



Applicable Approval Criteria:

Multnomah County Code (MCC):

General Provisions: MCC 39.1515 Code Compliance and Applications, MCC 39.2000 Definitions, MCC 39.3005 Lot of Record – Generally, MCC 39.3030 – Lot of Record – Commercial Forest Use – 2 (CFU-2)

Commercial Forest Use – 2 (CFU-2) Zone: MCC 39.4070 Allowed Uses, (T) Accessory Structures, MCC 39.4105 Building Height, MCC 39.4110 Forest Practices Setbacks and Fire Safety Zones, MCC 39.4115 Development Standards, MCC 39.6850 Dark Sky Lighting Standard

Significant Environmental Concern: MCC 39.5860 – Criteria for Approval of SEC-h Permit – Wildlife Habitat

Copies of the referenced Multnomah County Code sections are available by contacting our office at (503) 988-3043 or by visiting our website at <https://multco.us/landuse/zoning-codes/> under the link:

Chapter 39 - Zoning Code

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. 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.

1. Permit Expiration – This land use permit shall expire as follows [MCC 39.1185(B)]:
 - a. When construction has not commenced within two (2) years of the date of the final decision. Commencement of construction shall mean actual construction of the foundation or frame of the approved structure.
 - b. When the structure has not been completed within four years of the date of commencement of construction. Completion of the structure shall mean completion of the exterior surfaces(s) of the structure and compliance with all conditions of approval in the land use approval.

Note: The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 39.1195, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.

2. Prior to land use sign-off for building plan check, the property owners or their representative shall:
 - a. Record a covenant with County Records that states that the owner understands and agrees that the structure cannot be occupied as a dwelling or for any other form of permanent or temporary residential use. A copy of the record document shall be provided to the staff planner, Izze Liu via email at Isabella.Liu@multco.us. [MCC 39.8860]
 - b. Submit an updated landscape plan to staff planner, Izze Liu, via email at Isabella.Liu@multco.us to demonstrate:
 - i. That the trees within the Primary Fire Safety Zone (fire break extending a minimum of 30 feet in all directions around the proposed structures) are spaced with greater than 15 feet between the crowns. [MCC 39.4110(D)(1)]
 - ii. Compliance with mitigation Option 2 of the Wildlife Conservation Plan standards. The location of the replacement trees must also meet the standards of condition 2.b.i, above [MCC 39.5860(C)].
 - c. Contact Izze Liu to set up an appointment for a site visit by code compliance to verify the floor plan submitted for the existing pottery studio is accurate. [MCC 39.1515, MCC 39.4065]
 - d. Revise the building permit plans to provide building details that demonstrate that the proposed pole barn and addition will have a fire retardant roof and a spark arrester on each chimney, if a chimney is constructed. [MCC 39.4115(C)(3) and (4)]
 - e. Revise the building permit plans to provide building details that demonstrate that all exterior lighting complies with MCC 39.6850.
3. The following are on-going conditions that must be maintained in perpetuity:
 - f. The proposed accessory structures (1,440-square-foot shop and pottery studio) shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use. [MCC 39.4070(T)(2)]
 - g. Trees within the Primary Fire Safety Zone shall be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and as accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height. [MCC 39.4110(D)(1)]
 - h. Required Primary Fire Safety Zones shall be maintained by the property owner. [MCC 39.4110(D)(5)]
 - i. The nuisance plants in MCC 39.5580 Table 1 shall not be planted on the subject property and shall be removed and kept removed from cleared areas and the mitigation planting areas on the subject property. [MCC 39.5860(B)(7) and (C)(5)]
4. No home occupation shall be operated from either of the accessory buildings until such time as a home occupation permit is reviewed and approved. [MCC 39.4065]
5. The property owner shall plant 29 native trees and 146 native shrubs. The updated landscape plan shall show the location of the trees and shrubs to be planted and the types to be planted. The trees shall be located where they do not conflict with the Primary Fire Safety Zone requirements. Trees

shall be planted in cleared areas. If not enough cleared areas are available, the property owner shall place them contiguous to forested areas or areas where nuisance species have been removed.

- a. The native trees shall be at least one-half inch in caliper, measured at 6 inches above the root zone. Shrubs shall be at least 1 gallon in size or its equivalent for balled and burlap shrubs.
 - b. Trees shall be planted between 8 and 12 feet on-center and shrubs shall be planted between 4 – 5 feet on center or clustered in a grouping of 3 to 5 plants.
 - c. Shrubs shall consist of at least two different native species. No more than 50% of the native trees shall be of the same genus.
 - d. Nuisance plants shall be removed prior to the planting of the mitigation area.
 - e. The planting of the trees and shrubs shall occur within one year of this permit becoming final. The property owner shall contact Izze Liu and Land Use Planning when planting commences. [MCC 39.5860(C)(5)]
6. The property owner shall monitor the mitigation plantings and shall replace any trees or shrubs which die. Trees or shrubs that die or become diseased shall be replaced in the next planting season with the same or similar native species to the plant lost. [MCC 39.5860(C)(5)]

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 by Land Use Planning, the applicant shall complete the following steps:

1. Read your land use decision, the conditions of approval and modify your plans, if necessary, to meet any condition that states, “Prior to land use sign-off for building plan check...” Be ready to demonstrate compliance with the conditions.
2. Contact Right-of-Way Permits at row.permits@multco.us to review your plans, obtain your access permit, and satisfy any other requirements. You may schedule an appointment at <https://multco.us/transportation-planning/webform/right-way-appointment-request/> or leave a message at 503-988-3582. Failure to make an appointment with County Right-of-Way will result in delaying your building plan review and obtaining building permits.
3. Contact Izze Liu, Planner, at 503-988-0213 or isabella.liu@multco.us, for an appointment for review of the conditions of approval and to sign the building permit plans. Please ensure that any items required under, “At the time of land use sign-off for building plan check...” are ready for land use planning review. Land Use Planning must sign off on the plans and authorize the building permit before you can go to the Building Department.

The above must be completed before the applicant can obtain building permits from the City of Portland. Three (3) sets each of the site plan and building plans are needed for building permit sign off. At the time of building permit review, Land Use Planning may collect additional fees, including an erosion control inspection fee, if applicable.

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*.

1.0 Proposal:

Staff: The applicant requests a Significant Environmental Concern permit for a new 1,440-square-foot shop and a 305-square-foot addition to the existing pottery studio. The existing pottery studio with an attached carport is 636 square feet in size. After their construction there will be 2,381 square feet of accessory structures.

2.0 General Provisions:

2.1 MCC 39.1515 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 Zoning Code and/or any permit approvals previously issued by the County

(A) A permit or other approval, including building permit applications, may be authorized if:

- (1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Zoning Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or**
- (2) It is necessary to protect public safety; or**
- (3) It is for work related to and within a valid easement over, on or under an affected property.**

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

Staff: This standard provides that the County shall not make a land use decision approving development for a property that is not in full compliance with County Code or previously issued County approvals, except in the following instances: approval will result in the property coming into full compliance, approval is necessary to protect public safety, or the approval is for work related to or within a valid easement.

This standard was originally codified in the Zoning Code chapter related to land use application procedures and, by its terms, expressly applies to the application review process. Although now codified in the enforcement Part of the Zoning Code as a result of the more recent code consolidation project, the language and intent was not changed during that project and remains applicable to the application review process and not to the post-permit-approval enforcement process.

Importantly, a finding of satisfaction of this standard does *not* mean that a property is in full compliance with the Zoning Code and all prior permit approvals (and, accordingly, does not preclude future

enforcement actions relating to uses and structures existing at the time the finding is made). Instead, a finding of satisfaction of this standard simply means that there is not substantial evidence in the record affirmatively establishing one or more specific instances of noncompliance. As such, an applicant has no initial burden to establish that all elements of the subject property are in full compliance with the Zoning Code and all previously approved permits; instead, in the event of evidence indicating or establishing one or more specific instances of noncompliance on the subject property, the applicant bears the burden to either rebut that evidence or demonstrate satisfaction of one of the exceptions in MCC 39.1515.

For purposes of the current application, staff are not aware of any open compliance cases on the subject property, and there is no evidence in the record of any specific instances of noncompliance on the subject property. *This standard is met.*

2.2 MCC 39.3005 Lot of Record – Generally

(A) An area of land is a “Lot of Record” if it meets the standards in Subsection (B) of this Section and meets the standards set forth in this Part for the Zoning District in which the area of land is located.

(B) A Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, either satisfied all applicable zoning laws and satisfied all applicable land division laws, or complies with the criteria for the creation of new lots or parcels described in MCC 39.9700. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

* * *

MCC 39.3030 Lot of Record – CFU-2

(A) In addition to the standards in MCC 39.3005...

* * *

Staff: In 2019, the County determined in land use decision, T2-2019-12742 that the subject property was created lawfully by a Warranty Deed recorded July 24, 1972 in Book 870, Page 1983-1984 (Exhibit B.2). The configuration of the subject property has not changed since this Lot of Record Verification. *These criteria are met.*

3.0 Commercial Forest Use – 2 Zone:

3.1 MCC 39.4070 Allowed Uses

The following uses and their accessory uses are allowed, subject to all applicable supplementary regulations contained in MCC Chapter 39.

* * *

(T) Accessory Structures subject to the following:

(1) The accessory structure is customarily accessory or incidental to any use permitted or approved in this base zone, is located within 100 feet of the dwelling and is a structure identified in the following list:

- (a) Garages or carports;**
- (b) Pump houses;**
- (c) Garden sheds;**
- (d) Workshops;**

- (e) Storage sheds, including shipping containers used for storage only;**
- (f) Greenhouses;**
- (g) Woodsheds;**
- (h) Shelter for pets, horses or livestock and associated buildings such as: manure storage, feed storage, tack storage, and indoor exercise area;**
- (i) Swimming pools, pool houses, hot tubs, saunas, and associated changing rooms;**
- (j) Sport courts;**
- (k) Gazebos, pergolas, and detached decks;**
- (l) Fences, gates, or gate support structures; and**
- (m) Mechanical equipment such as air conditioning unites, heat pumps and electrical boxes; and**
- (n) Similar structures.**

Staff: The applicant is proposing to construct a 1,440-square-foot accessory building that will be used as a personal use shop and a 305-square-foot addition to the existing 636-square-foot detached pottery studio and carport (Exhibit A.15). Both uses are customarily accessory to the existing residential use on the subject property.

The proposed shop and addition to the existing pottery studio will be located within 100 feet of the existing dwelling. The proposed addition will be located approximately 12 feet from the existing dwelling and setback approximately 31 feet from the eastern property boundary. The proposed addition will be located more than 30 feet from all other property boundaries (Exhibit A.15, Page 2). The proposed shop will be located approximately 97 feet from the existing dwelling and setback more than 30 feet from all property boundaries (Exhibit A.15, Page 2). *This criterion is met.*

- (2) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.**
- (3) The Accessory Structure may contain one sink.**
- (4) The Accessory Structure shall not contain:**
 - (a) More than one story;**
 - (b) Cooking Facilities;**
 - (c) A toilet;**
 - (d) Bathing facilities such as a shower or bathing tub;**
 - (e) A mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage; or**
 - (f) A closet built into a wall.**

Staff: The proposed addition does not contain plumbing, cooking facilities, a bed, or closet. The floor plan for the existing pottery studio also shows none of the above improvements (Exhibit A.10). The floor plan for the shop (Exhibit A.14, Page 4) also does not shown any of the above improvements. A condition of approval will be included to ensure ongoing compliance. *As conditioned, these criteria are met.*

- (5) Compliance with MCC 39.8860 is required.**

Staff: Prior to issuance of any development permit involving an accessory building, the property owner shall record a covenant with County Records that states that the owner understands and agrees that the structure cannot be occupied as a dwelling or for any other form of permanent or temporary residential use. *As conditioned, this criterion is met.*

(6) The combined footprints of all Accessory Buildings on a Lot of Record shall not exceed 2,500 square feet.

Staff: The combined footprint of all accessory buildings on the subject property will be 2,381 square feet. There is an existing 636-square-foot detached pottery studio space which includes the attached carport. The proposed shop is 1,440 square feet and the 305-square-foot addition to the existing detached pottery studio will increase the size of the pottery studio and carport to 941 square feet. There are no other accessory structures developed on the subject property. *This criterion is met.*

(7) An Accessory Building exceeding any of the Allowed Use provisions above shall be considered through the Review Use provisions.

Staff: The proposed shop and addition to the existing pottery studio will not exceed any of the Allowed Use provisions. *The Review Use provisions do not apply.*

(8) Buildings in conjunction with farm uses as defined in ORS 215.203 are not subject to these provisions. Such buildings shall be used for their allowed farm purposes only and, unless so authorized, shall not be used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.

Staff: The applicant is proposing to construct a shop and an addition to an existing detached pottery studio on the subject property. Based on Assessment and Taxation records, the subject property does not contain a farm use. The applicant has not identified any farm uses on the subject property. *This criterion is not applicable.*

3.2 MCC 39.4105 Building Height Requirements

(A) Maximum structure height – 35 feet.

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

Staff: The proposed shop will be approximately 14 feet in height from the ground to top of the roof ridge (Exhibit A.14, Page 4) and the proposed addition to the pottery studio will be approximately 17 feet in total height (Exhibit A.15, Page 3). *This criterion is met.*

3.3 MCC 39.4110 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	All Other Setbacks (feet)	Fire Safety Zone Requirements

		Maintained Road (feet)		
Accessory structures within 100 ft. of the dwelling	N/A	30	30	Primary required

Staff: The subject property is not adjacent to a County maintained Road. It does not have road frontage. Access is provided by a private easement. As stated previously, the proposed shop and addition to the existing detached pottery studio will be located within 100 feet of the existing dwelling. The proposed addition will be located approximately 12 feet from the existing dwelling and setback approximately 31 feet from the eastern property boundary. The proposed addition is located more than 30 feet from all other property boundaries (Exhibit A.15, Page 2). The proposed shop will be located approximately 97 feet from the existing dwelling and setback more than 30 feet from all property boundaries (Exhibit A.15, Page 2). The Primary Fire Safety Zone provisions are addressed below.

* * *

(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.

Staff: A primary fire safety zone is required around the proposed shop and addition to the existing detached pottery studio. Prior to the issuance of the building permit, the applicant shall provide an updated landscape plan to demonstrate that the trees within this safety zone are spaced with greater than 15 feet between the crowns. As an ongoing condition of approval, the trees shall also be pruned to remove low branches within 8 feet of the ground and all other vegetation shall be kept less than 2 feet in height. *As conditioned, this criterion is met.*

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

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

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

Staff: The slopes adjacent to both buildings is less than 10 percent. *These criteria are met.*

(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 MCC 39.4155.

Staff: Pursuant to Table 1 under MCC 39.4110, a secondary fire safety zone is not required for the proposed shop and addition. *This criterion does not apply.*

(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 applicant did not provide a forest management plan approved by the State of Oregon Department of Forestry. *This criterion is met.*

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

Staff: As stated previously, a Primary Safety Zone is required for the proposed shop and addition to the existing detached pottery studio. A Secondary Fire Safety Zone is not 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 conditioned, this criterion is met.*

3.4 MCC 39.4115 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 39.6850:

* * *

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

(3) Accessory buildings.

(a) Accessory buildings within 100 feet of the existing dwelling: Shall meet the development standards of MCC 39.4115(C);

Staff: The proposed shop and addition to the existing pottery studio are located within 100 feet of the existing dwelling. The development standards of MCC 39.4115(C) are addressed below.

* * *

(C) The dwelling or structure shall:

(1) Comply with the standards of the applicable building code or as prescribed in ORS 446.003 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;

Staff: The applicant is not proposing to establish a mobile home. *These criteria are not applicable.*

- (3) Have a fire retardant roof; and**
- (4) Have a spark arrester on each chimney.**

Staff: The applicant has not identified the types of materials to be used for the roof on the accessory structure or pottery studio. A condition of approval has been included to ensure that (C)(3) and (C)(4) will be met prior to land use sign off for building plan check. *As conditioned, these criteria are met.*

3.5 MCC 39.6850 Dark Sky Lighting Standards

* * *

(C) The following standards apply to all new exterior lighting supporting a new, modified, altered, expanded, or replaced use approved through a development permit and to all existing exterior lighting on property that is the subject of a development permit approval for enlargement of a building by more than 400 square feet of ground coverage.

- (1) The light source (bulbs, lamps, etc.) must be fully shielded with opaque materials and directed downwards. “Fully shielded” means no light is emitted above the horizontal plane located at the lowest point of the fixture’s shielding. Shielding must be permanently attached.**
- (2) The lighting must be contained within the boundaries of the Lot of Record on which it is located. To satisfy this standard, shielding in addition to the shielding required in paragraph (C)(1) of this section may be required.**

Staff: A condition of approval is included in this decision requiring the applicant to demonstrate compliance with the Dark Sky Lighting Standards prior to building plan review. *As conditioned, these criteria are met.*

4.0 Significant Environmental Concern:

4.1 MCC 39.5520 Application for SEC Permit

An application for an SEC permit for a use or for the change or alteration of an existing use on land designated SEC, shall address the applicable criteria for approval, under MCC 39.5540 through 39.5860.

(A) An application for an SEC permit shall include the following:

* * *

Staff: The applicant provided the required application information as Exhibit A.1 – A.15. *These criteria are met.*

4.2 MCC 39.5860 Criteria for approval of SEC-H permit – wildlife habitat

(A) In addition to the information required by MCC 39.5520 (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:

* * *

Staff: The applicant provided the required application materials as Exhibit A.1 – A.15. *These criteria are met.*

(B) Development standards:

(1) Where a parcel contains any nonforested "cleared" areas, development shall only occur in these areas, except as necessary to provide access and to meet minimum clearance standards for fire safety.

Staff: The building envelope for the proposed addition and shop is partially located within the nonforested cleared area of the subject property. The addition to the pottery studio is in an area clear of trees and the shop is proposed to be located in an area with vine maples and alder trees (Exhibit A.15, Page 2). Staff finds there are no other cleared areas on the subject property where the proposed development can be established and meet the Primary Fire Safety Zone standards of MCC 39.4110(D)(1). *This criterion is met.*

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

Staff: The proposed development will be located 250 feet from NW Skyline Boulevard, a public road providing access to the site. The applicant provided a Wildlife Conservation Plan. The standards for the Wildlife Conservation Plan are addressed below.

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

Staff: The applicant states that the existing driveway is approximately 450 feet in length (Exhibit A.5, Page 3). The subject property has two driveways to the private easement. Staff measured the service corridor involving these two driveways and the private easement. Staff measurements exceeded 500 feet in length at 537 +/- feet. The 1992 building permit plans for the replacement dwelling (Exhibit B.4) show a single driveway leading to the carport and pottery studio. No driveway was shown south of these structures. Planning staff found no approval for the driveway south of the pottery studio. No evidence has been presented by the applicant that this driveway was constructed lawfully prior to 1994. The service corridor for the development on this site exceeds 500 feet in length. To address the length of the driveway, the standards for the Wildlife Conservation Plan are addressed below.

(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.

* * *

Staff: The subject property accesses NW Skyline Blvd via a private easement. Per the applicant's materials, there are no existing access roads or driveways within 200 feet of the side property lines and no access road or driveway on the opposite of the road (Exhibit A.5, Page 4). The applicant received the necessary approval from the County to utilize the existing driveway for the proposed development under right-of-way permit no. 83754 (Exhibit A.4). *This criterion is met.*

(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: Based on the County's GIS data, staff finds that the adjacent properties do not have development within 200 feet of a common side property line. *This criterion is met.*

(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. (See Figure 4 below.)**
- (f) Fencing standards do not apply where needed for security of utility facilities.**

Staff: No new fencing is proposed as part of this development. *These criteria are not applicable.*

(7) The nuisance plants in MCC 39.5580 Table 1 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 does not propose to plant any nuisance plants listed in MCC 39.5580 (Exhibit A.4, Pages 5-6). A condition of approval is included to ensure the above criterion is met. *As conditioned, the above criterion is met.* 39.5860(B)(7)

(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 subsection (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 subsection (B), but demonstrates that the alternative conservation measures exceed the standards of subsection (B) and will result in the proposed development having a less detrimental impact on forested wildlife habitat than the standards in subsection (B).**

Staff: The basic development standards of (B)(2) cannot be met due to the physical characteristics unique to the property. The subject property does not have frontage on a public road and access is taken from a private easement that is adjacent to the eastern property boundary. Due to the distance of the public road from the subject property, it is not feasible to develop the subject property within 200 feet of the public road while meeting the development standards of the CFU-2 zone and the Primary Fire Safety zone.

The standards of B(3) can be met but the applicant has demonstrated that the proposed building envelope including the driveway will have a less detrimental impact on forested wildlife habitat. As stated previously, the proposed building envelope is partially within the nonforested cleared area, and is located

within 100 feet of the existing single-family dwelling. The driveway extension from the single-family dwelling to the proposed shop will be located within the nonforested cleared area and additional trees will not be removed (Exhibit A.15, Page 2). As further discussed below, the applicant will also be required to adhere to Mitigation Option 2 which will enhance the subject property for wildlife habitat. *These criteria are met.*

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

* * *

(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 applicant is proposing to establish the shop within 100 feet of the existing dwelling to reduce the amount of land that will be needed for the Fire Safety Zones (FSZ) as a Secondary FSZ would no longer be required. By moving the building to within 100 feet of the dwelling, it also reduces the Forest Practice Setback from 130 feet to 30 feet from all property lines reducing the intrusion of the structure into the forested area of the site. The proposed location of the pottery studio addition and the shop has restricted the amount of forest land to be disturbed and converted to residential use. *This criterion is met.*

(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 stated that a total of 2,460 square feet of area will be cleared for the proposed development (Exhibit A.5, Page 7). Planning staff measured the development area and found it is less than a half-acre. *This criterion is met.*

(c) That no fencing will be built and existing fencing will be removed outside of areas cleared for the site development except for existing cleared areas used for agricultural purposes. Existing fencing located in the front yard adjacent to a public road shall be consistent with subsection (B)(6).

Staff: The applicant is not proposing new fencing. The applicant's Area Map (Exhibit A.15, Page 1) indicates that existing fencing on the site along the private easement will be removed. *This criterion is met.*

(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.

Tree Replacement Table

Size of tree to be removed (inches in diameter)	Number of trees and shrubs to be planted
6 to 12	2 trees and 3 shrubs

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 3.3, 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: Prior to the issuance of the building permit, the applicant will be required to submit a revised landscape plan to the Land Use Planning Division to demonstrate compliance with Mitigation Option 2. The applicant is proposing to remove nine trees that are 8 inches in diameter. The trees that will be removed are vine maple and alder trees. Option 1 would require 18 trees and 27 shrubs be planted. For Option 2, the area that is involved in the development is approximately 2,922 square feet. Option 2 would require 29 trees and 146 shrubs (2,922 sq. ft. disturbance area / 500 sq. ft. = 5.84. 5.84 x 5 trees = 29.23 trees. 5.84 x 25 shrubs = 146 shrubs). Option 2 results in more trees than Option 1, hence the property owner will need to plant 29 native trees and 146 native shrubs. A condition of approval has been included requiring a planting plan. *Through a condition, this criterion is met.*

- (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.
- (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 through 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.**

(i) An erosion and sediment control plan shall be prepared in compliance with the ground disturbing activity standards set forth in MCC 39.6200 through MCC 39.6235.

(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.

(m) **Nuisance plants.** Any nuisance plants listed in MCC 39.5580 Table 1 shall be removed within the mitigation area prior to planting.

(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: At present, the applicant has not provided a Wildlife Conservation Plan that includes a planting plan and information on the types of plants to be used, or timing of planting. Planning staff has drafted a condition which incorporates the information in (e) through (o). *As conditioned, this criterion is met.*

6.0 CONCLUSION:

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Significant Environmental Concern Permit to establish a 1,440-square-foot pole barn and a 305-square-foot addition to the existing 636-square-foot detached pottery studio and carport. This approval is subject to the conditions of approval established in this report.

7.0 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 T2-2020-13456 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	Application Cover Sheet	06.24.2020
A.2	25	Stormwater Drainage Certificate	06.24.2020
A.3	6	Septic Review Certification	06.24.2020
A.4	7	Right-of-Way Permit	06.24.2020
A.5	8	SEC Wildlife Habitat Worksheet	06.24.2020
A.6	1	Nuisance Plant List	06.24.2020
A.7	1	Site Plan	06.24.2020
A.8	6	Lot of Record Decision	06.24.2020
A.9	3	Fire Service Agency Review	06.24.2020
A.10	1	Studio Floor Plan	06.24.2020
A.11	5	Pole Barn Elevation & Floor Plan Drawing	06.24.2020
A.12	11	Building Plans for Replacement Dwelling showing the Existing Pottery Studio	06.24.2020
A.13	1	Pottery Studio Addition Elevation Drawing	06.24.2020
A.14	6	Supplemental Application Materials	12.30.2020
A.15	3	Supplemental Application Materials	01.13.2021
'B'	#	Staff Exhibits	Date
B.1	2	Department of Assessment, Records and Taxation (DART): Property Information for 2N2W14C -02000	06.24.2020
B.2	1	Survey 44935 dated October 13, 1980	12.15.2020
B.3	6	Lot of Record Verification T2-2019-12742 dated April 3, 2020	1.12.2021
B.4	6	Building Permit Approval for Replacement Dwelling dated December 22, 1992	1.12.2021
'C'	#	Administration & Procedures	Date
C.1	1	Complete Letter	07.24.2020
C.2	6	Opportunity to Comment	08.28.2020
C.3	18	Administrative Decision	02.16.2021