be pursuant to MCC 33.2310 only. No reduction is permitted for a required Primary Fire Safety Zone through a nonconforming, adjustment or variance process.

(C) The minimum forest practices setback requirement shall be increased where the setback abuts a street having insufficient right-of-way width to serve the area. The county Road Official shall determine the necessary right-of-way widths based upon the county "Design and Construction Manual" and the Planning Director shall determine any additional setback requirements in consultation with the Road Official.

Staff: The proposed replacement dwelling meets the 30 ft minimum setback from all property lines. *This criterion met.*

3.05 (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:

* * *

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

(2) Secondary Fire Safety Zone A secondary fire safety zone is a fire break

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

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

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

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

Staff: As discussed in 3.04 above, based on the site plan, the primary fire safety zone of 30 ft has been established. The site plan also indicates that a secondary zone greater than 100 ft around the primary zone can be accommodated. A condition of approval has been added to this decision to ensure the fire safety zones are maintained per MCC 33.2256(D)(5)

3.06 § 33.2261 DEVELOPMENT STANDARDS FOR DWELLINGS AND STRUCTURES

All dwellings and structures shall comply with the approval criteria in (B) through (D) below except as provided in (A). All exterior lighting shall comply with MCC 33.0570:

(A) For the uses listed in this subsection, the applicable development standards are limited as follows:

(2) Replacement or restoration of a dwelling.

(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 33.2261(C);

Staff: The replacement dwelling is subject to the development standards of MCC 33.2261(C) and the applicant must demonstrate this criterion has been met.

3.07 (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: A condition of approval (condition #5) states that the applicant must indicate on the building plans that a fire retardant roof is proposed and a spark arrester is included with any chimney.

3.08 § 33.2273 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 33.2275(C).

Staff: The property abuts NW Watson Rd, a public street. *Criteria Met.*

3.09 § 33.2275 LOT OF RECORD

(A) In addition to the Lot of Record definition standards in MCC 33.0005, for the purposes of this district a Lot of Record is either:

(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:

(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-2 zone applied, Ord. 916 (reenacted by Ord. 997);
- (8) May 16, 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 33.2273, 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.

Staff: The applicant provided the parcel record card from the County's cartographic unit (Exhibit A.5). The parcel record card indicated the lot was created in its current configuration of 12.29 acres in 1952. Based on this information, the property is a legally created parcel and is a Lot of Record.

4.00 Significant Environmental Concern for Wildlife Habitat Criteria:

4.01 § 33.4567 SEC-H Clear and Objective Standards

At the time of submittal, the applicant shall provide the application materials listed in MCC 33.4520(A) and 33.4570(A). The application shall be reviewed through the Type I procedure and may not be authorized unless the standards in 33.4570(B)(1) through (4)(a)-(c) and (B)(5) through (7) are met. For development that fails to meet all of the criteria listed above, a separate land use application pursuant to MCC 33.4570 may be submitted.

Staff: This application is being reviewed pursuant to MCC 33.4570 discussed below.

4.02 § 33.4570 Criteria For Approval of SEC-H Permit Wildlife Habitat

(A) In addition to the information required by MCC 33.4520 (A), an application for development in an area designated SEC-h shall include an area map showing all properties which are adjacent to or entirely or partially within 200 feet of the proposed development, with the following information, when such information can be gathered without trespass:

(1) Location of all existing forested areas (including areas cleared pursuant to an approved forest management plan) and nonforested "cleared" areas; For the purposes of this section, a forested area is defined as an area that has at least 75 percent crown closure, or 80 square feet of basal area per acre, of trees 11 inches DBH and larger, or an area which is being reforested pursuant to Forest Practice Rules of the Department of Forestry. A non-forested "cleared" area is defined as an area which does not meet the description of a forested area and which is not being reforested pursuant to a forest management plan.

(2) Location of existing and proposed structures;

(3) Location and width of existing and proposed public roads, private access roads, driveways, and service corridors on the subject parcel and within 200 feet of the subject parcel's boundaries on all adjacent parcels;

(4) Existing and proposed type and location of all fencing on the subject property and on adjacent properties and on properties entirely or partially within 200 feet of the subject property.

Staff: The applicant has submitted a site plan that addresses the criteria listed in MCC 33.4567 (A)(1) – (4). *Criteria Met.*

4.03 (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.

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

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

Staff: The replacement home will be placed in the previous location of the existing home. No additional clearing is proposed as part of this application. Over 50% of the new home is proposed to be located within 200 ft. of NW Watson road. The existing driveway does not exceed 500 ft. in length. *Criteria Met.*

4.04 (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.

(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: No new driveway is proposed in this application. *This criterion is not applicable.*

4.05 (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 current dwelling and the proposed replacement dwelling are not within 300 ft of the side property line; however, a wildlife conservation plan is proposed in section 4.08 below.

4.06 (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 new fencing is proposed within the setback area. The portion of the existing fence within the setback area meets the criteria listed in MCC 33.4570 (B)(6)(a) – (f). *Criteria met.*

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

Staff: The applicant has not proposed planting any of the nuisance plants listed in MCC 33.4570(B)(7) as part of this project. All scotch broom and blackberries have been removed. This requirement has also been listed as a condition of approval. *Criterion met.*

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

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

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

Staff: The subject site is 12.29 acres in size and has frontage on a public right-of-way. The Wildlife Conservation Plan meets (C)(1) above as the proposed placement for the new dwelling is in the same location as the existing dwelling that will be demolished.

The property owners have not proposed to clear any forested areas and no other impacts to the forested areas are noted. No vegetation removal is noted and the proposed site includes additional vegetation on the list of approved vegetation to support drainage and runoff.

- 4.09 **(3) Unless the wildlife conservation plan demonstrates satisfaction of the criteria in subsection (C)(5), the wildlife conservation plan must demonstrate the following:**

Staff: The criteria of subsection (C)(5) is discussed in section 4.11 below.

- 4.10 **(4) For a property meeting (C)(1) above, the applicant may utilize the following mitigation measures for additions instead of providing a separate wildlife conservation plan:...**

* * *

Staff: The proposal is for a replacement dwelling. *This section does not apply.*

- 4.11 **(5) Unless the wildlife conservation plan demonstrates satisfaction of the criteria in subsection (C)(3) of this section, 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 proposed placement for the new dwelling is in the same location as the existing dwelling that will be demolished. The new dwelling will be constructed in an existing cleared

area and will not impact adjacent forested areas (Exhibit A.2). *Criterion met.*

- 4.12 (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: The applicant has not proposed to clear any additional area of the property.

- 4.13 (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. Existing fencing located in the front yard adjacent to a public road shall be consistent with MCC 33.4570(B)(6).

Staff: The applicant has stated that no new fencing will be built within the 30 ft minimum yard area adjacent to the public right-of-way. Existing fencing within the setback area meets MCC 33.4570(B)(6) as discussed in section 4.06

- 4.14 (d) For mitigation areas, all trees, shrubs and ground cover shall be native plants selected from the Metro Native Plant List. An applicant shall meet Mitigation Option 1 or 2, whichever results in more tree plantings; except that where the total developed area (including buildings, pavement, roads, and land designated as a Development Impact Area) on a Lot of Record will be one acre or more, the applicant shall comply with Mitigation Option 2:

1. Mitigation Option 1. In this option, the mitigation requirement is calculated based on the number and size of trees that are removed from the development site. Trees that are removed from the development site shall be replaced as shown in the table below. Conifers shall be replaced with conifers. Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

2. Mitigation Option 2. In this option, the mitigation requirement is calculated based on the size of the disturbance area associated with the development. Native trees and shrubs are required to be planted at a rate of five (5) trees and twenty-five (25) shrubs per every 500 square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by 500, and then multiplying that result times five trees and 25 shrubs, and rounding all fractions to the nearest whole number of trees and shrubs: for example, if there will be 330 square feet of disturbance area, then 330 divided by 500 equals .66, and .66 times five equals 3.6 so three trees must be planted, and .66 times 25 equals 16.5, so 17 shrubs must be planted). Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

Staff: No new cleared areas are proposed.

- 4.15 (e) Location of mitigation area. All vegetation shall be planted within the mitigation area located on the same Lot of Record as the development and shall be located within the SEC-h overlay or in an area contiguous to the SEC-h overlay; provided, however, that if the vegetation is planted outside of the SEC-h overlay then the applicant shall preserve the contiguous area by executing a deed restriction, such as a restrictive covenant. (Note: an off-site mitigation option is provided in a streamlined discretionary review process). The mitigation area shall first be located within any existing non-forested

cleared areas contiguous to forested areas, second within any degraded stream riparian areas and last in forested areas or adjacent to landscaped yards.

Staff: No new cleared areas are proposed.

- 4.16 (f) Prior to development, all work areas shall be flagged, fenced, or otherwise marked to reduce potential damage to habitat outside of the work area. The work area shall remain marked throughout all phases of development.
- (g) Trees shall not be used as anchors for stabilizing construction equipment.
- (h) Native soils disturbed during development shall be conserved on the property.

Staff: Applicant has agreed in the narrative to ensure the above criteria are met.

- 4.17 (i) An erosion and sediment control plan shall be prepared in compliance with the Grading and Erosion Control standards set forth in MCC 29.330 through MCC 29.348.

Staff: The erosion control and sediment plan meets the standards of MCC 29.330 through 29.348.

- 4.18 (j) Plant size. Replacement trees shall be at least one-half inch in caliper, measured at 6 inches above the ground level for field grown trees or above the soil line for container grown trees (the one-half inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round), unless they are oak or madrone which may be one gallon size. Shrubs shall be in at least a 1-gallon container or the equivalent in ball and burlap and shall be at least 12 inches in height.
- (k) Plant spacing. Trees shall be planted between 8 and 12 feet on-center and shrubs shall be planted between 4 and 5 feet on-center, or clustered in single species groups of no more than four (4) plants, with each cluster planted between 8 and 10 feet on-center. When planting near existing trees, the drip line of the existing tree shall be the starting point for plant spacing measurements.
- (l) Plant diversity. Shrubs shall consist of at least two (2) different species. If 10 trees or more are planted, then no more than 50% of the trees may be of the same genus.

Staff: No new cleared areas are proposed.

- 4.19 (m) Nuisance plants. Any nuisance plants listed in (B)(7) above shall be removed within the mitigation area prior to planting.

Staff: This criterion is discussed in section 4.07 above.

- (n) Planting schedule. The planting date shall occur within one year following the approval of the application.
- (o) Monitoring and reporting. Monitoring of the mitigation site is the ongoing responsibility of the property owner. Plants that die shall be replaced in kind so that a minimum of 80% of the trees and shrubs planted shall remain alive on the fifth anniversary of the date that the mitigation planting is completed.

Staff: No new cleared areas are proposed.

5.00 Administrative Procedures

5.01 § 37.0560 Code Compliance and Applications

Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County.

Staff: There are no active or pending code compliance cases for the property. No compliance issues were found during this review. *Criterion Met.*

6.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Significant Environmental Concern for wildlife habitat to replace the existing dwelling in the Commercial Forest Use zone. This approval is subject to the conditions of approval established in this report.

7.00 Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

Exhibits with a “*” after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T2-2017-7825 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	6/5/2017
A.2	4	Narrative & Site Plan	6/5/2017
A.3	7	Significant Environmental Concern for Wildlife Habitat worksheet	6/5/2017
A.4	5	Permit 36904 for the existing dwelling	6/5/2017
A.5	4	Parcel Record Card and Deed	6/5/2017
A.6	10	Elevation and Floor Plans	6/5/2017
A.7	3	Fire Service Agency Review	6/5/2017
A.8	2	Storm Water Certificate	6/5/2017
A.9	4	Septic Review Certification	6/5/2017
A.10	4	Authorization Notice for Re-Connection to an Existing System	6/5/2017
A.11	10	Pictures in support of determination of habitability of dwelling	6/5/2017
‘B’	#	Staff Exhibits	Date
B.1	2	A&T Property Information for 3N2W25B - 00500	6/5/2017
‘C’	#	Administration & Procedures	Date

C.1	1	Complete Letter	7/5/2017
C.2	3	Opportunity to Comment	7/7/2017
C.3	15	Administrative Decision	7/27/2017