

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

Staff Report

Variance, Accessory Use Determination, and Significant Environmental Concern Permit

Case File: T3-2022-15860

Scheduled before one of the County Hearings Officer's on **Friday, October 14, 2022 at 1:00 p.m.** or soon thereafter via virtual meeting.

Subject 23414 NW Moreland Road, North Plains
Property: **Map, Tax Lots:** 2N2W10A -00400, , 2N2W10A-00401
Tax Account #s: R972100090, R972100270
Property ID #s: R325589, R645027

Applicant: Jon DeLeonardo **Property Owner:** JFREH LLC

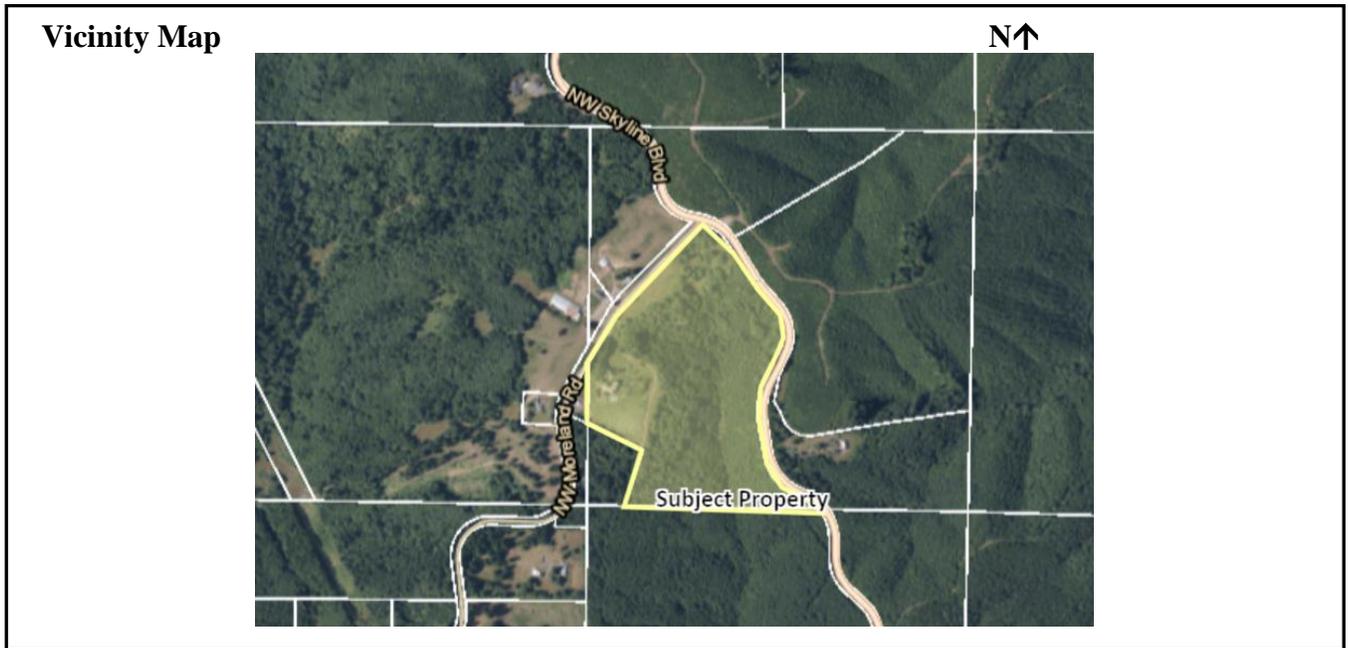
Summary: The applicant is requesting a Variance to the CFU-1 Forest Practice Setbacks, Accessory Use Determination, Significant Environmental Concern Review for wildlife habitat, and an exemption from the Geologic Hazards overlay for a new 2,375-square-foot accessory structure and a retroactive approval for an existing 880-square-foot accessory structure.

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

Overlay: Significant Environmental Concern – Stream (SEC-s), Significant Environmental Concern – Wildlife Habitat (SEC-h), Geologic Hazard (GH)

Site Size: 42.58 acres

Opportunity to Review the Record: All evidence associated with this application is available for review by visiting our website at multco.us/landuse/hearings-officer. Questions regarding this application can be answered by contacting Izze Liu, Staff Planner via email at isabella.liu@multco.us. Printed copies of all documents are available at the rate of \$0.40 per page or \$9 per page for exhibits over 11"x17".



Applicable Approval Criteria [Multnomah County Code (MCC)]:

General Provisions:

MCC 39.1515 Code Compliance and Applications

MCC 39.2000 Definitions

Lot of Record:

MCC 39.3005 Lot of Record – Generally

MCC 39.3020 Lot of Record – Commercial Forest Use (CFU-1)

Commercial Forest Use - 1 (CFU - 1):

MCC 39.4105 Building Height Requirements

MCC 39.4110 Forest Practices Setbacks and Fires Safety Zones

MCC 39.4115 Development Standards

MCC 39.6850 Dark Sky Lighting Standard

Accessory Use Determination:

MCC 39.4070(T)(1) through (8) Allowed Use, Accessory Structures

MCC 39.4075(L)(1) through (7) Review Use, Accessory Structures

Significant Environmental Concern – Wildlife Habitat (SEC-h):

MCC 39.5520 Application for SEC Permit

MCC 39.5860 Criteria for Approval of SEC-h Permit – Wildlife Habitat

Variances:

MCC 39.8205 Scope

MCC 39.8215 Variance Approval Criteria

Geologic Hazard (GH):

MCC 39.5075 Permits Required

MCC 39.5080 Exemptions

Recommended Hearing Officer Decision:

Staff recommends that the Hearings Officer **approve, subject to conditions of approval**, the requested applications. A Geologic Hazard permit is not required as all proposed development and retroactive permits remain outside of the mapped overlay as discussed in the findings below.

If the Hearings Officer finds the proposed application is approvable, staff recommends the following Conditions of Approval:

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. Permit Expiration – This land use permit shall **expire** as follows:
 - a. Within **two (2) years** of the date of the final decision when construction has not commenced. [MCC 39.1185(B)]
 - i. For the purposes of 1.a, commencement of construction shall mean actual construction of the foundation or frame of the approved structure.
 - ii. For purposes of Condition 1.a, notification of commencement of construction will be given to Multnomah County Land Use Planning Division via email at *LUP-submittals@multco.us* a minimum of seven (7) days prior to date of commencement. The email must reference the case number, T3-2022-15860. Work may commence once notice is completed. Commencement of construction shall mean actual construction of the foundation or frame of the approved structure.
 - b. Within **four (4) years** of the date of commencement of construction when the structure has not been completed. [MCC 39.1185(B)]
 - i. For the purposes of 1.b. completion of the structure shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval.
 - ii. For purposes of Condition 1.b.i, the property owner shall provide building permit status in support of completion of exterior surfaces of the structure and demonstrate compliance with all conditions of approval. The written notification and documentation of compliance with the conditions shall be sent to *LUP-submittals@multco.us*. [MCC 39.1185]
2. 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. [MCC 39.1170(B)]
3. **Prior to land use sign-off for building plan check**, the property owners or their representative shall:
 - a. Record pages 1 through 4 and Exhibit A.3 of this Notice of Decision with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and shall be filed with the Land Use Planning Division. Recording shall be at the applicant's expense. [MCC 39.1175]
 - b. The property owners shall acknowledge in writing that they have read and understand the conditions of approval and intend to comply with them. A draft Letter of Acknowledgement

can be provided to assist you. The signed document shall be sent to Izze Liu at *isabella.liu@multco.us* [MCC 39.1170(A) & (B)]

- c. 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. [MCC 39.8860]
4. **At the time of land use sign-off for building plan check**, the property owners or their representative shall:
 - a. Provide exterior lighting details for the proposed accessory building and well house to demonstrate all proposed exterior lighting complies with the Dark Sky Lighting Standards of MCC 39.6850. The locations of the proposed exterior lighting shall be shown on the site plan and building elevations. [MCC 39.6850]
 - b. The proposed accessory structures shall have a fire retardant roof and have a spark arrester on any chimney. [MCC 39.4115(C)(3) and (4)]
 - c. Demonstrate that the proposed accessory building complies with the primary fire safety zone by either increasing it to extend farther down the slope on the southeastern side of the structure in compliance with MCC 39.4110(D)(1)(b) or by modifying the terrain to be less than 10% within the first 30 feet of the building. [MCC 39.4110(D)]
 - d. Modify the site plan to show a primary fire safety zone and secondary fire safety zone for the well house in compliance with MCC 39.4110(D).
 - e. Plans shall be provided for the well house to bring the building into compliance with the Exception to Secondary Fire Safety Zone permit. [MCC 39.4110(D)]
5. The 2,375 sq. ft. accessory building and the well house shall obtain and final building permits from the City of Portland Building Department. [MCC 39.4115(C)]
6. **As an ongoing condition**, the property owner or their representative shall ensure that:
 - a. The accessory structures 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 unit. [MCC 39.4071(L)(1)]
 - b. The accessory structures shall not contain 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. [MCC 39.4071(L)(5)]
 - c. Required Primary and Secondary Fire Safety Zones shall be maintained by the property owner. [MCC 39.4110(D)(5)]
 - d. The nuisance plants in MCC 39.5580 Table 1 shall not be planted on the subject property and adjoining right-of-way that is part of the subject development (adjoining right-of-way) and shall be removed and kept removed from cleared areas of the subject property and adjoining right of way (Exhibit A.26). [MCC 39.5860(B)(7)]

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 PROJECT DESCRIPTION:

Staff: The applicant requests a Variance to allow the retroactive approval for an existing pump/well house with lean-to on the subject property. The well house building and lean-to is approximately 1,152 square feet total (Exhibit A.10). The well house building is 880 square feet. The well house is further than 100 feet from the existing single-family dwelling and is required to have a 30-foot front Forest Practice Setback and 130-foot Forest Practice Setback from all other property lines in the CFU-1 zoning district. The well house is approximately 70 feet from the southern property line as shown on the site plan (Exhibit A.3) though the applicant’s narrative states it is 65 feet from the property line (Exhibit A.2).

The applicant is also proposing to construct a 2,375-square-foot accessory building approximately 70 feet from the existing dwelling. An Accessory Use Determination and Significant Environmental Concern permit for wildlife habitat is required for its construction. A request for an exemption has been requested from obtaining a Geological Hazards permit for the new accessory structure.

2.0 PROPERTY DESCRIPTION:

Staff: The subject property is 42.58 acres in size and located in west Unincorporated Multnomah County. The subject property is developed with a single-family dwelling. The proposed development will be located outside of the mapped SEC-s and GH overlay zones. The site is currently developed with a single-family dwelling, pool, pool house, a garden shed, pergola, and a well house. The existing development is located in a cleared area but the remainder of the property is densely forested. A portion of Jackson Creek is located on the eastern side of the property in the forested area.

3.0 PUBLIC COMMENT:

Staff: Staff mailed Notice of Public Hearing regarding the proposed application to the required parties per MCC 39.1105 (Exhibited C.2). Staff has not received any public comments before this report was issued seven days prior to the Hearing.

4.0 GENERAL PROVISIONS:

4.1 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.

The subject application includes a variance application to correct the encroachment of the existing well house that was constructed without permits in its present location. The issuance of the variance and any necessary building permits will correct this outstanding code compliance issue.

4.2 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.

(a) “Satisfied all applicable zoning laws” shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.

(b) “Satisfied all applicable land division laws” shall mean the parcel or lot was created:

* * *

4.3 MCC 39.3020 Lot of Record – Commercial Forest Use – 1 (CFU-1)

(A) In addition to the standards in MCC 39.3005, for the purposes of the CFU-1 district a Lot of Record is either:

(1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or

(2) A group of contiguous parcels or lots:

(a) Which were held under the same ownership on February 20, 1990; and

(b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be an existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area. See Examples 1 and 2 in this subsection.

2. There shall be an exception to the 19 acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record. See Example 3 in this subsection.

3. Three examples of how parcels and lots shall be aggregated are shown in MCC 39.3070 Figure 1 with the solid thick line outlining individual Lots of Record:

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g. MUA-20, RR, BRC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

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

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

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

* * *

(D) The following shall not be deemed a Lot of Record:

(1) An area of land described as a tax lot solely for assessment and taxation purposes;

(2) An area of land created by the foreclosure of a security interest;

(3) A Mortgage Lot.

(4) An area of land created by court decree.

Staff: Land Use case # PRE 5-87 approved construction of a single-family dwelling on the subject property. The Lot of Record includes tax lot 2N2W10A-0040 and 2N2W10A-00400. As the current configuration of the subject property has not changed, the subject property remains a Lot of Record. *Criteria met*

5.0 COMMERCIAL FOREST USE APPROVAL CRITERIA:

5.1 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;

* * *

Staff: The applicant is proposing a retroactive permit for an existing well house building with an attached lean-to. The well house is used for the well, related pump equipment and storage of firewood, and is located more than 100 feet from the existing dwelling. The applicant is also proposing to construct a new accessory building to store farm equipment. The proposed accessory building is located within 100 feet from the existing dwelling (Exhibit A.7). The existing well house does not meet the Allowed Use standards but has requested an Accessory Use Determination under MCC 39.4075 which is addressed below.

(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.

Staff: Staff reviewed the proposed floor plans for both of the structures (Exhibit A.10 & A.7) and finds that they are not designed for temporary or permanent residential use.

(3) The Accessory Structure may contain one sink.

Staff: Neither floor plan shows a sink (Exhibit A.7 & A.10).

(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 existing well house is one story. It does not have any cooking facilities, no toilet, no bathing facilities, no closets and no sleeping items. The proposed accessory building shows a single story. No cooking facilities, restroom, bathing facilities, sleeping facilities or closets are shown on the floor plan (Exhibit A.7).

(5) Compliance with MCC 39.8860 is required.

Staff: MCC 39.8860 requires the recordation of a covenant. A condition of approval is recommended.

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

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

Staff: The site plan shows a 130–square-foot garden shed, a 330–square-foot pool house and a 1,152–square-foot well house. The total combined building footprint existing on site is 1,612 square feet. The applicant proposes to construct an accessory building with a footprint of 2,375 square feet. As this will exceed the allowed combined footprint of 2,500 square feet of accessory building, the building will need to be reviewed pursuant to MCC 39.4075(L).

(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 proposed building is accessory to the single-family dwelling and is not in conjunction with a farm use.

5.2 MCC 39.4075 Review Uses

* * *

(L) Structures or uses customarily accessory or incidental to any use permitted or approved in the CFU, which do not meet the “accessory structures” standard in MCC 39.4070 Allowed Uses, but which meet the following provisions:

(1) 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 unit.

Staff: Staff recommends a condition to ensure compliance with this criterion.

(2) The Accessory Structure shall not contain a bathing tub.

Staff: The proposed and existing accessory structures do not contain a bathing tub.

(3) Any toilet or bathing facilities, such as a shower, shall be located on the ground floor of any multi-story building.

(4) An Accessory Structure containing a toilet or bathing facilities shall not contain Cooking Facilities.

Staff: The proposed and existing accessory structures do not contain a toilet or bathing facilities.

(5) The Accessory Structure shall not contain 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.

Staff: Staff recommends a condition to ensure compliance with this criterion.

(6) The applicant must show that building features or combined building footprints exceeding the Allowed Use provisions are the minimum possible departure from the Allowed Use standards to accommodate the use.

Staff: The subject property is developed with several accessory buildings including a pool house, a garden shed, and well house with an attached lean-to. The total combined footprint of the existing accessory

buildings on site is 1,612 square feet. The applicant is proposing to construct a new 2,375-square-foot accessory structure retroactive approval for the existing 1,152-square-foot well house. If the approval is granted the combined footprint of all accessory buildings would be 3,987 square feet. The proposal exceeds the allowed square footage by 1,487 square feet. The applicant has drawn on the floor plan various pieces of equipment that the property owner intends to store within the building. The applicant states that the property owner currently owns all of these pieces of equipment (Exhibit A.2). The hearings officer will need to evaluate the evidence in the record to determine if the applicant has provided enough documentation to support that the additional square footage is the minimum possible departure from the allowed 2,500 square feet to accommodate the use.

(7) Compliance with MCC 39.8860 is required.

Staff: Staff recommends a condition to ensure compliance with this criterion.

5.3 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
	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)
Accessory structures within 100 ft. of the dwelling	N/A	30	30	Primary required
Accessory structures located more than 100 ft. from the dwelling	N/A	30	130	Primary & Secondary required

Use	Forest Practice Setbacks			Fire Safety Zones
Description of use and location	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)
Addition to an existing structure	Nonconforming setback(s) of less than 30 ft. to property lines that existed as of May 21, 2011 may be maintained	30	30	Primary is required, except that if there was a nonconforming Forest Practice setback of less than 30 feet to property lines as of May 21, 2011, Primary is required to the full extent of the nonconforming Forest Practice setback as it existed on August 26, 2006.

Staff: The proposed 2,375-square-foot accessory building is located 69.5 feet from the existing dwelling (Exhibit A.3). The proposed accessory building is located approximately 45 feet from the front property line adjacent to NW Moreland Road, and located more than 30 feet from all other setbacks.

The existing well on the subject property was drilled in 1971 according to the water well report (Exhibit B.6). In 1971, the subject property was zoned F2 and the County did not require setback standards for a new structure. A new accessory structure located more than 100 feet from the existing dwelling requires an increased Forest Practice Setback of 130 feet from all property boundaries except the front lot line, and a Secondary Fire Safety Zone. The existing well house is located more than 100 feet from the existing dwelling, 46 feet from the front property line and approximately 70 feet from the southern property boundary. The applicant has requested a Variance to the Forest Practice Setbacks. The applicant has not applied for an exception to the Fire Safety Zone pursuant to MCC 39.4155. The Variance criteria are addressed further below. Staff finds that the existing well meets the County’s definition of a “structure”¹ and defers to the Hearings Officer to determine if the standards for an addition is appropriate for the well house. The well house meets the Forest Practice Setbacks and Fire Safety Zone for an addition.

¹ MCC 39.2000. Definitions. “Structure” - That which is built or constructed. An edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

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

(B) Exception to the Secondary Fire Safety Zone shall be pursuant to MCC 39.4155 only. No reduction is permitted for a required Primary Fire Safety Zone through a nonconforming, adjustment or variance process.

Staff: The proposed 2,375 sq. ft. accessory structure is located 69.5 feet from the existing dwelling (Exhibit A.3). The proposed accessory structure is located approximately 45 feet from the front property line adjacent to NW Moreland Road, and located more than 30 feet from all other setbacks. The existing well house is located more than 100 feet from the existing dwelling (Exhibit A.3). The existing well house is located 46 feet from the front property line and approximately 70 feet from the southern property boundary which does not meet the Forest Practice Setbacks (Exhibit A.3). The applicant has requested a Variance to the Forest Practice Setbacks for the existing well house. Those findings are addressed below.

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

Staff: The right-of-way adjacent to the subject property is NW Moreland Road, a rural local road. As required in Table 2 of MCC 29.571, the rural standard for local streets is a 60-foot right-of-way width. According to road survey number RD1338, the width of NW Moreland Road is 60 feet (Exhibit B.4). No increase to the Minimum Front Yard standard is required.

(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.

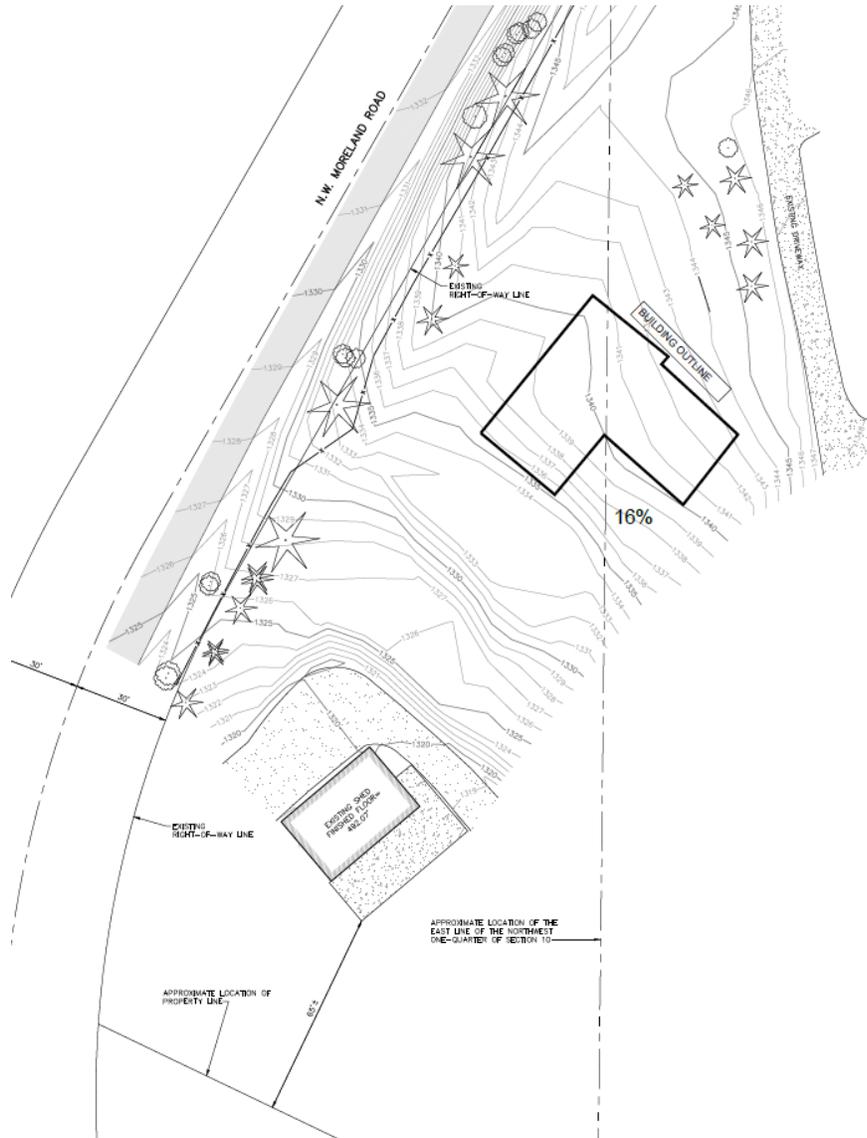
Staff: The primary safety zone extends 30 feet in all directions around the proposed accessory structure. No trees are located within this safety zone (Exhibit A.3). The primary fire safety zone is not shown on the site plan for the well house but staff measured a 30-foot buffer around the structure using the scale provided on the site plan to confirm there are no trees within 30 feet of the structure (Exhibit A.3).

(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 applicant’s narrative (Exhibit A.2) indicates that the primary fire safety zone is less than 10% slope for the proposed accessory building and is set up for mowing with a tractor and brush hog. No primary fire safety zone is shown for the well house. In addition, the applicant has provided topographic information in Exhibit A.4. For the proposed accessory building the topographic information shows that the primary fire safety zone will need to be increased on the eastern side of the building as the existing terrain measures between 13 to 16 percent slope or the terrain needs to be regraded within the primary to less than a 10% slope so that no additional primary fire safety area is required.



A condition of approval has been recommended. The applicant’s topographic information for the well house location is limited. On the northern side of the well house, the terrain is approximately 16% which would require an increase in the primary fire safety zone on that side. Review of an aerial photo seems to indicate that the well house is built on a flattened pad. The same condition of approval can be used for the well house as the proposed accessory building if the hearings officer chooses. As conditioned, these criteria can be 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.

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

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

Staff: If the Hearings Officer determines that the existing well house is an accessory building located more than 100 feet from the existing dwelling, then a secondary fire safety zone is required. As shown on the site plan, the existing well house has a primary fire safety zone that is cleared of trees and other structures. A secondary fire safety zone is not shown on the site plan. The area available for the secondary fire safety zone to the south of the building is approximately 39.66 feet if the building is actually 69.66 feet from the southern property line or 35 feet if it is 65 feet as stated in the narrative (Exhibit A.2). The secondary fire safety zone is only 16 feet between the building and western property line. The 100 foot secondary fire safety zone can be provided to the north and east of the building. To avoid having to provide the secondary fire safety zone, an Exception to the Secondary Fire Safety Zone is required pursuant to MCC 39.4110(B). The applicant has not applied for this Type II permit. The request for the variance is only for the 130 feet Forest Practice Setback. A condition of approval has been recommended. The secondary fire safety zone does not apply to the existing well house if the Hearings Officer determines that the structure is an addition to the existing well.

(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: Staff recommends a condition to ensure compliance with this criterion.

5.4 MCC 39.4115 Dimensional Requirements and Development Standards

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:

5.5 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: No lighting details for the proposed accessory building or well house have been provided. A condition of approval has been included to ensure compliance with the requirement above.

(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 accessory structure is located within 100 feet of the existing dwelling. MCC 39.4115(C) is addressed below.

(b) Accessory buildings located farther than 100 feet from the existing dwelling: Shall meet the development standards of MCC 39.4115(B) and (C);

Staff: The existing well house is located more than 100 feet of the existing dwelling. The majority of the subject property is heavily forested except for an approximate 0.32-acre area containing the existing residential development and agricultural uses (Exhibit A.3). The well house is located within this existing non-forested area which complies with the siting standards of the SEC-h overlay zone addressed further below. The development standards of MCC 39.4115(B) and (C) are also addressed below.

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

(1) The structure shall satisfy the following requirements:

(a) To meet the Forest Practices Setback, the structure shall be located a minimum of 30-feet from a front property line adjacent to a county maintained road and 130-feet from all other property lines;

Staff: The existing well house does not meet the Forest Practice Setbacks unless the Hearings Officer determines that the existing well house is an addition to the existing well. The well house is 69.66 feet from the southern property line. The applicant has requested a Variance. *Criterion not met.*

(b) The structure shall be located in a cleared area of at least 10,000 square feet that meets the tree spacing standards of a primary fire safety zone;

Staff: The existing well house is located in a cleared area that leads into a large lawn area to the north where the proposed accessory building will be constructed. The area is larger than 10,000 square feet (Exhibit A.2). There are no trees within the 30-foot primary fire safety zone (Exhibit A.3).

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

Staff: The entirety of the development site (dwelling, pool, pool house, garden area, back yard, lawn areas, proposed accessory building and well house area is approximately 3+/- acres. *Criterion not met.*

(d) The structure is sited within 300-feet of frontage on a public road and the driveway from the public road to the structure is a maximum of 500-feet in length;

Staff: The existing well house is located 46 feet from the front property line adjacent to NW Moreland Road. Based on the applicant's site plan, the existing driveway will be extended to the well house but the applicant did not provide a total length of the driveway. Staff measured the length of the driveway using the scale provided on the site plan (Exhibit A.3), and found that the proposed expansion of the driveway would exceed 500 feet in length. The applicant has requested a Type II SEC-h review because the driveway does not meet the basic development standards of MCC 39.5860(B). Based upon various information, the driveway exceeds 500 feet in length (Exhibits A.2, A.3, B.6).

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

Staff: Tualatin Valley Fire and Rescue has indicated that the location of the well house and the proposed accessory building will allow them to serve the building from Moreland Road (Exhibit A.2). *Criterion met.*

(2) The structure shall satisfy the following requirements:

(a) It has the least impact on nearby or adjoining forest or agricultural lands and satisfies the standards in MCC 39.4110;

Staff: The proposed accessory building is located in an area of lawn approximately 69.5 feet from the existing single-family dwelling. It will be 44.83 feet from the front lot line adjacent to the public right of way (Exhibit A.3). The primary fire safety zone and public right of way should protect the pasture to the west of Moreland Road from any impacts. The well house is located in a cleared area 46 feet from Moreland Road. The establishment of fire safety zones around the building will help to limit any impacts the structure may create to the forested areas to the south on the adjacent parcel. A variance has been requested for the well house. If the variance is granted, the well house will be in compliance with MCC 39.4110. The proposed accessory building will meet the Forest Practice Setbacks for the building. *Criterion can be met.*

(b) Adverse impacts on forest operations and accepted farming practices on the tract will be minimized;

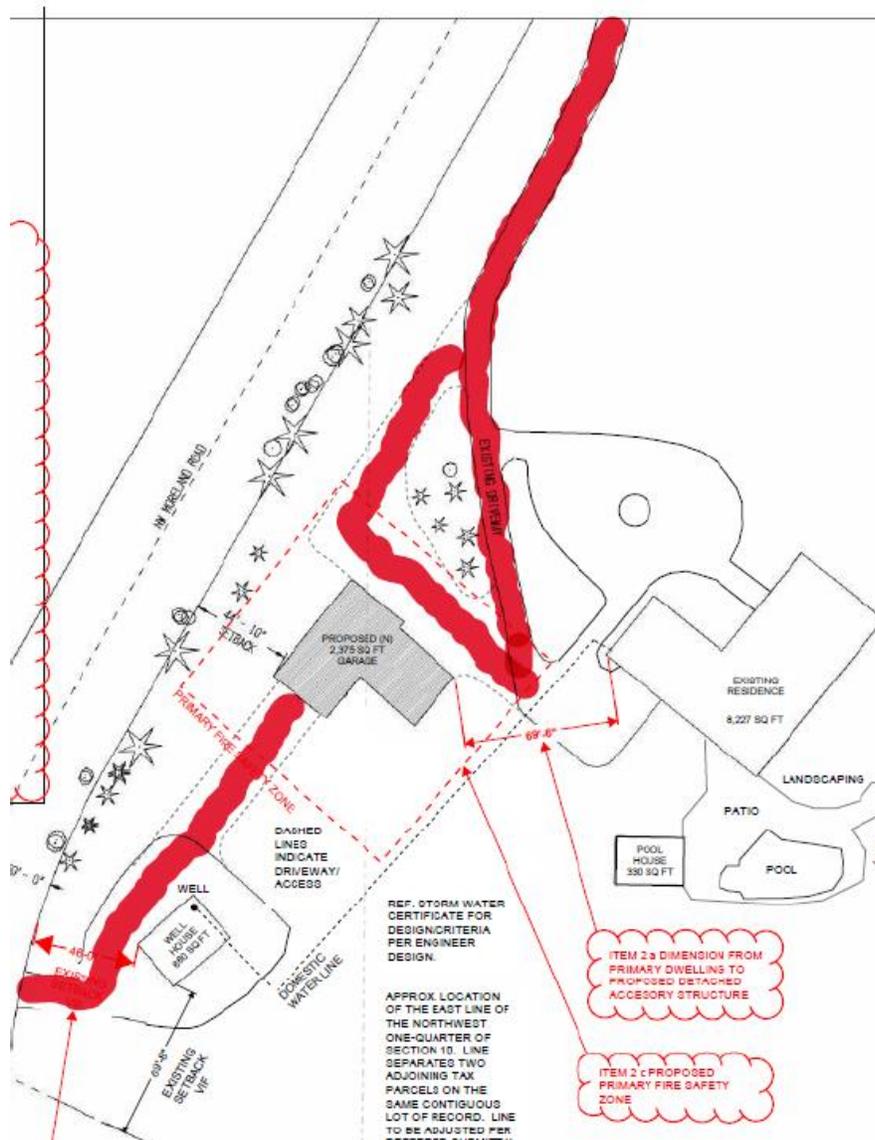
Staff: No forestlands or agricultural lands on the property will be altered to site the new building or to retroactively permit the existing well house (Exhibit B.6). *Criterion met.*

(c) The amount of forest land used to site the dwelling or other structure, access road, and service corridor is minimized;

Staff: The area to be used to site the proposed accessory building, construct any roadway extension, fire safety zones and to retroactively permit the well house will not utilize any land presently in forest practices (Exhibit B.6). *Criterion met.*

(d) Any access road or service corridor in excess of 500 feet in length is demonstrated by the applicant to be necessary due to physical limitations unique to the property and is the minimum length required; and

Staff: The subject property has an existing driveway with turnaround that serves the dwelling and will also serve the proposed accessory building and then be extended to the well house (Exhibit A.3). Planning staff measures approximately 673.5 feet of service corridor. The applicant's narrative states that the existing and proposed driveway is less than 500 feet in length (Exhibit A.2). The below graphic shows the areas measured by staff to determine the service corridor proposed for the accessory buildings. The hearing officer will need to determine if the service corridor is the minimum length required.



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

(a) Access roadways shall be approved, developed and maintained in accordance with the requirements of the structural fire service provider that serves the property. Where no structural fire service provider provides fire protection service, the access roadway shall meet the Oregon Fire Code requirements for fire apparatus access;

(b) Access for a pumping fire truck to within 15 feet of any perennial water source of 4,000 gallons or more within 100 feet of the driveway or road on the lot. The access shall meet the fire apparatus access standards of the Oregon Fire Code with permanent signs posted along the access route to indicate the location of the emergency water source;

Staff: The applicant provided the Fire Service Agency Tax Review signed by the Tualatin Valley Fire and Rescue (Exhibit A.11).

(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 proposing an accessory building. The property owner will need to obtain a building permit for the new building and the well house. A condition of approval has been recommended. The applicant is not proposing a mobile home.

(3) Have a fire retardant roof; and

Staff: Staff did not find any description to roofing materials in the Keynotes in Exhibit A.9 or A.10. for the well house. No materials are listed on the elevations for the proposed accessory building (Exhibit A.5). Staff recommends a condition to ensure compliance with this criterion.

(4) Have a spark arrester on each chimney.

Staff: Staff recommends a condition to ensure compliance with this criterion.

6.0 Significant Environmental Concern Criteria:

6.1 MCC 39.5510 Uses; SEC Permit Required

(A) All uses allowed in the base zone are allowed in the SEC when found to satisfy the applicable approval criteria given in such zone and, except as provided in MCC 39.5515, subject to approval of an SEC permit pursuant to this Subpart.

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

Staff: The proposed development is located entirely within the SEC-h overlay. The proposed development does not meet any of the exceptions listed in MCC 39.5515. Therefore, an SEC permit is required.

6.2 MCC 39.5520 Application Information Required

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:

(1) A written description of the proposed development and how it complies with the applicable approval criteria of MCC 39.5540 through 39.5860.

(2) A map of the property showing:

(a) Boundaries, dimensions, and size of the subject parcel;

(b) Location and size of existing and proposed structures;

* * *

Staff: The applicant provided the required information in Exhibits A.2 – A.5, A.9 and A.10.

6.3 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: Staff added an area map showing adjacent properties within 200 feet of the proposed development as Exhibit B.5.

(B) Development standards:

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

Staff: The existing and proposed development will occur on the non-forested area of the property. The applicant is not proposing to remove any trees for the proposed accessory structure. *Criterion 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 existing well house and the proposed accessory structure are located within 200 feet of NW Moreland Road (Exhibit A.3). *Criterion met.*

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

Staff: Staff measured the driveway including the portion that will extend to the new accessory structure and existing well house (Exhibit A.3) and found that the driveway will exceed 500 feet in length. *Criterion not met.*

(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

Staff: The adjacent property to the south of the well house has an access approach that is 480 feet from the shared property line (Exhibit B.5). No other property on the same side of the road has an existing access roads or driveways within 200 feet of the shared side property boundaries. *Criterion met.*

(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: There are two driveway approaches on the subject property (Exhibit B.5). The northern driveway on the subject property is located directly across from the existing driveway on the opposite side of the road. The southern driveway is approximately 39+/- feet to the north of the driveway approach across the street. The applicant is not proposing to modify the driveway access. *Criterion 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: The only developed parcel is to the south on Moreland Road. Its development is approximately 394+/- feet from the shared property line (Exhibit B.5). The development on the subject property is not required to cluster with this neighboring development. *Criterion 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.

Staff: According to the applicant, the existing wood fence has a 17-inch gap between the bottom rail and the ground. The height of the fence is 42 inches (Exhibit A.2). *Criterion met.*

(c) Cyclone, woven wire, and chain link fences are prohibited.

Staff: The applicant is not proposing a cyclone, woven wire, or chain link fence.

(d) Fences with a ratio of solids to voids greater than 2:1 are prohibited.

Staff: According to the applicant, the existing fence is an open three rail natural wood fence (Exhibit A.2).

(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: The existing fence meets the fencing standards above and are not needed for the security of utility facilities.

(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: Staff recommends a condition to ensure compliance with this criterion.

(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 applicant's proposal does not meet the basic development standards of MCC 39.5860(B) due to the length of the driveway/service corridor exceeding 500 feet. The applicant states that the original driveway that leads to the existing dwelling is under 500 feet in length. Staff measured the proposed driveway/service corridor expansion using the scale provided on the site plan and determined that the total driveway length exceeds 500 feet (Exhibit A.3).

The application will need to comply with the approval criteria in (C)(2) as the subject property could meet the basic development standards. The location of the proposed accessory structure is subject to the Forest Practice Standards and Fire Safety Setbacks. The proposed accessory structure will be located within 100 feet of the existing dwelling. This location is a non-forested cleared area and it also allows the property owner to utilize and then extend the existing access from NW Moreland Road. As the proposed accessory

building is within 100 feet of the dwelling it is clustered with it and only needs a primary fire safety zone. The existing well house is located to the south of the proposed accessory structure and is further than 190 feet from the dwelling. For these reasons, staff finds that the applicant is proposing to build within an area chosen that will have less detrimental impacts on forested wildlife habitat.

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

(a) That measures are included in order to reduce impacts to forested areas to the minimum necessary to serve the proposed development by restricting the amount of clearance and length/width of cleared areas and disturbing the least amount of forest canopy cover.

(b) That any newly cleared area associated with the development is not greater than one acre, excluding from this total the area of the minimum necessary accessway required for fire safety purposes.

Staff: The applicant is not proposing to clear any forested areas for the proposed accessory structure or existing well house.

(c) That no fencing will be built and existing fencing will be removed outside of areas cleared for the site development except for existing cleared areas used for agricultural purposes.

Staff: The applicant is not proposing new fencing as part of this development proposal. The existing fencing is located within the existing cleared area.

(d) That revegetation of existing cleared areas on the property at a 2:1 ratio with newly cleared areas occurs if such cleared areas exist on the property.

Staff: The applicant is not proposing to clear any new areas as part of this development proposal.

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

Staff: The proposal does not include disturbance of stream riparian areas.

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

* * *

Staff: The proposal does not include a proposed addition. Therefore, the above criterion is not applicable. *Criterion is not applicable.*

(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:

* * *

Staff: The applicant has addressed the criteria of subsection (C)(3) as addressed above.

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

Staff: The proposal does not include any Protected Aggregate and Mineral (PAM) resources within a PAM Overlay.

7.0 Variance Criteria:

7.1 MCC 39.8215 Variance Approval Criteria

The Approval Authority may permit and authorize a variance from the dimensional standards given in MCC 39.8205 upon finding that all the following standards in (A) through (G) are met:

(A) A circumstance or condition applies to the property or to the intended use that does not apply generally to other property in the same vicinity or base zone. The circumstance or condition may relate to:

- (1) The size, shape, natural features and topography of the property, or**
- (2) The location or size of existing physical improvements on the site, or**
- (3) The nature of the use compared to surrounding uses, or**
- (4) The zoning requirement would substantially restrict the use of the subject property to a greater degree than it restricts other properties in the vicinity or base zone, or**

* * *

(5) A circumstance or condition that was not anticipated at the time the Code requirement was adopted.

(6) The list of examples in (1) through (5) above shall not limit the consideration of other circumstances or conditions in the application of these approval criteria.

Staff: The applicant is requesting a Variance from the Forest Practice Setbacks of the Commercial Forest Use-1 Zone for the existing well house that requires retroactive land use approval. The existing well house is located within a 0.32 acre, non-forested area (Exhibit A.2 & A.3) on a 41.74 acre parcel. A new accessory structure located more than 100 feet from the existing dwelling requires a 30-foot setback from the front property line adjacent to the right-of-way, and a 130-foot setback from all other property boundaries. The existing well house is located approximately 70 feet from the southern side property line (Exhibit A.3). The well head is located approximately 91 – 95.66+/- feet from the south property line. It was drilled in 1971 (Exhibit B.6). In 1971, the property was zoned F2 and did not have setback requirements for a new structure. The applicant states that the existing physical improvements for the well casing cannot be relocated because the well casing is over 800 feet deep which would be a significant cost to the current property owners. The applicant also states that the existing well house is located within 130 feet of the centerline of Moreland Road, which provides the Tualatin Valley Fire and Rescue access to the structure in the event of a fire and is present in this location to cover the well casing.

(B) The circumstance or condition in (A) above that is found to satisfy the approval criteria is not of the applicant’s or present property owner’s making and does not result solely from personal circumstances of the applicant or property owner. Personal circumstances include, but are not limited to, financial circumstances.

Staff: The applicant states that the well casing was drilled in the current location when the historical building permit was issued for the existing dwelling. Based on the well permit, staff determined that the existing well was established in 1971 (Exhibit B.6). The current property owners did not construct the well house. They purchased the property in 2017. The applicant states that the relocation of the well would be a considerable cost to the existing property owners. Staff finds that this argument alone is insufficient to grant a Variance. Pursuant to MCC 39.8215(B), financial circumstances are considered to be personal circumstances.

Alternatively, the Hearings Officer could consider the existing well house as an addition to an existing structure based on the County's definition of a "structure". If the Hearings Officer finds this interpretation to be appropriate, then the existing well house would not require a Variance as the structure would meet the Forest Practice Setbacks in the CFU-1 zone. Staff defers to the Hearings Officer on this matter.

(C) There is practical difficulty or unnecessary hardship to the property owner in the application of the dimensional standard.

Staff: The applicant states that the relocation of the well and water infrastructure on the subject property would be considered a hardship to the property owners due to the associated costs.

(D) The authorization of the variance will not be materially detrimental to the public welfare or injurious to property in the vicinity or base zone in which the property is located, or adversely affects the appropriate development of adjoining properties.

Staff: The applicant states that the well was established on the subject property around the same time that the existing dwelling was granted approval. The applicant also states that a separate structure to house a well is common in the surrounding area and is necessary to combat climate and frost issues.

(E) The Variance requested is the minimum necessary variation from the Code requirement which would alleviate the difficulty.

Staff: The applicant states that the requested Variance is the minimum necessary variation from the Code requirements as the alternative would be to relocate the well and water infrastructure.

(F) Any impacts resulting from the variance are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage.

Staff: Staff recommends a condition to ensure compliance with this criterion if necessary.

(G) The variance must be in support of a lawfully established use or in support of the lawful establishment of a use.

Staff: The proposed well house is accessory to the existing single-family dwelling that was established lawfully under land use case number PRE 5-87.

8.0 GEOLOGIC HAZARDS CRITERIA:

8.1 MCC 39.5075 Permits Required

Unless exempt under this code or authorized pursuant to a Large Fill permit, no development, or ground disturbing activity shall occur: (1) on land located in hazard areas as identified on the Geologic Hazards Overlay map, or (2) where the disturbed area or the land on which the development will occur has average slopes of 25 percent or more, except pursuant to a Geological Hazards permit (GH).

Staff: The proposed and existing development is located outside of the areas of the property mapped as Geologic Hazards. The applicant submitted detailed topography of the development area and staff has confirmed that the proposed accessory structure will not be developed in an area that has slopes that exceed 25 percent or more (Exhibit A.4).

9.0 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 hearing notice. Those exhibits have been reduced to a size of 8.5” x 11” for mailing purposes. All other exhibits are available for digital review in Case File T3-2022-15860.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	06.09.2022
A.2	24	Narrative	06.09.2022
A.3*	2	Site Plan	06.09.2022
A.4	1	Topography	06.09.2022
A.5	2	Elevation Drawings	06.09.2022
A.6	1	Roof Drawing	06.09.2022
A.7	1	Floor Plan	06.09.2022
A.8	6	Additional Construction Plans	06.09.2022
A.9	2	Well House Elevation Drawings	06.09.2022
A.10	2	Well House Floor Plan	06.09.2022
A.11	3	Fire Service Agency Review	06.09.2022
A.12	5	Transportation Planning Review	06.09.2022
A.13	12	Stormwater Drainage Control Certificate	06.09.2022
A.14	6	Septic Review Certification	06.09.2022
A.15	13	Retroactive Stormwater Drainage Control Certificate	06.09.2022
A.16	8	Pre-Filing Meeting Notes	06.09.2022
‘B’	#	Staff Exhibits	
B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 2N2W10A - 00400 (Alt Acct# R972100090)	06.09.2022
B.2	1	Division of Assessment, Recording, and Taxation (DART): Map for 2N2W10A -00400-P1 (Alt Acct# R972100091)	06.09.2022
B.3	1	Division of Assessment, Recording, and Taxation (DART): Map for 2N2W10A -00401 (Alt Acct# R972100270)	06.09.2022
B.4	16	Road Survey 1338	06.09.2022
B.5	1	Area Map	06.09.2022

B.6	1	2020 Aerial Photograph of Well house Location	10.3.2022
B.7	1	Well Driller's Report	10.4.2022
'C'	#	Administration & Procedures	
C.1	2	Complete Letter (Day 1)	07.08.2022
C.2	6	Hearing Notice	09.22.2022
C.3	25	Staff Report	10.07.2022