

1 BEFORE THE BOARD OF COUNTY COMMISSIONERS
2 FOR MULTNOMAH COUNTY, OREGON
3 ORDINANCE NO. 801
4

5 An Ordinance amending the Comprehensive Framework Plan Policies and Significant
6 Environmental Concern (SEC) section of the Zoning Code to protect significant wildlife habitat, scenic
7 views and streams in the West Hills and Howard Canyon areas, in fulfillment of Periodic Review Remand
8 Order requirements.

9

10 Multnomah County Ordains as follows:

11

12 Section I. Findings.

13 (A) Periodic Review Remand Order 93-RA-876 required Multnomah County to complete addi-
14 tional work related to Statewide Planning Goal 5 resources in the West Hills.

15 (B) On August 9, 1994 the Board of County Commissioners (Board) decided that wildlife habitat
16 and scenic views in the West Hills and streams in the West Hills and Howard Canyon area are significant
17 Goal 5 resources, and based on an analysis of economic, social, environmental and energy (ESEE) conse-
18 quences, the appropriate level of protection for these resources is "3-C" (allow conflicting uses in a limited
19 manner that will give some protection to the resource). This analysis and recommendation are incorporat-
20 ed into the West Hills Reconciliation Report which was adopted by the Board on September 22, 1994.

21 (C) OAR 660-16 requires the county to amend its Comprehensive Plan and zoning designations to
22 be consistent with the level of protection determined to be appropriate for each resource. Revisions to
23 Comprehensive Plan Policies 16, 16-D and 16-F are necessary to reflect the county's decision to protect
24 wildlife habitat and scenic views of the West Hills. Proposed amendments to the Significant
25 Environmental Concern (SEC) section of the zoning code will provide specific standards under which
26 development can occur in areas which contain significant wildlife habitat, scenic landscapes or streams.

1 (D) Notice and the opportunity for public comment on the Comprehensive Plan Policy and SEC
2 code amendments was provided at a Planning Commission hearing on September 12, 1994. After deliber-
3 ation on September 19 and September 26, 1994, the Planning Commission recommended that the amend-
4 ments to the Comprehensive Plan Policies and SEC section of the zoning code be adopted by the Board.

5 (E) On October 11, 1994, the Board conducted a public hearing on the proposed Comprehensive
6 Plan and Zoning Code amendments and the Planning Commission recommendation.

7

8 Section II. Amendment of Framework Plan Text.

9

10 The Multnomah County Comprehensive Framework Plan is hereby amended to read as follows:

11 (Underlined sections are new or replacements; [~~bracketed~~] sections are deleted.)

12

13 POLICY 16: NATURAL RESOURCES

14

15 INTRODUCTION

16 The purpose of the Natural Resources policy is to implement statewide Planning Goal 5: "Open
17 Spaces, Scenic and Historic Areas, and Natural Resources". These resources are necessary to ensure
18 the health and well-being of the population, and include such diverse components as mineral and
19 aggregate reserves, significant wetlands, historic sites, and scenic waterways. The individual compo-
20 nents, as set forth by state law (OAR 660-16), are addressed below as subpolicies 16-A through 16-L.

21 Natural resources within the Columbia River Gorge National Scenic Area are not subject to statewide
22 Goal 5 and are addressed through Policy 41.

23

24 An overlay classification, "Significant Environmental Concern" will be applied to certain areas identi-
25 fied as having one or more of these resource values.

26

1 POLICY 16

2
3 THE COUNTY'S POLICY IS TO PROTECT NATURAL RESOURCES, CONSERVE OPEN
4 SPACE, AND TO PROTECT SCENIC AND HISTORIC AREAS AND SITES. THESE
5 RESOURCES ARE ADDRESSED WITHIN SUB-POLICIES 16-A THROUGH 16-L.

6
7 STRATEGIES

- 8 A. The county will maintain an inventory of the location, quality, and quantity of each of these
9 resources. Sites with minimal information will be designated "1B", but when sufficient informa-
10 tion is available, the County will conduct the necessary ESEE analysis.
- 11 B. Certain areas identified as having one or more significant resource values will be protected by the
12 designation Significant Environmental Concern (SEC). This overlay zone will require special pro-
13 cedures for the review of certain types of development allowed in the base zones. This review pro-
14 cess will ensure the minimum impact on the values identified within the various areas, and shall be
15 designed to mitigate any lost values to the greatest extent possible. [~~Areas designated SEC are~~
16 ~~generally depicted on the following map.~~]
- 17 C. The following areas shall be designated as "Areas of Significant Environmental Concern" based
18 on "Economic, Social, Environmental, and Energy" (ESEE) evaluations and designations of "2A",
19 "3A", or "3C" under Statewide Goal 5. Resource protection shall be provided by either the SEC or
20 WRG overlay provisions in the Multnomah County Zoning Code (MCC 11.15) applied on:
- 21
- 22 1. Resource sites designated "2A", "3A", or "3C" in the Multnomah County Goal 5 Inventory and
23 identified for SEC or WRG protections in SUB-POLICIES 16-A through [~~D~~, 16-E, 16-G, or]
24 16-L.
 - 25 2. Hayden Island west of the Burlington Northern Railroad tracks,
 - 26 3. Blue Lake, Fairview Lake (Ord. 234), and Columbia River shore area and islands,

1 4. Johnson Creek,

2 5. Other areas as may be determined under established Goal 5 procedures to be suitable for this
3 "area" designation.

4
5 D. Those wetlands and water areas listed in C. above that are located within the Willamette River
6 Greenway (Policy 15) will be protected by development review procedures within the WRG over-
7 lay zone instead of the SEC zone.

8
9 **POLICY 16-D FISH AND WILDLIFE HABITAT**

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11 **IT IS THE COUNTY'S POLICY TO PROTECT SIGNIFICANT FISH AND WILDLIFE HABITAT,**
12 **AND TO SPECIFICALLY LIMIT CONFLICTING USES WITHIN NATURAL ECOSYSTEMS**
13 **WITHIN THE RURAL PORTIONS OF THE COUNTY AND SENSITIVE BIG GAME WINTER**
14 **HABITAT AREAS**

15
16 **STRATEGIES**

17 A. Utilize information provided by the Oregon Department of Fish and Wildlife to identify significant
18 habitat areas, and to delineate sensitive big game winter habitat areas. If necessary, supplement
19 this information with additional professional analysis to identify additional significant habitat
20 areas and natural ecosystems within rural portions of the County.

21 B. Apply the SEC overlay zone to all significant habitat areas not already zoned Willamette River
22 Greenway.

23 C. Include provisions within the Zoning Ordinance to review development proposals which may
24 affect natural ecosystems within the rural portions of the County and sensitive big game winter
25 habitat areas.

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POLICY 16-F SCENIC VIEWS AND SITES

IT IS THE COUNTY'S POLICY TO CONSERVE SCENIC RESOURCES AND PROTECT ~~[SUCH AREAS FROM INCOMPATIBLE AND CONFLICTING LAND USES]~~ THEIR AESTHETIC APPEARANCE FOR THE ENJOYMENT OF FUTURE GENERATIONS.

STRATEGIES

- A. Apply the SEC overlay zone to the ~~[Columbia River Gorge National Scenic Area and the]~~ Sandy River State Scenic Waterway and other significant scenic areas designated "2A", "3A", or "3C" under Statewide Goal 5 to assure the scenic resources of these areas are not diminished as new development occurs.
- B. Coordinate reviews of development proposals within SEC areas with other affected agencies (i.e., ~~[Columbia River Gorge Commission,]~~ National Forest Service, State Parks and Recreation Division Rivers Program, ~~[County Parks Division]~~ etc.).
- C. Enforce large lot zoning regulations in resource areas to conserve scenic qualities associated with farm and forest lands.
- D. Apply the WRG overlay zone to lands within the Willamette River Greenway. Review new development within the greenway to assure scenic values are not diminished.
- E. Administer Design Review provisions to enhance visual qualities of the built environment.
- F. Apply a scenic overlay to the West Hills significant ("3-C") scenic area. Review new development that would be visible from Sauvie Island and other viewing areas identified in the Goal 5 analysis to assure that the overall appearance of a natural forested landscape is retained.

1 Section III. Amendment of Zoning Code.

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3 Multnomah County Code Chapter 11.15 is amended to read as follows:

4 (Underlined sections are new or replacements; [~~bracketed~~] sections are deleted.)

5

6 **Significant Environmental Concern SEC**

7

8 **11.15.6400 Purposes**

9 The purposes of the Significant Environmental Concern subdistrict are to protect, conserve, enhance,
10 restore, and maintain significant natural and man-made features which are of public value, including
11 among other things, river corridors, streams, lakes and islands, domestic water supply watersheds,
12 flood water storage areas, natural shorelines and unique vegetation, wetlands, wildlife and fish habitats,
13 significant geological features, tourist attractions, archaeological features and sites, and scenic views
14 and vistas, and to establish criteria, standards, and procedures for the development, change of use, or
15 alteration of such features or of the lands adjacent thereto.

16

17 **11.15.6402 Area Affected**

18 Except as otherwise provided in MCC .6404 or MCC .6406, this subsection shall apply to those lands
19 designated SEC on the Multnomah County Zoning Map.

20

21 **11.15.6404 Uses – SEC Permit Required**

22 (A) All uses permitted under the provisions of the underlying district are permitted on lands designated
23 SEC; provided, however, that the location and design of any use, or change or alteration of a use,
24 except as provided in MCC .6406, shall be subject to an SEC permit. [~~The excavation of any~~
25 ~~archaeological site shall require an SEC permit, under MCC .6412, regardless of the zoning desig-~~
26 ~~nation of the site.~~]

1 (B) Any excavation or any removal of materials of archaeological, historical, prehistorical or anthro-
2 pological nature shall be conducted under the conditions of an SEC permit, regardless of the zon-
3 ing designation of the site.

4 [~~(C) Any building, structure, or physical improvement within 100 feet of the normal high water level of~~
5 ~~a Class I stream, as defined by the State of Oregon Forest Practice Rules, shall require an SEC per-~~
6 ~~mit under MCC .6412, regardless of the zoning designation of the site.]~~

7 (C) Activities proposed for lands designated as scenic waterways under the Oregon Scenic Waterways
8 System shall be subject to an SEC permit in addition to approval from the Oregon Parks and
9 Recreation Department.

10
11 **11.15.6406 Exceptions**

12 An SEC permit shall not be required for the following:

13
14 (A) Farm use, as defined in ORS 215.203(2)(a), including buildings and structures accessory thereto
15 on “converted wetlands” as defined by ORS 541.695(9) or on upland areas;

16 (B) Except as provided in MCC .6420(C), the propagation of timber or the cutting of timber for public
17 safety or personal use or the cutting of timber in accordance with the State Forest Practices Act;

18 (C) Customary dredging and channel maintenance and the removal or filling, or both, for the mainte-
19 nance or reconstruction of structures such as dikes, levees, groins, riprap, drainage ditch, irrigation
20 ditches and tile drain systems as allowed by ORS 196.905(6);

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

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

24 [~~(F) Activities regulated pursuant to the provisions of ORS 390.805 to 390.925 on lands designated as~~
25 ~~scenic waterways under the Oregon Scenic Waterways System;]~~

1 ~~[(G)]~~ (F) The expansion of capacity, or the replacement, of existing communication or energy distri-
2 bution and transmission systems, except substations;

3 ~~[(H)]~~ (G) The maintenance and repair of existing flood control facilities; and

4 ~~[(I)]~~ (H) Maintenance of uses legally existing on ~~[the effective date of this Chapter]~~ (effective
5 date of this ordinance); provided, however, that any change, expansion or alteration of such use
6 (except for changes to a structure which do not require any modification to the exterior of the
7 structure) shall require an SEC permit as provided herein, ~~[; and]~~

8 ~~[(J)]~~ ~~Those Class 1 streams located:~~

9 ~~(1) Within mineral and aggregate resource areas designated "2A", "3A" or "3C" by a Statewide~~
10 ~~Planning Goal 5 Economic, Social, Environmental and Energy analysis, or~~

11 ~~(2) Within the Willamette River Greenway.]~~

13 **11.15.6408 Application for SEC Permit**

14 An application for an SEC permit for a use or for the change or alteration of an existing use on land
15 designated SEC, shall address the applicable criteria for approval, under MCC .6420 through .6428 and
16 shall be filed as follows:

17
18 (A) For a Permitted Use or a Use Under Prescribed Conditions, in the manner provided in MCC
19 .8210(B); and

20 (B) For a Conditional Use as specified either in the underlying district or in MCC .7105 through .7640,
21 or for a Community Service Use as specified in MCC .7005 through .7030, or for a change of zone
22 classification or for any other action as specified in MCC .8205, the SEC permit application shall
23 be combined with the required application for the proposed action and filed in the manner provid-
24 ed in MCC .8210 and .8215.

- 1 (C) An application for an SEC permit shall include the following:
- 2 (1) A written description of the proposed development and how it complies with the applicable
- 3 approval criteria of MCC .6420 through .6428.
- 4 (2) A map of the property showing:
- 5 (a) Boundaries, dimensions, and size of the subject parcel;
- 6 (b) Location and size of existing and proposed structures;
- 7 (c) Contour lines and topographic features such as ravines or ridges;
- 8 (d) Proposed fill, grading, site contouring or other landform changes;
- 9 (e) Location and predominant species of existing vegetation on the parcel, areas where vege-
- 10 tation will be removed, and location and species of vegetation to be planted, including
- 11 landscaped areas;
- 12 (f) Location and width of existing and proposed roads, driveways, and service corridors.

14 **11.15.6409 Applicable Approval Criteria**

- 16 (A) The approval criteria in MCC .6420 shall apply to those areas designated SEC on the Multnomah
- 17 County zoning maps.
- 18 (B) The approval criteria that apply to uses in areas designated SEC-w, SEC-v, SEC-h and SEC-s on
- 19 Multnomah County zoning maps shall be based on the type of protected resources on the property,
- 20 as indicated by the subscript letter in the zoning designation, as follows:

21	<u>zoning</u>		<u>approval</u>
22	<u>designation</u>		<u>criteria</u>
23	<u>SEC-w</u>	<u>(wetlands)</u>	<u>MCC .6422</u>
24	<u>SEC-v</u>	<u>(scenic views)</u>	<u>MCC .6424</u>
25	<u>SEC-h</u>	<u>(wildlife habitat)</u>	<u>MCC .6426</u>
26	<u>SEC-s</u>	<u>(streams)</u>	<u>MCC .6428</u>

1 (C) An application for a use on a property containing more than one protected resource shall address
2 the approval criteria for all of the designated resources on the property. In the case of conflicting
3 criteria, approval shall be based on the ability of the proposed development to comply as nearly as
4 possible with the criteria for all designated resources that would be affected.

5 (D) For Goal 5 resources designated "2A" or "3A", a proposed development must comply with the
6 approval criteria in order to be approved.

7 (E) For Goal 5 resources designated "3-C", the approval criteria shall be used to determine the most
8 appropriate location, size and scope of a proposed development, in order to make the development
9 compatible with the purposes of this section, but shall not be used to prohibit a use or be used to
10 require removal or relocation of existing physical improvements to the property.

11

12 **11.15.6410 SEC Permit – Required Findings**

13 A decision on an application for an SEC permit shall be based upon findings of consistency with the
14 purposes of the SEC district and with the applicable criteria for approval specified in MCC .6420
15 through .6428.

16

17 **11.15.6412 Decision by Planning Director**

18 (A) A decision on an SEC permit application for a Permitted Use or a Use Under Prescribed
19 Conditions shall be made by the Planning Director.

20 (B) The Director may approve the proposal or approve it with such modifications and conditions as
21 may be consistent with the Comprehensive Plan and necessary to assure compatibility with appli-
22 cable criteria of MCC .6420 through .6428.

23 (C) Within [~~ten~~] thirty business days following receipt of a completed application for an SEC permit,
24 the Planning Director shall file the decision with the Director of Environmental Services and shall
25 mail a copy of the decision to the applicant and to other persons who request the same.

26

1 (D) A decision by the Planning Director on an SEC permit application shall include written conditions,
2 if any, and findings and conclusions. The conditions, findings, and conclusions shall specifically
3 address the relationships between the proposal and the applicable criteria in MCC .6420 through
4 .6428.

5

6 **11.15.6414 Decision by a Hearings Officer**

7 (A) A decision on an SEC permit application for a Conditional Use as specified either in the underly-
8 ing district or in MCC .7105 through .7640, or for a Community Service use as specified in MCC
9 .7005 through .7030, shall be made by the Hearings Officer in conjunction with the decision on the
10 use proposal associated therewith.

11 (B) Action by the Hearings Officer on an SEC permit application shall be taken pursuant to MCC
12 .8205 through .8250.

13 (C) The findings and conclusions made by the Hearings Officer and the conditions or modifications of
14 approval, if any, shall specifically address the relationships between the proposal and the applica-
15 ble criteria in MCC .6420 through .6428.

16

17 **11.15.6416 Appeals**

18 (A) A decision by the Planning Director on an application for an SEC permit may be appealed to the
19 Hearings Officer in the manner provided in MCC .8290 and .8295.

20 (B) A decision by the Hearings Officer on an application for an SEC permit may be appealed to the
21 Board of County Commissioners in the manner provided in MCC .8255.

22

23 **11.15.6418 Scope of Conditions**

24 (A) Conditions of approval of an SEC permit, if any, shall be designed to bring the application into
25 conformance with the applicable [~~policies of the Comprehensive Plan~~] criteria of MCC .6420
26 through .6428 and any other requirements specified in the Goal 5 protection program for the

1 affected resource. Said conditions may relate to the locations, design, and maintenance of existing
2 and proposed improvements, including but not limited to buildings, structures and use areas, park-
3 ing, pedestrian and vehicular circulation and access, natural vegetation and landscaped areas, fenc-
4 ing, screening and buffering, excavations, cuts and fills, signs, graphics, and lighting, timing of
5 construction and related activities.

6 (B) Approval of an SEC permit shall be deemed to authorize associated public utilities, including ener-
7 gy and communication facilities.

8
9 **11.15.6420 Criteria for Approval of SEC Permit**

10 The SEC designation shall apply to those significant natural resources, natural areas, wilderness areas,
11 cultural areas and wild and scenic waterways that are designated SEC on Multnomah County sectional
12 zoning maps. Any proposed activity or use requiring an SEC permit shall be subject to the following:

13
14 (A) The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegeta-
15 tion shall be provided between any use and a river, stream, lake, or floodwater storage area.

16 (B) Agricultural land and forest land shall be preserved and maintained for farm and forest use.

17 (C) The harvesting of timber on lands designated SEC shall be conducted in a manner which will
18 insure that natural, scenic, and watershed qualities will be maintained to the greatest extent practi-
19 cable or will be restored within a brief period of time.

20 (D) A building, structure, or use shall be located on a lot in a manner which will balance functional
21 considerations and costs with the need to preserve and protect areas of environmental significance.

22 (E) Recreational needs shall be satisfied by public and private means in a manner consistent with the
23 carrying capacity of the land and with minimum conflict with areas of environmental significance.

24 (F) The protection of the public safety and of public and private property, especially from vandalism
25 and trespass, shall be provided to the maximum extent practicable.

26 (G) Significant fish and wildlife habitats shall be protected.

1 (H) The natural vegetation along rivers, lakes, wetlands and streams shall be protected and enhanced to
2 the maximum extent practicable to assure scenic quality and protection from erosion, and continu-
3 ous riparian corridors.

4 (I) Archaeological areas shall be preserved for their historic, scientific, and cultural value and protect-
5 ed from vandalism or unauthorized entry.

6 ~~[(J) Extraction of aggregates and minerals, the depositing of dredge spoils, and similar activities per-~~
7 ~~mitted pursuant to the provisions of MCC .7105 through .7640, shall be conducted in a manner~~
8 ~~designed to minimize adverse effects on water quality, fish and wildlife, historical or archaeologi-~~
9 ~~cal features, vegetation, erosion, stream flow, visual quality, noise, and safety, and to guarantee~~
10 ~~necessary reclamation.]~~

11 ~~[(K) (J)~~ (J) Areas of annual flooding, floodplains, water areas, and wetlands shall be retained in their
12 natural state to the maximum possible extent to preserve water quality and protect water retention,
13 overflow, and natural functions.

14 ~~[(L) Significant wetland areas shall be protected as provided in MCC .6422.]~~

15 ~~[(M) (K)~~ (K) Areas of erosion or potential erosion shall be protected from loss by appropriate means,
16 ~~which are compatible with the environmental character~~ Appropriate means shall be based on cur-
17 rent Best Management Practices and may include restriction on timing of soil disturbing activities..

18 ~~[(N) (L)~~ (L) The quality of the air, water, and land resources and ambient noise levels in areas classified
19 SEC shall be preserved in the development and use of such areas.

20 ~~[(O) (M)~~ (M) The design, bulk, construction materials, color and lighting of buildings, structures and
21 signs shall be compatible with the character and visual quality of areas of significant environmen-
22 tal concern.

23 ~~[(P) (N)~~ (N) An area generally recognized as fragile or endangered plant habitat or which is valued for
24 specific vegetative features, or which has an identified need for protection of the natural vegeta-
25 tion, shall be retained in a natural state to the maximum extent possible.

26 ~~[(Q) (O)~~ (O) The applicable policies of the Comprehensive Plan shall be satisfied.

1 **11.15.6422 Criteria for Approval of SEC-w Permit - Significant Wetlands**

2

3 *Significant wetlands* consist of those areas designated as *Significant* on aerial photographs of a scale
4 of 1"=200' made a part of the supporting documentation of the Comprehensive Framework Plan. Any
5 proposed activity or use requiring an SEC permit which would impact those wetlands shall be subject
6 to the following:

7

8 (A) In addition to other SEC Permit submittal requirements, the application shall also include:

- 9 (1) A site plan drawn to scale showing the wetland boundary as determined by a documented
10 field survey, the location of all existing and proposed [~~structures, roads,~~] watercourses,
11 drainageways, stormwater facilities, utility installations, and topography of the site at a con-
12 tour interval of no greater than five feet;
- 13 (2) A description and map of the wetland area that will be affected by the proposed activity. This
14 documentation must also include a map of the entire wetland, an assessment of the wetland's
15 functional characteristics and water sources, and a description of the vegetation types and fish
16 and wildlife habitat;
- 17 (3) A description and map of soil types in the proposed development area and the locations and
18 specifications for all proposed draining, filling, grading, dredging, and vegetation removal,
19 including the amounts and methods;
- 20 (4) A study of any flood hazard, erosion hazard, or other natural hazards in the proposed develop-
21 ment area and any proposed protective measures to reduce such hazards;
- 22 (5) Detailed Mitigation Plans as described in subsection (D), if required;
- 23 (6) Description of how the proposal meets the approval criteria listed in subsection (B) below.

24

25 (B) [~~In addition to the criteria listed in MCC .6372 t~~] The applicant shall demonstrate that the propos-
26 al:

- 1 (1) Is water-dependent or requires access to the wetland as a central element of its basic design
2 function, or is not water dependent but has no practicable alternative as described in subsec-
3 tion (C) below;
- 4 (2) Will have as few adverse impacts as is practical to the wetland's functional characteristics and
5 its existing contour, vegetation, fish and wildlife resources, shoreline anchoring, flood storage,
6 general hydrological conditions, and visual amenities. This impact determination shall also
7 consider specific site information contained in the adopted wetlands inventory and the eco-
8 nomic, social, environmental, and energy (ESEE) analysis made part of the supporting docu-
9 mentation of the comprehensive plan;
- 10 (3) Will not cause significant degradation of groundwater or surface-water quality;
- 11 (4) Will provide a buffer area of not less than 50 feet between the wetland boundary and upland
12 activities for those portions of regulated activities that need not be conducted in the wetland;
- 13 (5) Will provide offsetting replacement wetlands for any loss of existing wetland areas. This
14 Mitigation Plan shall meet the standards of subsection (D).

15
16 (C) A finding of no practicable alternative is to be made only after demonstration by the applicant that:

- 17 (1) The basic purpose of the project cannot reasonably be accomplished using one or more other
18 practicable alternative sites in Multnomah County that would avoid or result in less adverse
19 impact on a wetland. An *alternative site* is to be considered *practicable* if it is available for
20 purchase and the proposed activity can be conducted on that site after taking into considera-
21 tion costs, existing technology, infrastructure, and logistics in achieving the overall project
22 purposes;
- 23 (2) The basic purpose of the project cannot be accomplished by a reduction in the size, scope,
24 configuration, or density of the project as proposed, or by changing the design of the project
25 in a way that would avoid or result in fewer adverse effects on the wetland; and
- 26 (3) In cases where the applicant has rejected alternatives to the project as proposed due to con-

1 constraints, a reasonable attempt has been made to remove or accommodate such constraints.

2 (4) This section is only applicable for wetland resources designated "3-C".

3
4 (D) A Mitigation Plan and monitoring program may be approved upon submission of the following:

5 (1) A site plan and written documentation which contains the applicable information for the
6 replacement wetland as required by MCC .6372 and .6376 (A);

7 (2) A description of the applicant's coordination efforts to date with the requirements of other
8 local, State, and Federal agencies;

9 (3) A Mitigation Plan which demonstrates retention of the resource values addressed in MCC
10 .6376 (B)(2);

11 (4) Documentation that replacement wetlands were considered and rejected according to the fol-
12 lowing order of locational preferences:

13 (a) On the site of the impacted wetland, with the same kind of resource;

14 (b) Off-site, with the same kind of resource;

15 (c) On-site, with a different kind of resource;

16 (d) Off-site, with a different kind of resource.

17

18 **11.15.6424 Criteria for Approval of SEC-v Permit - Significant Scenic Views**

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20 Significant scenic resources consist of those areas designated SEC-v on Multnomah County sectional
21 zoning maps.

22

23 Identified Viewing Areas are public areas that provide important views of a significant scenic
24 resource, and include both sites and linear corridors. Identified Viewing Areas include:

25

26 Bybee-Howell House

- 1 Virginia Lakes
- 2 Sauvie Island Wildlife Refuge
- 3 Kelley Point Park
- 4 Smith and Bybee Lakes
- 5 Highway 30
- 6 The Multnomah Channel
- 7 The Willamette River
- 8 Public roads on Sauvie Island

9

10 Visually subordinate means development does not noticeably contrast with the surrounding landscape,
11 as viewed from an identified viewing area. Development that is visually subordinate may be visible,
12 but is not visually dominant in relation to its surroundings.

13

14 (A) In addition to the information required by MCC .6408(C), an application for development in an
15 area designated SEC-v shall include:

- 16 (1) Details on the height, shape, colors, outdoor lighting, and exterior building materials of any
17 proposed structure;
- 18 (2) Elevation drawings showing the appearance of proposed structures when built and surround-
19 ing final ground grades;
- 20 (3) A list of identified viewing areas from which the proposed use would be visible; and
- 21 (4) A written description and drawings demonstrating how the proposed development will be
22 visually subordinate as required by (B) below, including information on the type, height and
23 location of any vegetation or other materials which will be used to screen the development
24 from the view of identified viewing areas.

25

26 (B) Any portion of a proposed development (including access roads, cleared areas and structures) that

1 will be visible from an identified viewing area shall be visually subordinate. Guidelines which
2 may be used to attain visual subordination, and which shall be considered in making the determina-
3 tion of visual subordination include:

- 4 (1) Siting on portions of the property where topography and existing vegetation will screen the
5 development from the view of identified viewing areas.
- 6 (2) Use of nonreflective or low reflective building materials and dark natural or earthtone colors.
- 7 (3) No exterior lighting, or lighting that is directed downward and sited, hooded and shielded so
8 that it is not highly visible from identified viewing areas. Shielding and hooding materials
9 should be composed of nonreflective, opaque materials.
- 10 (4) Use of screening vegetation or earth berms to block and/or disrupt views of the development.
11 Priority should be given to retaining existing vegetation over other screening methods. Trees
12 planted for screening purposes should be coniferous to provide winter screening. The appli-
13 cant is responsible for the proper maintenance and survival of any vegetation used for screen-
14 ing.
- 15 (5) Siting in a manner so that grading, cuts or fill are minimized and accomplished in a manner so
16 that the topography after completion of the development will blend with the surrounding land-
17 scape.
- 18 (6) Limiting structure height to remain below the surrounding forest canopy level.
- 19 (7) Siting and/or design so that the silhouette of buildings and other structures remains below the
20 skyline of bluffs or ridges as seen from identified viewing areas. This may require modifying
21 the building or structure height and design as well as location on the property, except:
- 22 (a) New communications facilities (transmission lines, antennae, dishes, etc.), may protrude
23 above a skyline visible from an identified viewing area upon demonstration that:
- 24 (i) The new facility could not be located in an existing transmission corridor or built
25 upon an existing facility;
- 26 (ii) The facility is necessary for public service; and

1 (iii) The break in the skyline is the minimum necessary to provide the service.

2
3 (C) Mining of a protected aggregate and mineral resource shall be done in accordance with any stan-
4 dards for mining identified in the protection program approved during the Goal 5 process.

5 (D) The approval authority may impose conditions of approval on an SEC-v permit in accordance with
6 MCC .6418, in order to make the development visually subordinate. The extent and type of condi-
7 tions shall be proportionate to the potential adverse visual impact of the development as seen from
8 identified viewing areas, taking into consideration the size of the development area that will be
9 visible, the distance from the development to identified viewing areas, the number of identified
10 viewing areas that could see the development, and the linear distance the development could be
11 seen along identified viewing corridors.

12
13 **11.15.6426 Criteria for Approval of SEC-h Permit - Wildlife Habitat**

14
15 (A) In addition to the information required by MCC .6408(C), an application for development in an
16 area designated SEC-h shall include an area map showing all properties which are adjacent to the
17 proposed development, with the following information:

18 (1) Location of primary, secondary, and impacted wildlife habitat areas as per the adopted refer-
19 ence map within the Multnomah County Comprehensive Plan;

20 (2) Location of all existing forested areas (including areas cleared pursuant to an approved forest
21 management plan) and non-forested "cleared" areas;

22 (3) Location of existing structures;

23 (4) Location and width of existing and proposed public roads, private access roads, driveways,
24 and service corridors on the subject parcel and within 200 feet of the subject parcel's bound-
25 aries on all adjacent parcels;

26 (5) Proposed type and location of all fencing on the subject property.

1 (B) Approval shall be based on the ability of the proposal to meet the following standards:

2 (1) Where a parcel to be developed contains any combination of primary, secondary, and impact-
3 ed wildlife habitat areas, development activities shall be limited to the less valuable of the
4 wildlife habitat areas, except as necessary to provide access.

5 (2) The proposed development shall be located so as to maintain existing forested areas which are
6 broadly contiguous with forested areas or areas being reforested on adjacent properties.

7 (3) The proposed development shall satisfy either (a) or (b) below:

8 (a) Development location and fencing standards:

9 (i) The development shall be within 200 feet of any public road abutting the site

10 (ii) Access road/driveway and service corridor serving the development shall not exceed
11 500 feet in length

12 (iii) Access road/driveway shall be located within 100 feet of the property boundary if
13 adjacent property has an access road or driveway within 200 feet of the property
14 boundary

15 (iv) The development shall be within 300 feet of the property boundary if adjacent prop-
16 erty has structures and developed areas within 200 feet of the property boundary.0

17 (v) Fencing within a required setback from a public road shall be designed so as to allow
18 the passage of wildlife. Such fencing shall meet the following criteria:

19 (A) Fences shall have a maximum height of 42 inches and a minimum 17 inch gap
20 between the ground and the bottom of the fence.

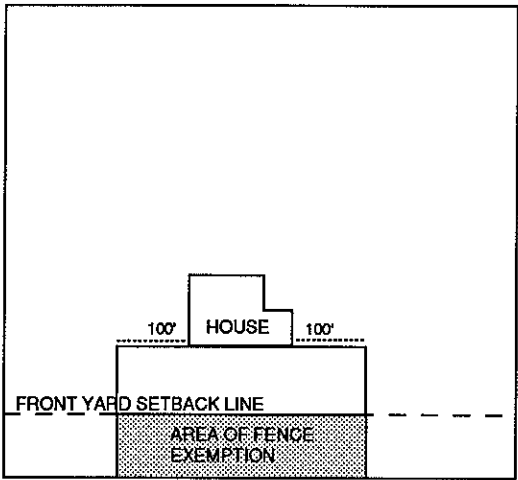
21 (B) Fences may be constructed of rail, barbed, or barbles wire. The bottom strand
22 of a wire fence shall be barbles. Fences may be electrified. Cyclone, woven
23 wire, and chain link fences are prohibited.

24 (C) Solid fencing which acts as a visual barrier to wildlife is not permitted.

25 (D) That portion of the required setback along a public road which can be described
26 as an area bounded by:

- 1) the public road.
- 2) a line connecting two points extending one hundred (100) feet from each
- 3) end of the building line of the principal residence or structure.
- 3) a line connecting the public road and one of the two outer points described
- 4) in 2) above which is perpendicular to the public road, and
- 4) a line connecting the public road and the other of the two outer points
- described in (2) above which is perpendicular to the public road;
- shall not be subject to these fencing requirements.

FIGURE .6400A
FENCE EXEMPTION
AREA



(b) Wildlife Conservation Plan

The applicant shall prepare a wildlife conservation plan for the proposed development which shall demonstrate that the proposed development has either:

- (i) Fully mitigated any adverse impacts to wildlife habitat on the site, or
- ii) Provided for wildlife enhancement measures which compensate for the loss of any wildlife habitat values on the site.

(4) The following nuisance plants shall not be included within landscape plans:

<u>Scientific Name</u>	<u>Common Name</u>
<u>Chelidonium majus</u>	<u>Lesser celandine</u>
<u>Cirsium arvense</u>	<u>Canada Thistle</u>
<u>Cirsium vulgare</u>	<u>Common Thistle</u>
<u>Clematis ligusticifolia</u>	<u>Western Clematis</u>
<u>Clematis vitalba</u>	<u>Traveler's Joy</u>
<u>Conium maculatum</u>	<u>Poison hemlock</u>
<u>Convolvulus arvensis</u>	<u>Field Morning-glory</u>
<u>Convolvulus nyctagineus</u>	<u>Night-blooming Morning-glory</u>
<u>Convolvulus sepium</u>	<u>Lady's nightcap</u>
<u>Cortaderia selloana</u>	<u>Pampas grass</u>
<u>Crataegus sp. except C. douglasii</u>	<u>hawthorn, except native species</u>
<u>Cytisus scoparius</u>	<u>Scotch broom</u>
<u>Daucus carota</u>	<u>Queen Ann's Lace</u>
<u>Elodea densa</u>	<u>South American Waterweed</u>
<u>Equisetum arvense</u>	<u>Common Horsetail</u>
<u>Equisetum telemateia</u>	<u>Giant Horsetail</u>
<u>Erodium cicutarium</u>	<u>Crane's Bill</u>
<u>Geranium robertianum</u>	<u>Robert Geranium</u>
<u>Hedera helix</u>	<u>English Ivy</u>
<u>Hypericum perforatum</u>	<u>St. John's Wort</u>
<u>Ilex aquafolium</u>	<u>English Holly</u>
<u>Laburnum watereri</u>	<u>Golden Chain Tree</u>
<u>Lemna minor</u>	<u>Duckweed, Water Lentil</u>
<u>Loentodon autumnalis</u>	<u>Fall Dandelion</u>

1	<u>Lythrum salicaria</u>	<u>Purple Loosestrife</u>
2	<u>Myriophyllum spicatum</u>	<u>Eurasian Watermilfoil</u>
3	<u>Phalaris arundinacea</u>	<u>Reed Canary grass</u>
4	<u>Poa annua</u>	<u>Annual Bluegrass</u>
5	<u>Polygonum coccineum</u>	<u>Swamp Smartweed</u>
6	<u>Polygonum convolvulus</u>	<u>Climbing Binaweed</u>
7	<u>Polygonum sachalinense</u>	<u>Giant Knotweed</u>
8	<u>Prunus laurocerasus</u>	<u>English, Portugese Laurel</u>
9	<u>Rhus diversiloba</u>	<u>Poison Oak</u>
10	<u>Rubusdiscolor</u>	<u>Himalayan Blackberry</u>
11	<u>Rubus laciniatus</u>	<u>Evergreen Blackberry</u>
12	<u>Senecio jacobaea</u>	<u>Tansy Ragwort</u>
13	<u>Solanum dulcamara</u>	<u>Blue Bindweed</u>
14	<u>Solanum nigrum</u>	<u>Garden Nightshade</u>
15	<u>Solanum sarrachoides</u>	<u>Hairy Nightshade</u>
16	<u>Taraxacum officinale</u>	<u>Common Dandelion</u>
17	<u>Utricularia vulgaris</u>	<u>Common Bladderwort</u>
18	<u>Urtica dioica</u>	<u>Stinging Nettle</u>
19	<u>Vinca major</u>	<u>Periwinkle (large leaf)</u>
20	<u>Vinca minor</u>	<u>Periwinkle (small leaf)</u>
21	<u>Xanthium spinosum</u>	<u>Spiny Cocklebur</u>
22	<u>various genera</u>	<u>Bamboo sp.</u>

11.15.6428 Criteria for Approval of SEC-s Permit - Streams

Protected Streams consist of those streams which have been found through a Goal 5 ESEE analysis to be either "2-A", "3-A", or "3-C", are identified as protected in the Comprehensive Framework Plan.

1 and are designated SEC-s on the Multnomah County Sectional Zoning Maps.

2
3 Development – Any act requiring a permit stipulated by Multnomah County Ordinances as a prerequi-
4 site to the use or improvement of any land, including a building, land use, occupancy, sewer connec-
5 tion or other similar permit, and any associated grading or vegetative modifications.

6
7 Stream Conservation Area – An area extending 300' upslope from and perpendicular to the centerline
8 of a protected stream. Any development proposed within a Stream Conservation Area shall be
9 required to demonstrate that the development satisfies the standards of MCC 11.15.6428(A) through
10 (D).

11
12 (A) Except for the following exempt uses, no development shall be allowed within a Stream
13 Conservation Area unless approved by the Approval Authority pursuant to the provisions of MCC
14 11.15.6428(B) through (D).

15 (1) Forest practices conducted under the Forest Practices Act

16 (2) Planting of native vegetation

17 (3) Agricultural uses, except structures

18 (4) Maintenance, but not expansion, of existing developments

19 (5) Right-of-way widening for existing rights-of-way when additional right-of-way is necessary to
20 ensure continuous width

21 (6) Single utility poles necessary to provide service to the local area

22
23 (B) In addition to other SEC Permit submittal requirements, any application to develop in a Stream
24 Conservation Area shall also include:

25 (1) A site plan drawn to scale showing the Stream Conservation Area boundary, the location of all
26 existing and proposed structures, roads, watercourses, drainageways, stormwater facilities, util-

1 ity installations, and topography of the site at a contour interval equivalent to the best available
2 U.S. Geological Survey 7.5' or 15' topographic information:

3 (2) A detailed description and map of the Stream Conservation Area including that portion to be
4 affected by the proposed activity. This documentation must also include a map of the entire
5 Stream Conservation Area, an assessment of the Stream Conservation Area's functional char-
6 acteristics and water sources, and a description of the vegetation types and fish and wildlife
7 habitat:

8 (3) A description and map of soil types in the proposed development area and the locations and
9 specifications for all proposed draining, filling, grading, dredging, and vegetation removal,
10 including the amounts and methods;

11 (4) A study of any flood hazard, erosion hazard, and/ or other natural hazards in the proposed
12 development area and any proposed protective measures to reduce such hazards as required by
13 (F)(5) below;

14 (5) A detailed Mitigation Plan as described in subsection (E), if required; and

15 (6) A description of how the proposal meets the approval criteria listed in subsection (C) below.

16
17 (C) The applicant shall demonstrate that the proposal:

18 (1) Has no practicable alternative as described in subsection (D) below;

19 (2) Will have no impacts on the Stream Conservation Area's functional characteristics and its
20 existing contour, vegetation, fish and wildlife resources, shoreline anchoring, flood storage,
21 general hydrological conditions, and visual amenities. This impact determination shall also
22 consider specific site information contained in the adopted Stream Conservation Areas inven-
23 tory and the economic, social, environmental, and energy (ESEE) analysis made part of the
24 supporting documentation of the comprehensive plan; and

25 (3) Will not cause measurable degradation of groundwater or surface water quality; or

26 (4) Will provide offsetting replacement Stream Conservation Area for any loss of existing Stream

1 Conservation Areas and will significantly enhance the functional characteristics of the stream.

2 This Mitigation Plan shall meet the standards of subsection (E) below.

3 (5) This section is only applicable for stream resources designated "3-C".

4
5 (D) A finding of no practicable alternative is to be made by the Approval Authority only after demon-
6 stration by the applicant that:

7 (1) For uses listed by the underlying zone as Primary Uses and Uses Under Prescribed Conditions
8 or utilities and facilities necessary to serve Conditional Uses outside of the Stream
9 Conservation Area, there is no alternative site on the Lot of Record (as defined by the underly-
10 ing zoning district) for the development outside of the Stream Conservation Area, or

11 (2) For uses listed by the underlying zone as Conditional Uses, there is neither an alternative site
12 on the Lot of Record for the development outside of the Stream Conservation Area, nor can the
13 basic purpose of the project reasonably be accomplished using one or more other practicable
14 alternative sites in Multnomah County that would avoid or result in less adverse impact on a
15 Stream Conservation Area. An alternative site is to be considered practicable if it is the sub-
16 ject of a listing agreement or advertised for sale and the proposed activity can be conducted on
17 that site after taking into consideration costs, existing technology, infrastructure, and logistics
18 in achieving the overall project purposes.

19
20 (E) A Mitigation Plan and monitoring program may be approved by the Hearings Officer upon sub-
21 mission of the following:

22 (1) A site plan and written documentation which contains the applicable information for the
23 replacement Stream Conservation Area as required by MCC .6428(B);

24 (2) A description of the applicant's coordination efforts to date with the requirements of other
25 local, State, and Federal agencies;

26 (3) A Mitigation Plan which demonstrates retention of the resource values addressed in MCC

1 .6428 (C)(2):

2 (4) Documentation that replacement Stream Conservation Areas were considered and rejected
3 according to the following order of locational preferences:

4 (a) On the site of the impacted Stream Conservation Area, with the same kind of resource;

5 (b) Off-site, with the same kind of resource;

6 (c) On-site, with a different kind of resource;

7 (d) Off-site, with a different kind of resource.

8
9 (5) A five year annual monitoring plan which insures an 80 percent annual survival rate of any
10 required plantings.

11
12 (F) Design Specifications

13 The following design specifications shall be incorporated, as appropriate, into any developments
14 within a Stream Conservation Area:

15 (1) A bridge or arched culvert which does not disturb the bed or banks of the stream and are of the
16 minimum width necessary to allow passage of peak winter flows shall be utilized for any
17 crossing of a protected streams.

18 (2) All storm water generated by a development shall be collected and disposed of on-site into dry
19 wells or by other best management practice methods which emphasize groundwater recharge
20 and reduce peak stream flows.

21 (3) Any exterior lighting associated with a proposed development shall be placed, shaded or
22 screened to avoid shining directly into a Stream Conservation Area

23 (4) Any trees over 6" in caliper that are removed as a result of any development shall be replaced
24 by any combination of native species whose combined caliper is equivalent to that of the trees
25 removed.

26 (5) Satisfaction of the erosion control standards standards of MCC .6730.

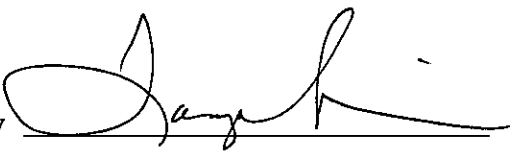
1 (6)Soil disturbing activities within a Stream Conservation Area shall be limited to the period
2 between June 15 and September 15. Revegetation/soil stabilization must be accomplished no
3 later than October 15. Best Management Practices related to erosion control shall be required
4 within a Stream Conservation Area.

5 (7)Demonstration of compliance with all applicable state and federal permit requirements.

6
7
8 Section III. Adoption.

9
10 ADOPTED THIS 18th day of October, 1994, being the date of its second reading before the Board
11 of County Commissioners of Multnomah County.




19
20
21 By 

Tanya Collier

Multnomah County Vice-Chair

22 REVIEWED:

23 By 

24 JOHN DUBAY, CHIEF ASSISTANT COUNTY COUNSEL

25 for MULTNOMAH COUNTY, OREGON