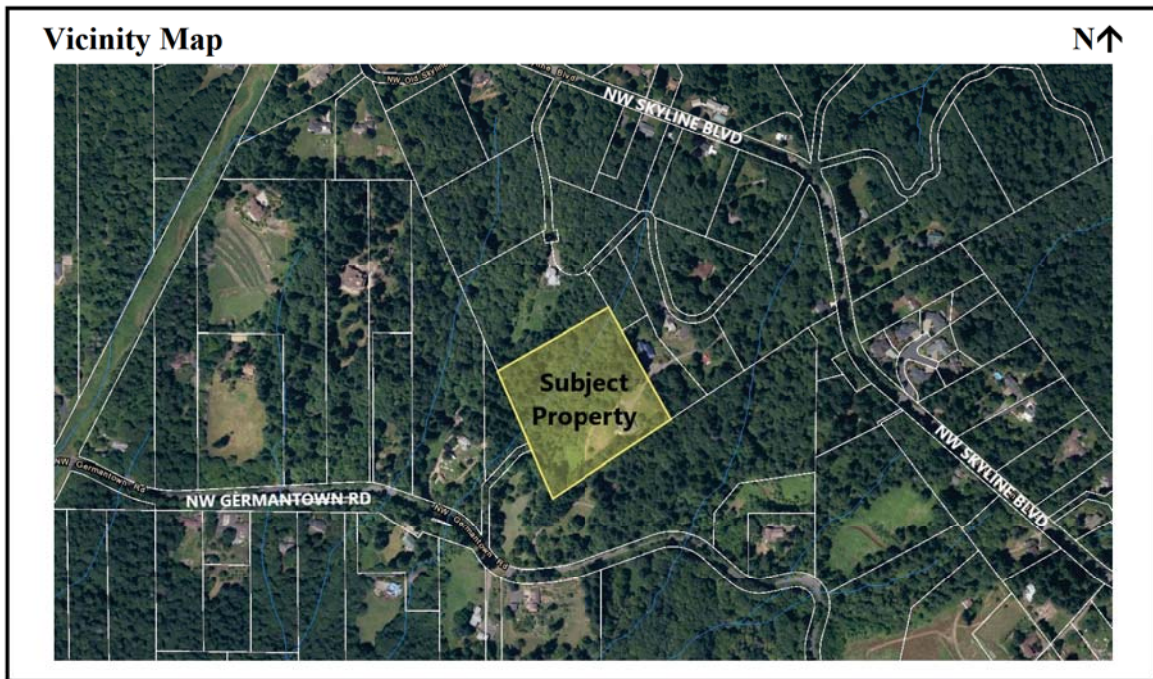


Instrument Number for Recording  
Purposes: #2019-128380





### **Applicable Approval Criteria:**

**For this application to be approved, the proposal will need to meet applicable approval criteria below:**

**Multnomah County Code (MCC):** General Provisions: MCC 39.1515 Code Compliance and Applications, MCC 39.2000 Definitions, MCC 39.6850 Dark Sky Lighting Standards

Lot of Record: General Provisions: MCC 39.3005 Lot of Record – Generally, MCC 39.3090 Lot of Record – Rural Residential (RR)

Rural Residential (RR): MCC 39.4360(F) Allowed Uses – Accessory Structures, MCC 39.4375 Dimensional Requirements & Development Standards, MCC 39.4390 Off-Street Parking and Loading

Significant Environmental Concern Overlays (SEC): MCC 39.5510 Uses; Sec Permit Required, MCC 39.5580 Nuisance Plant List, MCC 39.5860 Criteria for Approval of SEC-h Permit –Wildlife Habitat

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

**Chapter 39 - Zoning Code**

### **Conditions of Approval**

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

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 a minimum of seven (7) days prior to date of commencement. 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 [land.use.planning@multco.us](mailto:land.use.planning@multco.us). [MCC 39.1185]

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

- 2. 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 Exhibits A.2 through A.4 and Exhibit A.10, except as modified by the conditions of approval. It shall be the responsibility of the property owner(s) to comply with this decision and the conditions of approval. [MCC 39.1125 & MCC 39.1170(B)]
- 3. Prior to land use sign-off for building plan check, the property owners or their representative shall:
  - a. Acknowledge in writing that they have read and understand the conditions of approval and intend to comply with them. A Letter of Acknowledgement has been provided to assist you. The signed document shall be sent to Rithy Khut at [rithy.khut@multco.us](mailto:rithy.khut@multco.us). [MCC 39.1170(A) & (B)]
  - b. Record pages 1 through 6 and Exhibits A.3, A.4, and A.10 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]
  - c. Record a covenant with Division of Assessment, Recording, and Taxation ("County Records") that states that the owner understands and agrees that the accessory structure cannot be occupied as a dwelling or for any other form of permanent or temporary residential use. [MCC 39.4360(F)(2) and MCC 39.8860]
- 4. At the time of land use sign-off for building plan check, the property owner or their representative shall:



- a. Demonstrate compliance with the County's Ground Disturbance regulations by obtaining an either an Erosion and Sediment Control (ESC) permit or a Minimal Impact Project (MIP) permit [MCC 39.1515 and MCC 39.5850(B)]
  - b. Submit a building plan including cut sheets and specifications showing the location and details for all exterior lighting on the proposed structures. The exterior lighting shall be placed in a location so that it does not shine directly into undeveloped water resource or habitat areas to the north and west of the development. No outdoor lighting fixtures shall be directed towards the tributary creek that drains into Abbey Creek. All exterior lighting shall be a fixture type that is fully shielded with opaque materials and directed downwards.
    - i. "Fully shielded" means no light is emitted above the horizontal plane located at the lowest point of the fixture's shielding.
    - ii. Shielding must be permanently attached.
    - iii. The exterior lighting shall be contained within the boundaries of the subject property on which it is located. [MCC 39.4375(H), MCC 39.5860(C), and MCC 39.6850]
5. Within 90 days of land use sign-off for building plan check, the property owner or their representative shall:
  - a. Commence mitigation removal of invasive plants as discussed in Exhibit A.10 [MCC 39.5860(C)(3 )]
  - b. Within 90 days of commencement in Condition 5.a above, provide a post-mitigation report. The report shall be prepared and signed by Jack Dalton, Senior Scientist at Environmental Science & Assessment, LLC or someone of similar educational and vocational training.
    - i. The post-mitigation report shall confirm the mitigation has been completed in compliance with approved designs. Any variation from approved designs or conditions of approval shall be clearly indicated. The post-mitigation report shall include:
      1. Dated pre- and post-mitigation photos taken of the Mitigation Planting Area. The photos should clearly show the site conditions before and after construction.
      2. A narrative that describes any deviation from the approved plans. [MCC 39.5860(C)(3)]
6. Prior to and during the construction of the accessory building, the property owner or their representative shall ensure that:
  - a. The Significant Wildlife Habitat Area (shown as "Forest Canopy Drip Line" in Exhibit A.10) shall be flagged, fenced or otherwise marked and shall remain undisturbed. Such markings shall be maintained until construction is complete. [MCC 39.5860(C)(3)]
  - b. Existing vegetation shall be protected and left in place except as otherwise allowed by the Report and no trees shall not be used as anchors for stabilizing construction equipment. [MCC 39.5860(C)(3)]



7. As an on-going condition, the property owner shall:

- a. Ensure that the accessory building 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. [MCC 39.4360(F)(2)]
- b. Ensure that within the accessory building, a mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose is disassembled for storage. [MCC 39.4310(F)(4)]
- c. Ensure that outdoor lighting shall be of a fixture type and shall be placed in a location so that it does not shine directly into undeveloped water resource or habitat areas. All exterior lighting shall be a fixture type that is fully shielded with opaque materials and directed downwards. [MCC 39.5860(C)]
- d. Ensure that nuisance plants in MCC 39.5580 Table 1 below shall not be used as landscape plantings on the subject property. The property owners shall remove the nuisance plants listed in Table 1 from the cleared areas of the property. Once removed, the property owners shall maintain the cleared area free of these nuisance plants [MCC 39.5580, MCC 39.5860(B)(7)]

**Table 1 - Nuisance Plant List:**

<b>Common Name</b>	<b><i>Scientific Name</i></b>
Lesser celandine	<i>Chelidonium majus</i>
Canada Thistle	<i>Cirsium arvense</i>
Common Thistle	<i>Cirsium vulgare</i>
Western Clematis	<i>Clematis ligusticifolia</i>
Traveler's Joy	<i>Clematis vitalba</i>
Poison hemlock	<i>Conium maculatum</i>
Field Morning-glory	<i>Convolvulus arvensis</i>
Night-blooming Morning-glory	<i>Convolvulus nyctagineus</i>
Lady's nightcap	<i>Convolvulus sepium</i>
Pampas grass	<i>Cortaderia selloana</i>
Hawthorn, except native species	<i>Crataegus sp. except C. douglasii</i>
Scotch broom	<i>Cytisus scoparius</i>
Queen Anne's Lace	<i>Daucus carota</i>
South American Waterweed	<i>Elodea densa</i>
Common Horsetail	<i>Equisetum arvense</i>
Giant Horsetail	<i>Equisetum telmateia</i>
Cranesbill	<i>Erodium cicutarium</i>

<b>Common Name</b>	<b><i>Scientific Name</i></b>
Fall Dandelion	<i>Leontodon autumnalis</i>
Purple Loosestrife	<i>Lythrum salicaria</i>
Eurasian Watermilfoil	<i>Myriophyllum spicatum</i>
Reed Canary grass	<i>Phalaris arundinacea</i>
Annual Bluegrass	<i>Poa annua</i>
Swamp Smartweed	<i>Polygonum coccineum</i>
Climbing Bindweed, Wild buckwheat	<i>Polygonum convolvulus</i>
Giant Knotweed	<i>Polygonum sachalinense</i>
English, Portuguese Laurel	<i>Prunus laurocerasus</i>
Poison Oak	<i>Rhus diversiloba</i>
Himalayan Blackberry	<i>Rubus discolor</i>
Evergreen Blackberry	<i>Rubus laciniatus</i>
Tansy Ragwort	<i>Senecio jacobaea</i>
Blue Bindweed	<i>Solanum dulcamara</i>
Garden Nightshade	<i>Solanum nigrum</i>
Hairy Nightshade	<i>Solanum sarrachoides</i>
Common Dandelion	<i>Taraxacum officinale</i>



Common Name	Scientific Name
Roberts Geranium, Herb Robert	<i>Geranium robertianum</i>
English Ivy	<i>Hedera helix</i>
St. John's Wort	<i>Hypericum perforatum</i>
English Holly	<i>Ilex aquafolium</i>
Golden Chain Tree	<i>Laburnum watereri</i>
Duckweed, Water Lentil	<i>Lemna minor</i>

Common Name	Scientific Name
Common Bladderwort	<i>Utricularia vulgaris</i>
Stinging Nettle	<i>Urtica dioica</i>
Periwinkle (large leaf)	<i>Vinca major</i>
Periwinkle (small leaf)	<i>Vinca minor</i>
Spiny Cocklebur	<i>Xanthium spinosum</i>
Bamboo sp.	<i>various genera</i>

**Note:** Once this decision is final, application for building permits may be made with the City of Portland. When ready to have building permits signed off by land use planning, the applicant shall complete the following steps:

1. Read your land use decision, the conditions of approval and modify your plans, if necessary, to meet any condition that states, "Prior to land use sign-off for building plan check..." Be ready to demonstrate compliance with the conditions.
2. Contact Right-of-Way Permits at [row.permits@multco.us](mailto:row.permits@multco.us) to review your plans, obtain your access permit, and satisfy any other requirements. You may schedule an appointment at <https://multco.us/transportation-planning/webform/right-way-appointment-request/> or leave a message at 503-988-3582. Failure to make an appointment with County Right-of-Way will result in delaying your building plan review and obtaining building permits.
3. Building Plans and related conditions of approval documents shall be sent digitally to [LUP-submittals@multco.us](mailto:LUP-submittals@multco.us) along with the Request for Zoning Plan Review & Land Use Compatibility Statement (LUCS) form. If paper plans will be used, please contact Rithy Khut, Planner at 503-988-0176 or [rithy.khut@multco.us](mailto:rithy.khut@multco.us) to set up an appointment to drop off the building plans. Please ensure that any items listed under "Prior to land use sign-off for building plan check..." are ready for land use planning review. Land Use Planning must sign off on the plans before you can go to the Sanitation Division. Land Use Planning may collect additional fees, including an erosion control inspection fee, if applicable.
4. Contact the City of Portland, Bureau of Development Services, On-site Sanitation at 503-823-6892 or e-mail [septic@portlandoregon.gov](mailto:septic@portlandoregon.gov) for information on how to complete the Septic Evaluation or Permit process for the proposed development. All existing and/or proposed septic system components (including septic tank and drainfield) must be accurately shown on the site plan.

We suggest you go to the City of Portland's Building Department website at [www.portland.gov/bds/](http://www.portland.gov/bds/) to find out how to submit to building plan check.

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

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



## **Findings of Fact**

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

### **1.0 Project Description:**

**Staff:** The applicant requests a Significant Environmental Concern for Wildlife Habitat (SEC-h) permit to authorize the construction of a 624 sq. ft. accessory building (garage). A Lot of Record Verification is also included in this decision. The project is exempt from obtaining permits for the Significant Environmental Concern for Streams (SEC-s) and Geologic Hazard (GH) overlays (Exhibit A.3).

### **2.0 Property Description & History:**

**Staff:** This application is for 9003 NW Skyline Boulevard, Portland (“subject property”). The subject property is located between NW Skyline Boulevard and NW Germantown Road in unincorporated west Multnomah County in the area known as the West Hills Rural Area. The subject property is zoned Rural Residential (RR) and is approximately 6.51 acres in size. The property has multiple overlays on the property including Significant Environmental Concern for Streams (SEC-s), Significant Environmental Concern for Wildlife Habitat (SEC-h), and Geologic Hazards (GH). The SEC-s covers the northern portion of the property in addition to corner in the southeast portion of the property. The SEC-h covers the entire property and the GH covers most of the middle of the property. Aerial photo review from 2021 shows the presence one large building on the subject property (Exhibit B.4).

There have been previous land use/building permit associated with the subject property:

<b>Land Use / Building Permit #</b>	<b>Date Approved</b>	<b>Decision</b>	<b>Description</b>
T2-06-020	July 12, 2006	Approved	Significant Environmental Concern for Wildlife Habitat (SEC-h) permit to replace an existing single-family dwelling with a new single-family dwelling
T2-06-095	October 19, 2006	Approved	Hillside Development (HD) permit to replace an existing single-family dwelling with a new single-family dwelling
BP-2019-12267	July 19, 2019	Approved	Addition to single-family dwelling above the attached garage

### **3.0 Public Comment:**

**Staff:** Staff mailed a notice of application and invitation to comment on the proposed application to the required parties pursuant to MCC 39.1105 as Exhibited in C.4. Staff did not receive any public comments during the 14-day comment period.



#### **4.0 Code Compliance and Applications Criteria:**

##### **4.1 § 39.1515 CODE COMPLIANCE AND APPLICATIONS.**

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

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

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

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

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

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

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



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

## **5.0 Lot of Record Criteria:**

### **5.1 § 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:**

- 1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or**
- 2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or**
- 3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in recordable form prior to October 19, 1978; or**
- 4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and**
- 5. “Satisfied all applicable land division laws” shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See Date of Creation and Existence for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU and CFU districts.)**

**Staff:** To qualify as a Lot of Record, the subject property, when created or reconfigured, must meet (B) of this section and meet the Lot of Record standards set forth in the Rural Residential (RR) zoning district. More specifically, section (B) above requires demonstration that the subject property (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws.

A copy of the subdivision plat shows that Skyline Acres was created on October 13, 1908 (Exhibit B.3). At that time in 1908, no zoning was applied to the subject property. As no zoning applied at that time, the subject property satisfied all applicable zoning laws.

The subject property came into the possession of the applicant in 2019. The statutory warranty deed record as Instrument Number 2019-128380 on November 25, 2019 describes the subject



property as Lot 30 of Skyline Acres (Exhibit A.6). The description on the statutory warranty deed matches the description of the subdivision plat; therefore, this property has not been reconfigured is continues to satisfied all applicable zoning laws.

*The subject property complied with all applicable zoning laws at the time of its creation.*

The second requirement is that the lot or parcel satisfied all applicable land division laws. The subject property was created through a subdivision plat. As stated above, the Skyline Acres subdivision plat was recorded on October 13, 1908 (Exhibit B.3). At that time in 1908, the land division requirements only required the recording of the subdivision. Therefore, this subject property met the applicable subdivision requirements in effect at the time.

*The subject property complied with all applicable land division laws at the time of its creation.*

**(c) Separate Lots of Record shall be recognized and may be partitioned congruent with an “acknowledged unincorporated community” boundary which intersects a Lot of Record.**

**1. Partitioning of the Lot of Record along the boundary shall require review and approval under the provisions of the land division part of this Chapter, but not be subject to the minimum area and access requirements of this district.**

**2. An “acknowledged unincorporated community boundary” is one that has been established pursuant to OAR Chapter 660, Division 22.**

**Staff:** The subject property subject to this land use application is not congruent with an “acknowledged unincorporated community” boundary, which intersects a Lot of Record. The applicant is also not requesting a partitioning of the Lot of Record; therefore, this criterion is not applicable. *This criterion is not applicable.*

## **5.2 § 39.3090 LOT OF RECORD – RURAL RESIDENTIAL (RR).**

**(A) In addition to the standards in MCC 39.3005, for the purposes of the RR district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:**

- (1) July 10, 1958, SR zone applied;**
- (2) July 10, 1958, F-2 zone applied;**
- (3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;**
- (4) October 6, 1977, RR zone applied, Ord. 148 & 149;**
- (5) October 13, 1983, zone change from MUF-19 to RR for some properties, Ord. 395;**
- (6) October 4, 2000, Oregon Administrative Rules Chapter 660 Division 004, 20 acre minimum lot size for properties within one mile of Urban Growth Boundary;**
- (7) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.**

**Staff:** Criterion (A) states important dates pertinent to zoning changes in Multnomah County. The dates are for informational purposes and not approval criteria. *This criterion is not applicable.*



**(B) A Lot of Record which has less than the minimum lot size for new parcels or lots, less than the front lot line minimums required, or which does not meet the access requirement of MCC 39.4395, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.**

**Staff:** The subject property is located in the Rural Residential (RR) zoning district. The 6.51-acre property is less than the minimum 20-acre lot size for new parcels or lots as it is within one mile of the Urban Growth Boundary. It has a 30-foot front lot line length, which is below the 50 feet minimum required. As the subject property is less than the minimum lot size for new parcels or lots and is below the minimum required for the front lot line length, the Lot of Record is subject to subsection (B) above. As such, it may be occupied by any allowed, review, or conditional use when in compliance with the other requirements of the RR district if it remains a Lot of Record. The applicant has demonstrated compliance with the other requirements of this district, which is discussed below in Section 6.0. *This criterion is met.*

**(C) Except as otherwise provided by MCC 39.4380, 39.4385, and 39.5300 through 39.5350, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.**

**Staff:** The applicant is not proposing the sale or conveyance of any portion of a lot; therefore, Criterion (C) does not affect the determination on this case and is not applicable. *This criterion is not applicable.*

**(D) The following shall not be deemed to be 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) An area of land created by court decree.**

**Staff:** As a Lot of Record, the subject property is not an area of land described as a tax lot solely for assessment and taxation purposes, nor is it an area of land created by foreclosure of a security interest, or an area of land created by court decree. *These criteria are met.*

*The subject property is a Lot of Record.*

## **6.0 Rural Residential (RR) Criteria:**

### **6.1 § 39.4360 ALLOWED USES.**

**(F) 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 and is a structure identified in the following list:**
  - (a) Garages or carports;**
  - (b) Pump houses;**
  - (c) Garden sheds;**
  - (d) Workshops;**



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

**Staff:** The applicant is proposing to construct a new accessory building that will be used as a garage. As provided in the above list, a garage is listed as an accessory structure that is customarily accessory or incidental to a permitted use. The primary use of the property is a single-family dwelling. The garage will be accessory and incidental to the residential use. *This criterion is met.*

**(2) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.**

**Staff:** The applicant included architectural drawings of the garage. The floor plan shows a building that is composed of one open room (Exhibit A.4). As proposed, the accessory building is not designed temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use. Additionally, the property owner will be required to record covenant regarding use of the structure as any type of dwelling or sleeping area as required by MCC 39.8860. *As conditioned, this criterion is met.*

**(3) The Accessory Structure may contain one sink.**

**Staff:** The applicant included architectural drawings of the garage. The floor plan does not show a sink in the accessory building (Exhibit A.4). As no sink is proposed, this criterion is not applicable at this time. *This criterion is not applicable.*

**(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 applicant included architectural drawings of the garage. The floor plan shows that the structure is one story and does not contain cooking facilities, a toilet, bathing facilities, or a closet built into a wall (Exhibit A.4). As the structure will be used for storage of vehicles and other items that are accessory to the single-family, a condition will be required that if a mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep is stored in the building that it be disassembled for storage. *As conditioned, this criterion is met.*

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

**Staff:** Compliance with MCC 39.8860<sup>1</sup> is required. As the applicant is proposing an accessory structure that is a building, the property owner will need to record the covenant. A condition of approval has been included requiring the covenant's recordation. *As conditioned, this criterion is met.*

**(6) The combined footprints of all buildings accessory to an accessory dwelling unit (ADU) shall not exceed combined footprints of 400 square feet and the combined footprints of all Accessory Buildings on a Lot of Record, including buildings accessory to an ADU, shall not exceed 2,500 square feet.**

**Staff:** The combined footprints of all Accessory Buildings on a Lot of record shall not exceed 2,500 square feet. The site plan indicates that no other accessory buildings exist on the property (Exhibit A.3). The proposed garage will be 26 feet by 24 feet (624 square feet), which is less than the 2,500 square foot threshold. *This criterion is met.*

**(7) An Accessory Structure exceeding any of the Allowed Use provisions above, except for the combined footprints allowed for all buildings accessory to an ADU, shall be considered through the Review Use provisions.**

**Staff:** The proposal for the accessory structure does not exceed any of the Allowed Use provisions; therefore, the accessory structure does not need to meet the requirements within the Review Use. *This criterion is met.*

**(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 proposal for the accessory building is a garage. The accessory building is not a building used in conjunction with a farm use as defined in ORS 215.203. Therefore, it is required to meet the accessory structure provisions. As discussed above, the accessory building meets the accessory structure provisions as an Allowed Use. *This criterion is not applicable.*

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<sup>1</sup> § 39.8860- CONDITION OF APPROVAL --ACCESSORY STRUCTURES.

Prior to issuance of any development permit involving an Accessory Building, the property owner shall record a covenant with County Records that states that the owner understands and agrees that the structure cannot be occupied as a dwelling or for any other form of permanent or temporary residential use.



**6.2 § 39.4375 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.**

\* \* \*

**(C) Minimum Yard Dimensions – Feet**

Front	Side	Street Side	Rear
30	10	30	30

**Maximum Structure Height – 35 feet**

**Minimum Front Lot Line Length – 50 feet.**

**(1) Notwithstanding the Minimum Yard Dimensions, but subject to all other applicable Code provisions, a fence or retaining wall may be located in a Yard, provided that a fence or retaining wall over six feet in height shall be setback from all Lot Lines a distance at least equal to the height of such fence or retaining wall.**

**(2) An Accessory Structure may encroach up to 40 percent into any required Yard subject to the following:**

**(a) The Yard being modified is not contiguous to a road.**

**(b) The Accessory Structure does not exceed five feet in height or exceed a footprint of ten square feet, and**

**(c) The applicant demonstrates the proposal complies with the fire code as administered by the applicable fire service agency.**

**(3) A Variance is required for any Accessory Structure that encroaches more than 40 percent into any required Yard.**

**(D) The minimum yard requirement shall be increased where the yard 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 yard requirements in consultation with the Road Official.**

**Staff:** The yard dimensions are required to ensure that there is sufficient open space between buildings and property lines to provide space, light, air circulation, and safety from fire hazards. Additionally, as required under criterion (D), minimum yard dimensions are required to be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The right-of-way (ROW) adjacent to the subject property is NW Ressel Road, a substandard rural local road. NW Ressel Road is perpendicular to the front lot line of the subject property. The Planning Director has determined that no additional right-of way width is needed for this local road at this time.

The applicant is not proposing a fence or retaining wall; therefore, criterion (C)(1) is not applicable to this project. The minimum yards dimensions of (C) need to be met by the garage for the subject property. The applicant has provided a site plan showing the location of the accessory building (Exhibit A.3). The Figure 1 below indicates the front, side, and rear lot lines.



**Figure 1: Lot Lines**



The yard requirements and distance from lot lines are shown in Table 1 below:

**Table 1: Distance of structures from property lines**

	<b>Yard Requirement</b>	<b>Distance of Garage to Property Line</b>
<b>Accessory Building</b>		
<b>Front (property line adjacent to NW Ressel Road)</b>	30'	436' ±
<b>Side (north property line)</b>	10'	349' ±
<b>Rear (property line opposite of front property line)</b>	30'	74' ±
<b>Side (south property line)</b>	10'	149 ±

(Exhibit A.3)

Based on the measurements, the accessory building meet the minimum front yard requirements.

*The accessory building meets the minimum front yard requirements.*

Lastly, the height<sup>2</sup> of the building must be less than the 35 feet maximum. The applicant has included an elevation plan showing the height of the accessory building. The building plans show that the building is one story in height and has a pitched gabled roof. As measured from the highest adjoining ground surface within a 5-foot horizontal distance of the exterior wall of the building to the average height of the highest gable, the garage is approximately 12.31 feet (Exhibit A.4).

<sup>2</sup> Building Height – (a) The vertical distance above a reference datum measured...to the average height of the highest gable of a pitched or hipped roof. The reference datum shall be selected by either of the following, whichever yields a greater height of building: 1. The elevation of the highest adjoining sidewalk or ground surface within a 5-foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above the lowest grade. 2. An elevation 10 feet higher than the lowest grade when the sidewalk or ground surface described in Item (1) above is more than 10 feet above the lowest grade.



*The accessory building meets the maximum height requirements.*

**(E) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirement if located at least 30 feet from any property line.**

**Staff:** The applicant is not proposing structures such as barns, silos, windmills, antennae, chimneys, or similar structures; therefore, this criterion is not applicable. *This criterion is not applicable.*

**(F) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, shall be provided on the lot.**

**(1) Sewage and stormwater disposal systems for existing development may be off-site in easement areas reserved for that purpose.**

**(2) Stormwater/drainage control systems are required for new impervious surfaces. The system shall be adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development.**

**Staff:** The applicant has provided a Septic Review Certification and Stormwater Drainage Control Certificate. The Septic Review Certification was reviewed by Nicole Blais, Registered Environmental Health Specialist Trainee at the City of Portland Bureau of Development Service On-Site Sanitation. The review states, “The proposed 26’ x 24’ open floor plan garage with no plumbing poses no concern” (Exhibit A.8). Further, the Septic Review Certification shows the septic system and drainfield on the parcel with stormwater directed away from the drainfield.

The Storm Water Drainage Control Certificate was reviewed and signed by Steven M. White, Registered Professional Engineer (Exhibit A.10). The Certificate recommends “Construction of an on-site stormwater drainage system.” The site plan shows a system using gutter and downspouts to collect the water and a pipe to convey stormwater for natural filtration into a rip-rap outfall located east of the accessory building (Exhibit A.3). This system will ensure that the rate of runoff from the property for the 10-year/24-hour storm event is no greater than that before the development.

Lastly, in land use case #T2-06-020, it was found that a well exists on site and provides water for the single-family dwelling (Exhibit B.5).

*These criteria are met.*

**(G) New, replacement, or expansion of existing dwellings shall minimize impacts to existing farm uses on adjacent land (contiguous or across the street) by:**

- (1) Recording a covenant that implements the provisions of the Oregon Right to Farm Law in ORS 30.936 where the farm use is on land in the EFU base zone; or**
- (2) Where the farm use does not occur on land in the EFU base zone, the owner shall record a covenant that states they recognize and accept that farm activities including tilling, spraying, harvesting, and farm management activities during irregular times, occur on adjacent property and in the general area.**



**Staff:** The applicant is not proposing a new, replacement, or expansion of an existing dwelling; therefore, this criterion is not applicable. *This criterion is not applicable.*

**(H) All exterior lighting shall comply with MCC 39.6850.**

**Staff:** The applicant is proposing an accessory structure that is supporting the residential use on the property. The accessory building does not meet the exemption requirements contained within MCC 39.6850(B). As required above, the applicant will need to comply with MCC 39.6850(C)<sup>3</sup> for all new lighting supporting the accessory building.

The architectural plans for the accessory building show exterior lighting on the structure. There are three recessed lights, two adjacent to the garage door and one adjacent to the side door (Exhibit A.4). However, no technical specifications of the exterior lighting were provided demonstrating that the exterior lighting on the accessory building are from a light source that is fully shielded with opaque materials and directed downwards so that no light is emitted above the horizontal plane located at the lowest point of the fixture's shielding. Therefore, conditions will be needed that technical specifications be provided and the lighting must be contained within the boundaries of the Lot of Record on which it is located. *As conditioned, this criterion is met.*

**6.3 § 39.4390 OFF-STREET PARKING AND LOADING.**

**Off-street parking and loading shall be provided as required by MCC 39.6500 through 39.6600.**

**Staff:** As required in MCC 39.6590, Minimum Required Off-street Parking Spaces, a single-family dwelling is required to have two spaces for each dwelling unit. As there is only one dwelling unit on the Lot of Record, two spaces are required. The applicant is applying for an accessory building that is a garage. The garage contains two spaces. Additionally, the applicant is not required to meet the Design Standards within MCC 39.6500 through MCC 39.6600, as the parking, loading, and maneuvering areas are serving a single-family dwelling on an individual lot. *This criterion is met.*

**7.0 Significant Environmental Concern for Wildlife Habitat (SEC-h) Criteria:**

**7.1 § 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.**

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<sup>3</sup> (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:** As discussed in Section 6.1, the applicant is proposing an accessory building associated with the residential use that is allowed under MCC 39.4310. The proposal is an allowed use in the underlying zoning district, if they meet certain requirements of Multnomah County Code. They have met the approval criteria as described in this decision. A few criteria will require additional action by the applicant using Conditions of Approval to demonstrate compliance with all of the applicable approval criteria.

**(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:** No archaeological, historical, prehistoric, or anthropological excavations are proposed as part of this project; therefore, this criterion is not applicable. *This criterion is not applicable.*

## 7.2 § 39.5580- NUISANCE PLANT LIST.

**Table 1  
Nuisance Plant List:**

<b>Common Name</b>	<b>Scientific Name</b>
Lesser celandine	<i>Chelidonium majus</i>
Canada Thistle	<i>Cirsium arvense</i>
Common Thistle	<i>Cirsium vulgare</i>
Western Clematis	<i>Clematis ligusticifolia</i>
Traveler' s Joy	<i>Clematis vitalba</i>
Poison hemlock	<i>Conium maculatum</i>
Field Morning-glory	<i>Convolvulus arvensis</i>
Night-blooming Morning-glory	<i>Convolvulus nyctagineus</i>
Lady's nightcap	<i>Convolvulus sepium</i>
Pampas grass	<i>Cortaderia selloana</i>
Hawthorn, except native species	<i>Crataegus sp. except C. douglasii</i>
Scotch broom	<i>Cytisus scoparius</i>
Queen Anne's Lace	<i>Daucus carota</i>
South American Waterweed	<i>Elodea densa</i>
Common Horsetail	<i>Equisetum arvense</i>
Giant Horsetail	<i>Equisetum telmateia</i>
Cranesbill	<i>Erodium cicutarium</i>
Roberts Geranium, Herb Robert	<i>Geranium robertianum</i>
English Ivy	<i>Hedera helix</i>
St. John's Wort	<i>Hypericum perforatum</i>
English Holly	<i>Ilex aquafolium</i>
Golden Chain Tree	<i>Laburnum watereri</i>
Duckweed, Water Lentil	<i>Lemna minor</i>
Fall Dandelion	<i>Leontodon autumnalis</i>
Purple Loosestrife	<i>Lythrum salicaria</i>
Eurasian Watermilfoil	<i>Myriophyllum spicatum</i>
Reed Canary grass	<i>Phalaris arundinacea</i>
Annual Bluegrass	<i>Poa annua</i>



Swamp Smartweed	<i>Polygonum coccineum</i>
Climbing Bindweed, Wild buckwheat	<i>Polygonum convolvulus</i>
Giant Knotweed	<i>Polygonum sachalinense</i>
English, Portuguese Laurel	<i>Prunus laurocerasus</i>
Poison Oak	<i>Rhus diversiloba</i>
Himalayan Blackberry	<i>Rubus discolor</i>
Evergreen Blackberry	<i>Rubus laciniatus</i>
Tansy Ragwort	<i>Senecio jacobaea</i>
Blue Bindweed	<i>Solanum dulcamara</i>
Garden Nightshade	<i>Solanum nigrum</i>
Hairy Nightshade	<i>Solanum sarrachoides</i>
Common Dandelion	<i>Taraxacum officinale</i>
Common Bladderwort	<i>Utricularia vulgaris</i>
Stinging Nettle	<i>Urtica dioica</i>
Periwinkle (large leaf)	<i>Vinca major</i>
Periwinkle (small leaf)	<i>Vinca minor</i>
Spiny Cocklebur	<i>Xanthium spinosum</i>
Bamboo sp.	<i>various genera</i>

**Staff:** As required by MCC 39.5860, a condition will be required that nuisance plants in MCC 39.5580 Table 1, in addition to the nuisance plants defined in MCC 39.5750(A)(1), shall not be planted or used as landscape plantings on the subject property in addition to being kept removed from developed areas. *As conditioned, this criterion is met.*

### 7.3 § 39.5860 CRITERIA FOR APPROVAL OF SEC-H PERMIT -WILDLIFE HABITAT.

**7.3.1 (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:

- (1) Location of all existing forested areas (including areas cleared pursuant to an approved forest management plan) and non-forested "cleared" areas;  
For the purposes of this section, a forested area is defined as an area that has at least 75 percent crown closure, or 80 square feet of basal area per acre, of trees 11 inches DBH and larger, or an area which is being reforested pursuant to Forest Practice Rules of the Department of Forestry. A non-forested "cleared" area is defined as an area which does not meet the description of a forested area and which is not being reforested pursuant to a forest management plan.
- (2) Location of existing and proposed structures;
- (3) Location and width of existing and proposed public roads, private access roads, driveways, and service corridors on the subject parcel and within 200 feet of the subject parcel's boundaries on all adjacent parcels;
- (4) Existing and proposed type and location of all fencing on the subject property and on adjacent properties and on properties entirely or partially within 200 feet of the subject property.



**Staff:** The applicant has submitted the required application materials listed in MCC 39.5520(A) and 39.5860(A). The application materials are found in Exhibit A.2 through A.4 and A.10. Those exhibits shows all properties within 200 feet of the proposed development, the location of all existing forest areas, existing and proposed structures, location, and width of existing and proposed roads/driveways. *This criterion is met.*

**7.3.2 (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:** Adopted in 1994, Ordinance 801 created the Significant Environmental Concern for Wildlife Habitat (SEC-h) overlay. At the time of adoption, areas of wildlife habitat, which include forested areas, were protected as a Statewide Planning Goal 5 resource. As described above, the area of development is not considered as located within a forested area as the area has been previously disturbed and contains an authorized residential use. Land use case #T2-06-020 authorized a replacement single-family dwelling in this cleared area (Exhibit B.5). *This criterion is met.*

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

**Staff:** The development does not occur within 200 feet of a public road. As measured in the site plan, the outer extent of the accessory building is approximately 345 feet from the public road, NW Skyline Boulevard, which provides the most reasonable practical access (Exhibit A.3). *This criterion is not met.*

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

**Staff:** The access easement provides the private driveway to serve the development exceeds 500 feet in length. As measured in the site plan, the private driveway is approximately 1,219 feet (Exhibit A.3). *This criterion is not met.*

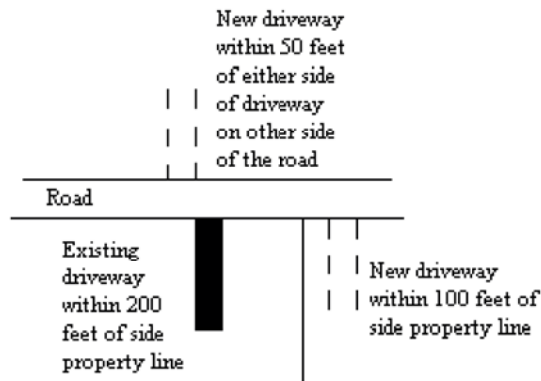
**(4) For the purpose of clustering access road/driveway approaches near one another, one of the following two standards shall be met:**

**(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**

**(b) The access road/driveway approach onto a public road shall be located within 50 feet of either side of an existing access road/driveway on the opposite side of the road.**

**(c) Diagram showing the standards in (a) and (b) above.**





**For illustrative purposes only.**

**Staff:** The subject property gains access to NW Skyline Blvd by a long private driveway. The access point onto NW Skyline Blvd for the house at 9001 NW Skyline Blvd is shared with the subject property. As these two driveways connect and then access NW Skyline Blvd, they are clustered. *This criterion is met.*

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

- 1. The modification shall be the minimum necessary to allow safe access onto the public road.**
- 2. The County Road Official shall provide written findings supporting the modification.**

**Staff:** The applicant is not requesting a modification; therefore, this criterion is not applicable. *This criterion is not applicable.*

**(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:** As proposed, the development will be within 300 feet of a side property line as the adjacent property to the south has structures and development areas within 200 feet of that common side property. As measured on the site, a structure on the adjacent property to the south is approximately 62 feet from the subject property (Exhibit A.3). Along that common property line, the proposed garage is within 148 feet of that shared property line. *This criterion is met.*

**(6) Fencing within a required setback from a public road shall meet the following criteria:**



**Staff:** As proposed, the development does not propose any fencing. Additionally no fencing is shown on the site plan (Exhibit A.3). *This criterion is not applicable at this time.*

**(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:** A condition will be required that nuisance plants in MCC 39.5580 Table 1 shall not be planted in addition to being kept removed from developed areas. *As conditioned, this criterion is met.*

**7.3.3 (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 can meet the development standards of subsection (B). As the property is located adjacent to NW Ressel Road, the development could be located in an area that is within 200 feet of a public road and have a private driveway less than 500 feet in length. However, the existing development of the property precludes development within the parameters of subsection (B). As the proposed development could meet the standards of subsection (B), the application will need to demonstrate 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). The applicant has provided a Wildlife Conservation Plan, which is discussed below.

- (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.**
  - (c) That no fencing will be built and existing fencing will be removed outside of areas cleared for the site development except for existing cleared areas used for agricultural purposes.**
  - (d) That revegetation of existing cleared areas on the property at a 2:1 ratio with newly cleared areas occurs if such cleared areas exist on the property.**



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

**Staff:** The applicant can meet the development standards of subsection (B), but has elected to provide a wildlife conservation plan in lieu of those standards due to the existing development pattern existing on the subject property. The application included a wildlife conservation plan labeled as SEC-h Report (“Report”) that was prepared by Jack Dalton, Environmental Science & Assessment, LLC (Exhibit A.10). The Report discusses how the measures within the proposal will reduce impacts to forest areas and limit the amount of clearance. It also discusses how the applicant will revegetate and enhance the disturbed areas.

Based on available information and a site visit, Jack Dalton assessed the existing conditions and provided mitigation strategies to offset the development impacts. The subject property contains a stream resource, which is a tributary of Abbey Creek that traverse the northern portion of the property. The wildlife habitat is the upland habitat associated with the creek. The stream resource and wildlife area contains forested areas. Non-forested areas are located outside of the SEC-s overlay area in cleared areas that contain a single-family dwelling and private driveway. As described in the Report, the wildlife habitat is, “comprised of a mixed deciduous-coniferous forest, contiguous with off-site forest cover... [however] ... Himalayan blackberry (*Rubus armeniacus*) and English ivy (*Hedera helix*) were present only in small areas on edge of forest canopy north of project area” (Exhibit A.10 – Page 2)

The original single-family dwelling was established in 1951 and then the single-family dwelling was replaced in 2006. The development area of the residential use and accessory building are outside of the stream resource buffer of the SEC-s overlay, but located within the wildlife habitat area of the SEC-h.

Based on the site plan and digital elevation models from Google, the accessory building is located in an already developed area where the single-family dwelling is located. The accessory building is located on a flat bench with the property sloping away from the development area to the west and south (Exhibit A.3 and B.9). There is no location on the subject property where the accessory building will be located outside of the SEC-h overlay. If the applicant were to locate the accessory building in an area that would meet subsection (B), it would require extensive excavation and ground disturbance to develop NW Ressel Road from NW Germantown Road and the area below the bench. Alternatively, additional ground disturbance would be needed if the applicant elected to extend the private driveway from NW Skyline Boulevard around the single-family dwelling to a located beneath the single-family dwelling. This development would lengthen the 1,200+-foot driveway further from the 500-foot requirement in subsection (B).

As currently proposed, the development within the SEC-h area is approximately  $\pm 1,200$  square feet. The development would include the construction of the accessory building and stormwater drainage control system, in addition to the ground disturbance associated with extending the private driveway to the garage. In total, the entire development, which includes the dwelling, proposed garage project and existing yard and driveway, is less than the one-acre maximum allowed.

As the existing conditions have been established in the Report, Jack Dalton recommends two additional mitigation strategy as it was found that the, “Fish and Wildlife Habitat Function



scores highly already, enhancement potential is therefore relatively low, but invasive removal along the edge of the forest would improve both the “food” and “cover” components” (Exhibit A.10 – Page 3). The second measure will require that the tree canopy cover labeled as “Forest Canopy Drip Line” be left undisturbed. This will ensure that potential impacts will be reduced to forested areas to the minimum necessary establish the accessory building. *As conditioned, these criteria are met.*

\* \* \*

**(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 provided a wildlife conservation plan that demonstrates satisfaction with subsection (C)(3), therefore the criteria within (C)(5) do not need to be met.

## **8.0 Conclusion**

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Significant Environmental Concern for Wildlife Habitat (SEC-h) permit to establish an Accessory Building in the Rural Residential (RR) zone. This approval is subject to the conditions of approval established in this report.



## 9.0 Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

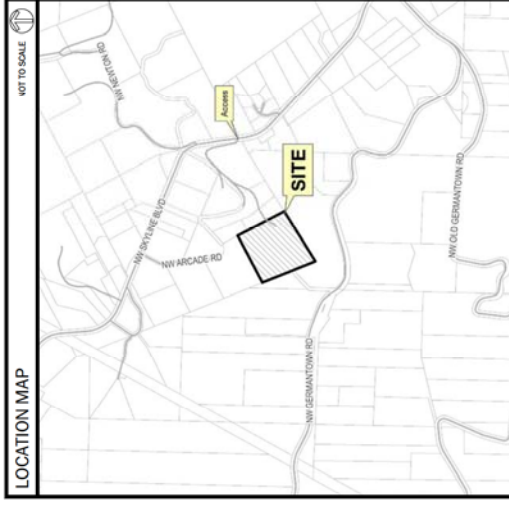
Exhibits with a “\*” after the exhibit # have been included as part of the mailed decision. Those exhibits have been reduced to a size of 8.5” x 11” for mailing purposes. All other exhibits are available for review in Case File T2-2021-14703 by contacting case planner, Rithy Khut at (503) 988-0176 or [rithy.khut@multco.us](mailto:rithy.khut@multco.us).

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	2	General Application Form and Receipt	05/26/2021
A.2	12	Narrative	05/26/2021
A.3*	4	Site Plans (11” x 17”) <ul style="list-style-type: none"> <li>• Cover Sheet – Page 1 of 4</li> <li>• Aerial Photograph – Page 2 of 4</li> <li>• Existing Conditions – Page 3 of 4</li> <li>• Site Plan – Page 4 of 4</li> </ul>	05/26/2021
A.4*	4	Building Plans (24” x 36”) <ul style="list-style-type: none"> <li>• Garage Plan and Elevations – Page 1</li> <li>• Roof Plan, Foundation Plan &amp; Building Section – Page 2</li> <li>• Details – Page G</li> <li>• Shear Wall Schedule &amp; Structural Plans – Page L1</li> </ul>	05/26/2021
A.5	6	Pre-Filing Meeting Notes – PF-2020-13685	05/26/2021
A.6	5	Statutory Bargain and Sale Deed recorded as Instrument #2019-128380 on November 25, 2019	05/26/2021
A.7	1	Stormwater Drainage Control Certificate and Report reviewed by Steven M. White, Registered Professional Engineer on May 20, 2021	05/26/2021
A.8	5	Septic Review Certification	05/26/2021
A.9	3	Fire Service Agency Review	05/26/2021
A.10	26	Wildlife Conservation Plan written by Jack Dalton Senior Scientist/Wildlife Biologist, Environmental Science & Assessment, LLC	08/30/2021
‘B’	#	Staff Exhibits	Date
B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for 1N1W09A -03200 (Alt Acct #R773503100)	05/26/2021



B.2	1	Division of Assessment, Recording, and Taxation (DART): Map with 1N1W09A -03200 (Alt Acct #R773503100) highlighted	05/26/2021
B.3	1	Skyline Acres Subdivision Plat recorded on October 13, 1908	05/26/2021
B.4	1	Aerial Photo taken Summer of 2021	01/07/2022
B.5	13	Land Use Case #T2-06-020	01/07/2022
B.6	1	Google Digital Elevation Rendering	01/07/2022
'C'	#	Administration & Procedures	Date
C.1	3	Incomplete letter	06/22/2021
C.2	2	Applicant's acceptance of 180 day clock	06/23/2021
C.3	1	Complete letter (day 1)	09/22/2021
C.4	10	Opportunity to Comment and mailing list	12/23/2021
C.5	1	Extension of 150 Day Deadline	01/07/2022
C.6	16	"Short" Administrative Decision and mailing list	02/10/2022
C.7	52	Administrative Decision and mailing list	02/10/2022





1.	PCOV	COVER SHEET
2.	AERL	AERIAL PHOTOGRAPH
3.	EXCD	EXISTING CONDITIONS (PER SURVEY)
4.	SIT1	SITE PLAN

APPLICANT:	NEW INVESTMENTS, LLC	SANITARY:	DRAINFIELD
OWNER:	MATT NEWMAN	WATER:	WELL
ADDRESS:	3409 N NE JOHN OLSEN AVE	FIRE DISTRICT:	TYPR
CITY:	PORTLAND, OR 97214	SCHOOL DISTRICT:	PORTLAND J J
PHONE:	503-601-4401	GARBAGE HAULER:	WASTE MANAGEMENT OF OREGON
FAX:	503-601-4402		
APPLICANT OWNER:	STUART BRUCKER		
	9003 NW SKOLI BLVD		
	PORTLAND, OR 97211		
	PHONE: 503-220-9899		
REQUEST:	TYPE PLANS AND GET PERMITS FOR A NEW PROPOSED GARAGE IN THE RR ZONE, IN MULTNOMAH COUNTY		
SITE LEGAL DESCRIPTION:	TAX MAP IN JOVONA TWP, MULTNOMAH COUNTY, OREGON		
SIZE:	0.51 ACRES (PER METROS BLUS)		
LOCATION:	9003 NW SKOLI BLVD		
LINE:	RR		

**APPLICANT/OWNER**  
STUART BRUDER  
9003 NW SKYLINE BLVD  
PORTLAND, OR 97231  
PH: 503-320-0890

**NW ENGINEERS**  
Engineering & Planning  
NW ENGINEERS, LLC  
3409 NE JOHN OLSEN AVE  
HILLSBORO, OR 97124  
PH: 503-661-4401  
FAX: 503-661-4402



**CMT SURVEYING AND CONSULTING**  
20330 SE HIGHWAY 212  
DAMASCUS, OR 97089  
PHONE (503) 850-4672 FAX (503) 850-4590

DESIGNED	DRAWN	REVIEWED	SUBMITTAL
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PCOV	1	of 4
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EXHIBIT  
A.3



DESIGNED
DRAWN
REVIEWED
SUBMITTAL

REVISION	BY	DATE
1		
2		
3		
4		
5		
6		
7		

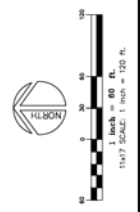
9003 NW SKYLINE BLVD  
NO719  
AERIAL PHOTOGRAPH

FOR: STUART BRUDER  
9003 NW SKYLINE BLVD  
PORTLAND, OR 97221  
PH: 503.320.0899  
FAX MAP: IN1W09A  
TAX LOT: 3200  
MULTNOMAH COUNTY, OREGON



**M&E ENGINEERS**  
Civil Engineering  
& Land Use Planning

3409 NE 26th Street  
Portland, OR 97218  
503.603.4403



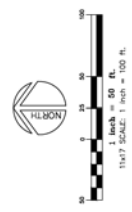
- NOTES:
1. AERIAL PHOTOGRAPH FROM METRO. DATE: 2017
  2. ADJACENT PARCELS AND BUILDINGS FROM METRO GIS DATA, FEBRUARY 9, 2021.



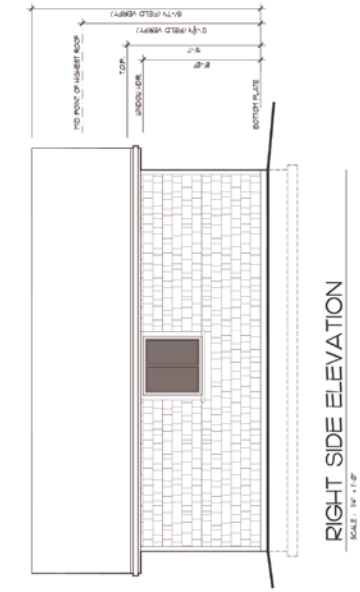




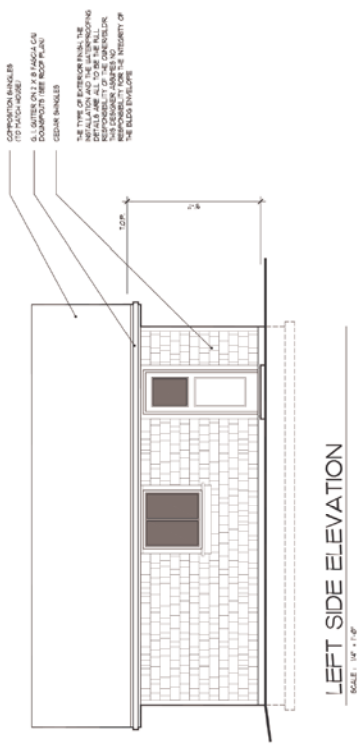




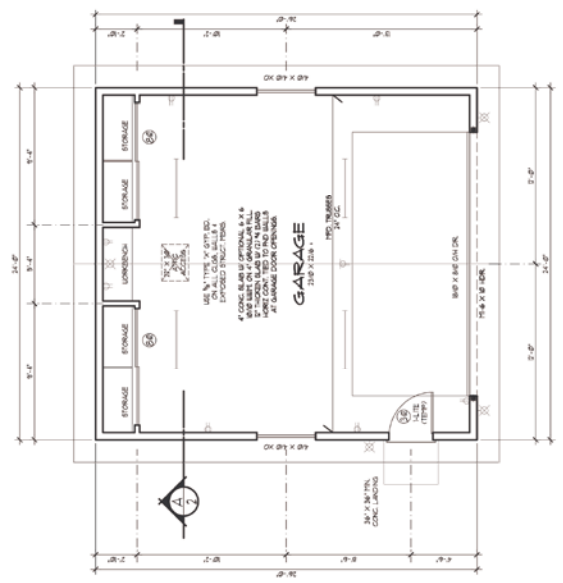
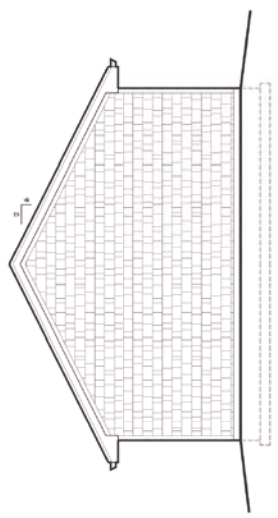




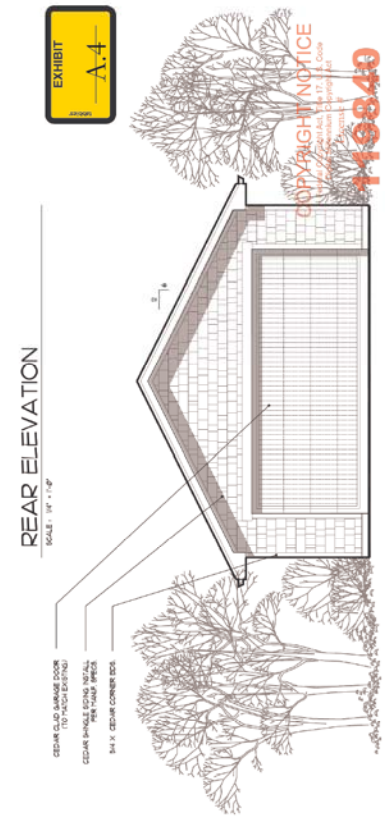
RIGHT SIDE ELEVATION



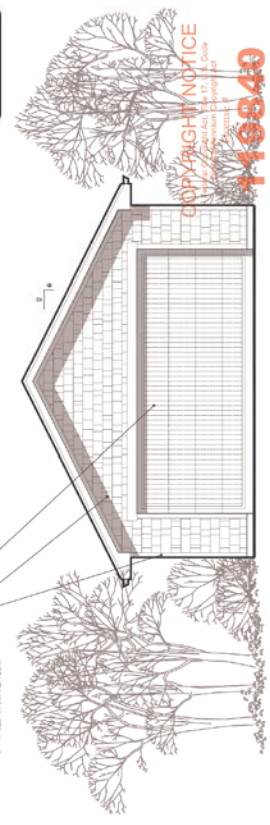
LEFT SIDE ELEVATION



**GARAGE PLAN**  
SCALE: 1/4" = 1'-0"  
REFER TO ENGINEERING SHEETS FOR LATERAL SPECIFICATIONS PRIOR TO CONSTRUCTION



REAR ELEVATION



FRONT ELEVATION

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This roof has been designed to support certain basic roofing materials and a comparison roofing of various types. The table below summarizes in detail the approximate loads in the design of the roof structure of this building.

LOADING FACTOR	DESIGN LOAD (PSF)	ACTUAL LOAD (PSF)	SAFETY FACTOR
DEAD LOAD	25.0	33.3	1.33
WIND LOAD	10.0	13.3	1.33
SNOW LOAD	5.0	6.7	1.33
SEISMIC LOAD	0.0	0.0	1.00
TOTAL LOAD	40.0	53.3	1.33

NOTE: THE LOADS ARE BASED ON A 100 YEAR WIND SPEED OF 100 MPH. THE WIND SPEED IS BASED ON A 100 YEAR WIND SPEED OF 100 MPH. THE WIND SPEED IS BASED ON A 100 YEAR WIND SPEED OF 100 MPH.

## LEGEND

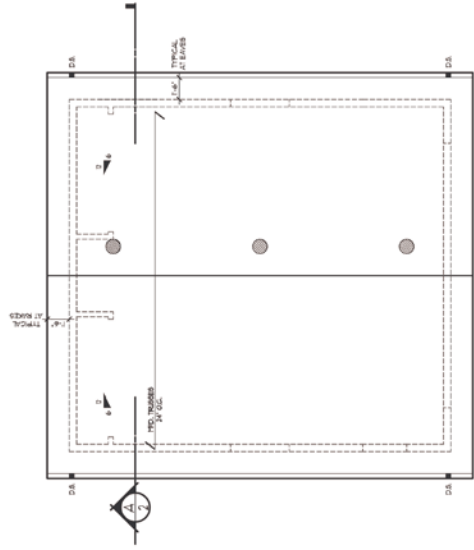
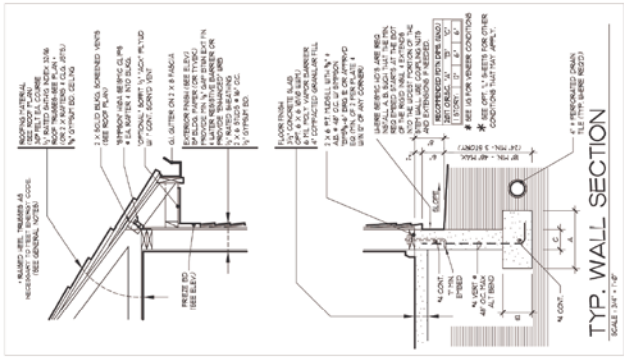
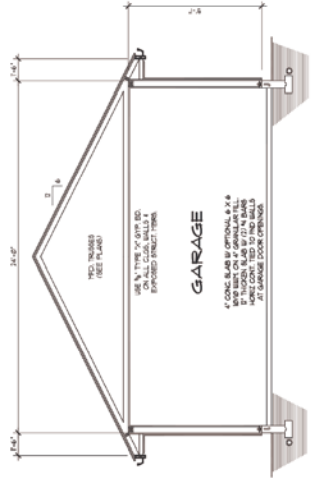
 1-4 HOUSES  
 5-7 ROAD  
 8-10 VALLEY TO TOWN ROAD  
 11-13 A ROAD AT ALL  
 14-16 A ROAD AT ALL  
 17-19 A ROAD AT ALL  
 20-22 A ROAD AT ALL  
 23-25 A ROAD AT ALL  
 26-28 A ROAD AT ALL  
 29-31 A ROAD AT ALL  
 32-34 A ROAD AT ALL  
 35-37 A ROAD AT ALL  
 38-40 A ROAD AT ALL  
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[illegible]

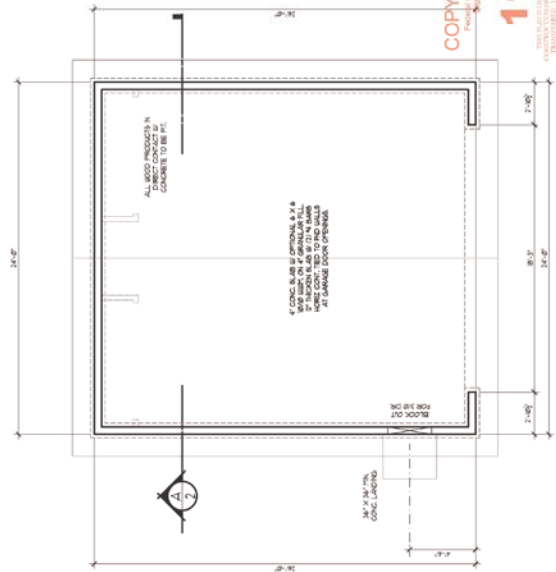
3-INCH BLOCK  
(4) 3/4" MIN. HOLES  
(5.0 IN. EA.)

4-INCH BLOCK  
(4) 3/4" MIN. HOLES  
(2.0 IN. EA.)

SCALE: 1/4" = 1'-0"


$$\text{SCALE} = 3.48 \times 10^{-6}$$
SCALE =  $10^0$  to  $10^3$ 

SCALE: 1/8" = 1'-0"



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