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## NOTICE OF DECISION

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**Case File:** T2-2022-15241

**Permits:** Significant Environmental Concern Review & Erosion and Sediment Control Permit

**Applicants:** Brian Dutton                      **Owners:** Bill & June Lattin

**Location:**    **Address:** 10911 NW Quarry Road, Portland  
                  **Map, Tax lot:** 1N1W06 -00100 & 1N1W06D-01600  
                  **Tax Account #:** R961060050 & R749702070  
                  **Property ID #:** R323916 & R266281

**Base Zone:** Exclusive Farm Use Zone (EFU)

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

**Proposal Summary:** The applicant requests a Significant Environmental Concern review for Wildlife Habitat and an Erosion and Sediment Control permit to construct an addition onto the existing dwelling and expand the existing driveway.

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**Decision:**    **Approved with Conditions**

**This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Friday, May 6, 2022 at 4:00 pm.**

**Opportunity to Review the Record:** The complete case file, including the Planning Director Decision containing Findings, Conclusions, Conditions of Approval, and all evidence associated with this application is available for review by contacting Izze Liu, Staff Planner via email at [isabella.liu@multco.us](mailto:isabella.liu@multco.us). Copies of all documents are available at the rate of \$0.40/per page.

**Opportunity to Appeal:** An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning office at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision is not appealable to the Land Use Board of Appeals until all local appeals are exhausted.

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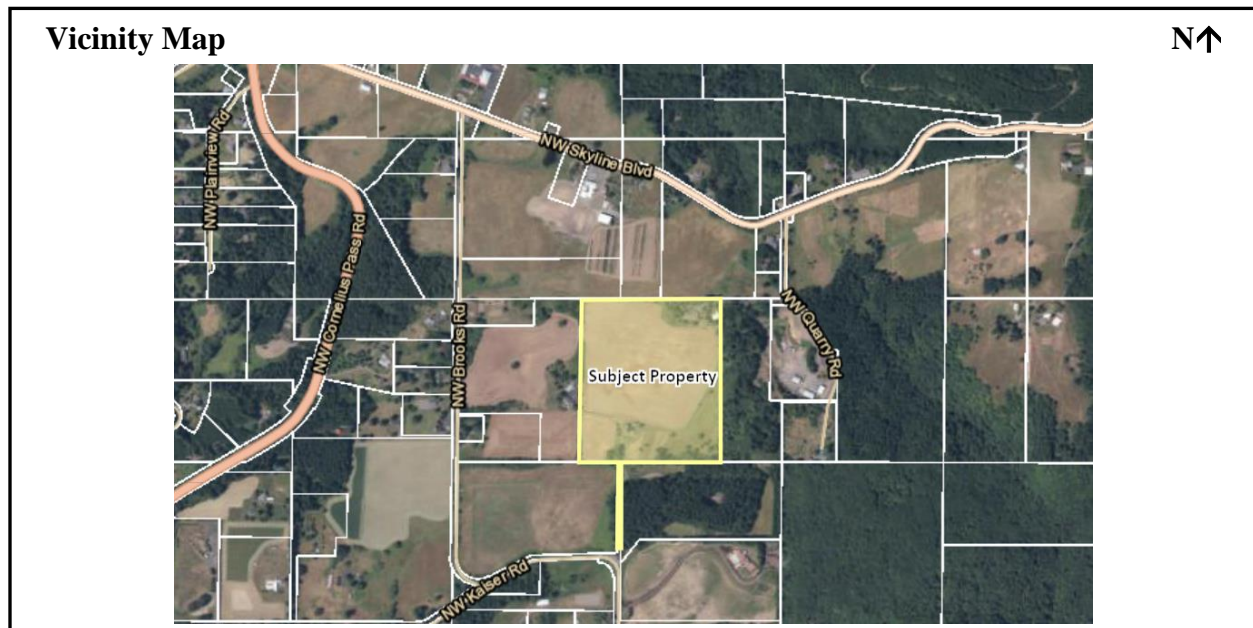
**Issued by:**

**By:** \_\_\_\_\_  
Izze Liu, Planner

**For:** Carol Johnson, AICP  
Planning Director

**Date:**    **April 22, 2022**

Instrument Number for Recording  
Purposes: #2003300389



### **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

**Lot of Record:** MCC 39.3005 Lot of Record – Generally, MCC 39.3070 Lot of Record – Exclusive Farm Use (EFU)

**Exclusive Farm Use:** MCC 39.4220 Allowed Use, (L) Alteration of a lawfully established habitable dwelling, MCC 39.4245(C), (D), (F), & (H) Dimensional Requirements and Standards

**Significant Environmental Concern – Wildlife Habitat:** MCC 39.5510 Uses; SEC Permit Required, MCC 39.5520 Application for SEC Permit, and MCC 39.5860 Criteria for Approval of SEC-h Permit

**Ground Disturbing Activity and Stormwater:** MCC 39.6210 Permits Required, MCC 39.6225 Erosion and Sediment Control Permit, MCC 39.6235 Stormwater Drainage Control

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.

#### **Significant Environmental Concern Permit**

1. Permit Expiration – This land use permit shall expire as follows:
  - a. Within four years of the date of the final decision for residential development on land zoned for Exclusive Farm Use outside of an urban growth boundary when construction has not commenced.

- 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.i, 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. Please reference the case number, T2-2021-15241 and send the notification to LUP-submittals@multco.us.
- b. Within four years of the date of commencement of construction when the structure has not been completed.
  - i. For the purposes of Condition 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 and reference the case number, T2-2021-15241. [MCC 39.1185(C)]

**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 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 zoning review plan check, the property owner shall:
  - a. Record pages 1 through 6 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. 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 Izze Liu at *isabella.liu@multco.us*. [MCC 39.1170(A) & (B)]
  - c. Sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming practices for which no action or claim is allowed under ORS 30.936 or 30.937 (Exhibit B.5). [MCC 39.4220(L)(3)]
  - d. Plant 14 native trees that are at least 3 to 4 feet tall or plant 43 native tree seedlings. The trees shall be planted within non-forested cleared areas contiguous to forested areas. [MCC 39.5860(C)(4)(b)]
    - i. Provide a landscape plan identifying the location of the proposed plantings. Include details of the size and types of vegetation.

- ii. Include the replacement tree for the removal of an existing 16-inch Pin Oak tree on the landscape plan. The replacement tree must be native and at least six feet tall. [MCC 39.5860(C)(4)(a)]
  - e. Provide a Lighting Plan that shows the location of all existing and proposed exterior lighting for the entire property. The plan shall include photographs of all existing fixtures at night with the lights turned on. Any existing exterior lighting that does not comply with MCC 39.6850(C)(1) shall be replaced or modified to bring it into compliance with the County's Dark Sky Lighting Standards. Details of how an existing light fixture will be modified shall be provided. Lighting details shall be included for all proposed light fixtures. The Lighting Plan and Lighting details shall be included in the construction drawings.
4. The Property Owners shall complete the Mitigation Plantings within one (1) year of this decision becoming final. A Planting Report along with photos demonstrating the plantings are installed in compliance with the Landscape Plan shall be provided to Land Use Planning within 30 days of completion of the plantings. The report shall be sent to *LUP-submittals@multco.us* and reference the case number, T2-2021-15241. [MCC 39.5860(C)]
5. The Property Owners shall ensure and maintain the Mitigation Plantings for five years. At any time the Mitigation Plantings fall below the 80% of the trees and 80% of the shrubs originally planted, the property owners shall replant the area during the next planting season to return it to at least the 85% planting rate. After the five year period, the property owners shall continue to keep the planting alive and not remove them without replanting, but no reporting is required. [MCC 39.5860(C)]
6. The Property Owners shall monitor the mitigation plantings and provide annual monitoring reports to Land Use Planning regarding the number and type of trees and plants surviving for the year. The report shall be sent to *LUP-submittals@multco.us* and reference the case number, T2-2021-15241. [MCC 39.5860(C)]
- a. Annual Reports shall occur for five growing seasons after the completion of the initial planting.
    - i. The Annual Report shall include the following information:
      - (1) The permit number, monitoring date, report year, and a determination of whether the site is meeting the performance standard of Condition 6 above.
      - (2) Current photographs of the Mitigation Planting taken within the last 30 days prior to the report date.
      - (3) The number and location of any Mitigation Plants that have been replaced or need to be replaced each year due to death or disease and planting date for their replacements. Replacement plants shall return the Mitigation Plantings to the numbers specified in Condition 6.
    - b. The Annual Report are due by November 30<sup>th</sup> of each year after the Mitigation Plantings are installed. The report shall be sent to *LUP-submittals@multco.us* and include the subject line T2-2021-15241 monitoring report. [MCC 39.5860(C)]
7. The property owners shall modify the existing light fixtures or replace them with Dark Sky Lighting compliant fixtures within six months of this decision. All proposed light fixtures for the addition shall be Dark Sky Light compliant when installed during the construction process.

Exterior lighting shall remain in compliance with the Dark Sky Lighting Standards. [MCC 39.6850 & MCC 39.4245(H)]

- a. Within 30 days of bringing the existing lighting into compliance with the Dark Sky Lighting Standards, the property owners shall contact Izze Liu via email at *isabella.liu@multco.us* and request a site inspection.
8. The nuisance plants listed in MCC 39.5580 Table 1 shall not be used as landscape plantings on the subject property. Any nuisance plants listed in MCC 39.5580 Table 1 shall be removed within the mitigation area prior to planting.

### **Erosion and Sediment Control Permit**

1. Erosion & Sediment Control Permit Expiration - This land use permit shall expire as follows:
  - a. This permit shall expire on the same day as the SEC-h Permit contained in the decision T2-2021-15241 unless construction of the foundation has commenced in accordance with the timelines specified in Condition of Approval 1 of the SEC permit, unless the development was established according to all specifications and ongoing responsibilities and obligations. Expiration of this permit means that a new application is required for uses that are not established within the approval period. [MCC 39.1183]
2. Prior to any ground disturbing activities, the property owners or their representatives shall obtain zoning review approval to authorize building permits with the City of Portland.
  - a. To obtain Zoning Review Approval, please send the Request for Building Permit Plan Review form and digital plan set to *LUP-submittals@multco.us* so that your plans may be reviewed and stamped prior to your submittal to the Building Department. The form is located at [www.multco.us/landuse/submitting-the-building-plan](http://www.multco.us/landuse/submitting-the-building-plan). Please reference this permit #T2-2021-15241 and case planner Izze Liu. Fees will be collected prior to the release of the plans.
    - (1) The digital plans must include the site plan, floor plan(s), building elevations, lighting plan and details, grading plans, construction details, stormwater drainage control documents and service provider forms for the Religious Center.
    - (2) If you need paper plans signed off, please contact Izze Liu via email at *isabella.liu@multco.us* to set up an appointment to submit the plans.
3. You must post the Erosion Control Permit notice card (Card) at the entrance to the property. The Card shall be posted prior to ground disturbance occurring on the site.
  - i. The Card is to be posted at the driveway entrance in a clearly visible location.
  - ii. The Card is to remain posted until such time as the ground disturbing work is completed. In the event the notice is lost, destroyed, or otherwise removed prior to completion of the grading work, the applicant shall immediately contact the Land Use Planning office to obtain a replacement. [MCC 39.6210(F)(2) and MCC 39.6225(B)]
4. When ground-disturbing activities authorized by this permit are ready to commence e-mail Staff Planner, Izze Liu at *isabella.liu@multco.us*. Work may commence after written notice is completed and erosion control measures have been installed. The County's inspector will be

visiting the project site to ensure that Best Management Practices are occurring. [MCC 39.6210(F)(2) and MCC 39.6225(B)]

5. Prior to any earth disturbing activity, the property owner(s), their agent(s) or their representative(s) shall install erosion control measures consistent with the approved erosion control plan (Exhibit A.13). These measures shall remain in place and in good working order. Such flagging, fencing, and/or markings shall be maintained until construction is complete. [MCC 39.6225(B)(12), through (15) and MCC 39.6225(B)(18)]
6. The property owner(s), their agent(s), or their representative(s) shall be limited to the following ground disturbing activities:
  - i. 4,726 square feet of ground surface area is to be disturbed as shown in Exhibits A.8 and A.14. [MCC 39.6225(A)(2) and MCC 39.6225(B)]
7. The property owner(s), their agent(s), or their representative(s) shall:
  - a. Maintain best erosion control practices through all phases of development. Erosion control measures are to include the installation of sediment fences/barriers at the toe of all disturbed areas and post construction re-establishment of ground cover. Straw mulch, erosion blankets, or 6-mil plastic sheeting shall be used as a wet weather measure to provide erosion protection for exposed soils. All erosion control measures are to be implemented using Best Management Practices (BMP). [MCC 39.6225(B)(12) through (15), MCC 39.6225(B)(18) and MCC 39.6225(B)(21)]
  - b. Remove any sedimentation caused by development activities from all neighboring surfaces and/or drainage systems. If any features within adjacent public right-of-way are disturbed, the property owner shall be responsible for returning such features to their original condition or a condition of equal quality. [MCC 39.6210(E)(1) and (2)]
  - c. Seed and mulch all disturbed soils to prevent erosion and sedimentation in the channel. Monitor daily to ensure vegetation is sprouting and that no erosion or sedimentation is occurring. Monitoring may cease when vegetation on the disturbed soils have stabilized the disturbed soils. [MCC 39.6225(B)(10) and MCC 39.6225(B)(12)]
8. On-site disposal of construction debris is not authorized under this permit. Any spoil materials removed off-site shall be taken to a location approved for the disposal of such material by applicable Federal, State and local authorities. This permit also does not authorize dumping or disposal of hazardous or toxic materials, synthetics (i.e. tires), petroleum-based materials, or other solid wastes which may cause adverse leachates or other off-site water quality effects. [MCC 39.6225(B)(20)]
9. The County may supplement described erosion control techniques if turbidity or other down slope erosion impacts results from on-site grading work. The Portland Building Bureau (Special Inspections Section), the local Soil and Water Conservation District, or the U.S. Soil Conservation Service can also advise or recommend measures to respond to unanticipated erosion effects. [MCC 39.6210(F)(2)]
10. The property owners shall install and maintain the Stormwater Drainage Control system as specified in Exhibit A.8 prior to occupancy of the dwelling. [MCC 39.3235]

**Note:** Once this decision is final, application for Zoning Review may be made with staff planner, Izze Liu, 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. 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.
4. Contact Izze Liu, Planner, via email at [isabella.liu@multco.us](mailto:isabella.liu@multco.us), **for an appointment** for review of the conditions of approval and to sign the building permit plans. Please ensure that any items required under, “Prior to land use sign-off for zoning review plan check” are ready for land use planning review. Land Use Planning must sign off on the plans and authorize the building permit before you can go to the Building Department.

**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 Review for Wildlife Habitat (SEC-h) and an Erosion and Sediment Control Permit to construct a 1,443-square-foot addition to the existing dwelling and expand the existing driveway by 3,283 square feet (Exhibit A.3).

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

**Staff:** The subject property is located in unincorporated west Multnomah County in the area known as West Hills Rural Plan Area. The property is zoned Exclusive Farm Use and is located outside of Metro’s Urban Growth Boundary (UGB).

### **3.0 Public Comment:**

**Staff:** Staff mailed a notice of application and invitation to comment on the proposed application to the required parties per MCC 39.1105 as Exhibited in C.2. Staff did not receive any public comments during the 14-day comment period.

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

#### **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.

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 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:**

- 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.)

\* \* \*

#### **MCC 39.3070 Lot of Record – Exclusive Farm Use (EFU)**

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

\* \* \*

**Staff:** The subject property was lawfully created through land use case number LD-26-86 (Exhibit B.2). Planning staff reviewed the last deed recorded for the subject property (Exhibit B.5) and found the legal description continues to be consistent with LD-26-86. *The subject property* (tax lots 1N1W06 -00100 & 1N1W06D-01600 combined) *remains a Lot of Record.*

#### **6.0 Exclusive Farm Use Zone Criteria:**

##### **6.1 MCC 39.4220 Allowed Uses**

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

\* \* \*

**(L) Alteration, restoration or replacement of a lawfully established habitable dwelling.**

**Staff:** The applicant is proposing to construct a 1,443-square-foot addition onto the existing dwelling which was lawfully established under land use case number PRE16-86. As defined in the Multnomah County Code, a “habitable dwelling” is a lawfully established dwelling that has intact exterior walls, a roof structure, indoor plumbing connected to a sanitary waste disposal system, kitchen sink, toilet, bathing facilities, interior wiring for interior lights, and a heating system. The applicant provided photographs demonstrating that the existing dwelling is a habitable dwelling (Exhibit A.11).

**(1) In the case of a replacement dwelling:**

**(a) The existing dwelling must be removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling, or**

**(b) If the applicant has requested a deferred replacement permit, the existing dwelling must be removed or demolished within three months after the deferred replacement permit is issued. If, however, the existing dwelling is not removed or demolished within three months after the deferred replacement permit is issued, the permit becomes void.**

**(2) A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release**

shall be signed by the county or its designee and state that the provisions of this paragraph regarding replacement dwellings have changed to allow the siting of another dwelling. The Planning Director or the Director's designee shall maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph.

**Staff:** The applicant is not proposing a replacement dwelling. *These criteria are not applicable.*

**(3) As a condition of approval, the landowner shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming practices for which no action or claim is allowed under ORS 30.936 or 30.937.**

**Staff:** *As conditioned, this criterion is met.*

## **6.2 MCC 39.4245 Dimensional Requirements and Development Standards**

\* \* \*

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

<b>Front</b>	<b>Side</b>	<b>Street Side</b>	<b>Rear</b>
<b>30</b>	<b>10</b>	<b>30</b>	<b>30</b>

**Staff:** The subject property was lawfully created as a flag-shaped lot under land use case number LD26-86. Based on the County's definitions of lot line (front)<sup>1</sup>, lot line (rear)<sup>2</sup>, and lot line (side)<sup>3</sup>, the eastern property boundary is the front lot line because it is closest and most parallel to NW Quarry Road which serves the subject property. Therefore, the western property boundary is the rear lot line and all other property boundaries are considered the side lot lines.

Based on the submitted site plan, the proposed dwelling addition will be located approximately 79 feet from the northern side lot line which is the closest property boundary to the proposed addition (Exhibit A.3). The dwelling addition will be a significant distance from all other property boundaries exceeding the minimum yard requirements. *These criteria are met.*

### **Maximum Structure Height – 35 feet**

**Staff:** The proposed dwelling addition is approximately 16.5 feet in height (Exhibit A.5). *This criterion is met.*

\* \* \*

**(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**

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<sup>1</sup> Lot Line (Front) – In the case of an interior lot, a line separating the lot from the street or accessway; in the case of a corner lot, a line separating the narrowest frontage of the lot from a street or accessway; and in the case of a flag lot, the lot line closest to and most nearly parallel with the street which serves the lot. A minimum front lot line length is a dimensional requirement to assure that a parcel or lot has sufficient street frontage and lot width near the street to accommodate a safe access driveway and reasonable building area after considering the required side yards. [MCC 39.2000]

<sup>2</sup> Lot Line (Rear) – The line dividing one lot from another and on the opposite side of the lot from the front lot line; and in the case of an irregular or triangular shaped lot, a line ten feet in length within the lot, parallel to and at the maximum distance from the front lot line.

<sup>3</sup> Lot Line (Side) – Any lot line not a front or rear lot line.

**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 right-of-way adjacent to the subject property is NW Kaiser Road, a rural local road. As required in Table 2 of MCC 29.571, the rural standard for local streets is a 50-foot right-of-way width. According to road survey number RD0107, the width of NW Kaiser Road is 40 feet (Exhibit B.4). As part of the land division approval in 1986, the property owners were required to dedicate an additional 10 feet of right-of-way. The right-of-way dedication was recorded (Exhibit B.3). No increase to the Minimum Front Yard standard is required. *This criterion is not applicable.*

**(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:** As discussed above, all of the structures meet the minimum yard and are below the maximum height requirements; 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 of Record.**

**(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 proposed dwelling addition will require an on-site sewage disposal system. The applicant provided a Septic Review Certification approved by the sanitarian demonstrating that the proposed dwelling addition will not impact the existing on-site sewage disposal system (Exhibit A.9). The applicant provided a Stormwater Drainage Control Certificate stamped by Thomas J, Sisul, a registered professional engineer with Sisul Engineering (Exhibit A.8). The proposed stormwater drainage control system includes a 6-inch stormwater pipe on the west side of the addition that would connect to an infiltration facility further west and away from the existing septic system. *These criteria are met.*

\* \* \*

**Staff:** The applicant is not proposing to construct an agricultural structure or equine facility as part of this proposal. *These criteria are not applicable.*

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

**Staff:** *As conditioned, this criterion is met.*

## **7.0 Significant Environmental Concern – Wildlife Habitat Criteria:**

### **7.1 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.**

**Staff:** The subject property is zoned EFU and has been lawfully established with a single-family dwelling. The applicant is proposing to alter the existing dwelling which is an allowed use in the EFU zone. As the dwelling addition and driveway expansion will occur within the SEC-h overlay, the proposed development is subject to the SEC permit requirements.

\*       \*       \*

\*       \*       \*

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

**(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 proposed dwelling addition and driveway expansion is located in an existing non-forested cleared area on the subject property (Exhibit A.3). *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.**

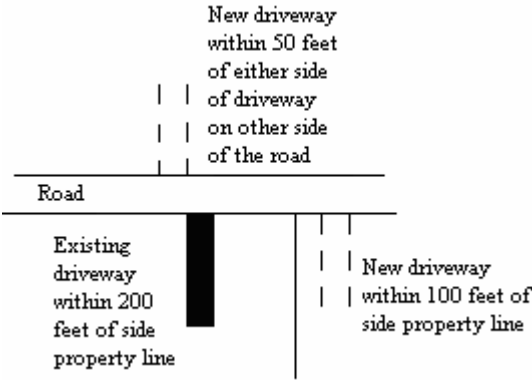
**Staff:** According to the County’s GIS data, the proposed dwelling addition and driveway expansion will occur more than 200 feet from NW Quarry Road. *This criterion is not met.*

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

**Staff:** According to the County’s GIS data, the existing driveway exceeds 500 feet in length. The applicant is proposing to expand the existing driveway by 3,283 square 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.**

**(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.

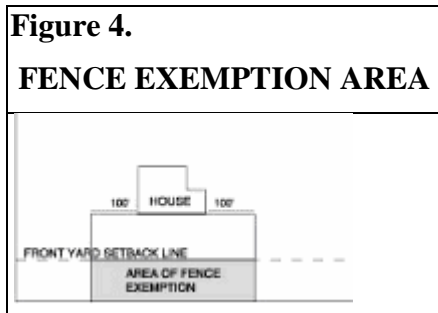
**Staff:** There are no driveways or access points within 200 feet on the same side of the road nor is there any on the opposite side of Quarry Road that can be clustered with. *Criterion met.*

- (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 northern property line is the closest side property line to the proposed dwelling addition and driveway expansion. According to the County’s GIS data, the developed areas on the adjacent properties to the north are located more than 200 feet from the common side property line. *This criterion is met.*

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

- (a) Fences shall have a maximum height of 42 inches and a minimum 17 inch gap between the ground and the bottom of the fence.
- (b) Wood and wire fences are permitted. The bottom strand of a wire fence shall be barbless. Fences may be electrified, except as prohibited by County Code.
- (c) Cyclone, woven wire, and chain link fences are prohibited.
- (d) Fences with a ratio of solids to voids greater than 2:1 are prohibited.
- (e) Fencing standards do not apply in an area on the property bounded by a line along the public road serving the development, two lines each drawn perpendicular to the principal structure from a point 100 feet from the end of the structure on a line perpendicular to and meeting with the public road serving the development, and the front yard setback line parallel to the public road serving the development. (See Figure 4 below.)



- (f) Fencing standards do not apply where needed for security of utility facilities.

**Staff:** No existing fencing exists within the 30-foot setback from NW Kaiser Road. The applicant is not proposing fencing as part of this development. *These criteria are not applicable.*

**(7) The nuisance plants in MCC 39.5580 Table 1 shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property.**

**Staff:** *As conditioned, these criteria are met.*

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

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

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

**Staff:** The basic development standards of (B)(2) cannot be met due to the physical characteristics unique to the property. The subject property is a flag lot with frontage on NW Kaiser Road. A new driveway access from NW Kaiser Road would result in a driveway that extends more than 2,000 feet in length. The existing access is taken from NW Quarry Road which is more than 500 feet in length but significantly shorter than the access from NW Kaiser Road. Due to the distance of the public road from the subject property, it is not feasible to meet the basic development standards.

\* \* \*

**(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:**

**(a) Each tree removed to construct the proposed development shall be replaced on a one to one ratio with a six foot tall native tree.**

**Staff:** The applicant is proposing to remove a single 16-inch Pin Oak tree (Exhibit A.2). *As conditioned, this criterion is met.*

**(b) For each 100 square feet of new building area, the property owner shall plant, one, 3-4 foot tall native tree or three native tree seedlings. The trees shall be planted to improve wildlife habitat first within non-forested cleared areas contiguous to forested areas, second within any degraded stream riparian areas before being placed in forested areas or adjacent to landscaped yards.**

**Staff:** The applicant is proposing to construct a 1,443-square-foot addition onto the existing dwelling which requires 14, 3-4 foot tall native trees or 43 native tree seedlings. Prior to the issuance of the building permit, the applicant will be required to submit a revised landscape plan to the Land Use Planning Division to demonstrate compliance with this criterion. At present, the applicant has not provided a planting plan or timing of planting. *As conditioned, this criterion is met.*

**(c) Existing fencing located in the front yard adjacent to a public road shall be consistent with subsection (B)(6).**

**Staff:** The subject property does not contain any fencing in the front yard adjacent to the public road. *This criterion is not applicable.*

**(d) For non-forested “cleared” areas that require nuisance plant removal pursuant to subsection (B)(7), the property owner shall set a specific date for the work to be completed and the area replanted with native vegetation. The time frame must be within two years from the date of the permit.**

**Staff:** *As conditioned, this criterion is 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 review and Erosion and Sediment Control permit to establish a dwelling addition and driveway expansion in the Exclusive Farm Use 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

Those exhibits have been reduced to a size of 8.5” x 11” for mailing purposes. All exhibits are available for review in Case File T2-2021-15241 by contacting the case planner, Izze Liu.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	Application Form	11.16.2021
A.2	1	Narrative	11.16.2021
A.3	1	Site Plan	11.16.2021
A.4	2	Floor Plans	11.16.2021
A.5	2	Elevation Drawings	11.16.2021
A.6	5	Supplemental Construction Details	11.16.2021
A.7	3	1997 Warranty Deed	11.16.2021
A.8	2	Stormwater Drainage Control Certificate	11.16.2021
A.9	4	Septic Review Certification	11.16.2021
A.10	9	Fire Service Agency Review	11.16.2021
A.11	7	Interior & Exterior Photos	11.16.2021
A.12	1	Transportation Planning Review	11.16.2021
A.13	8	Supplemental Narrative	03.30.2022
A.14	1	SEC-h Mitigation Option 2	03.30.2022
‘B’	#	Staff Exhibits	Date
B.1	4	Division of Assessment, Recording, and Taxation (DART): Property Information for 1N1W06 -00100 (Alt Acct# R961060050)	11.16.2021



B.2	28	Land Division Decision (LD26-86)	11.16.2021
B.3	1	Survey No. 49368 (LD26-86)	11.16.2021
B.4	3	Kaiser Road Survey (RD0107)	11.16.2021
B.5	1	Restrictive Covenant for Agriculture & Forest Practices	04.22.2022
'C'	#	Administration & Procedures	Date
C.1	1	Complete letter (day 1)	12.16.2021
C.2	7	Opportunity to Comment and mailing list	03.01.2022
C.3	17	Administrative Decision and mailing list	04.22.2022



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## CONDITIONS AND RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS THAT I \_\_\_\_\_  
the Owner of the following described real property located in Multnomah County, Oregon to wit;

Recorded in (Book and Page or Instrument) \_\_\_\_\_, on  
\_\_\_\_\_ in the Multnomah County Book of Records, does hereby acknowledge on  
behalf of himself, his/her heirs, legal representatives, assigns and lessees by the placement of this  
covenant or the acceptance and recording of this instrument that the property herein described is situated  
in or adjacent to an agricultural/forest zone in Multnomah County, Oregon and as such may be subjected  
to common and accepted farming practices (as defined by ORS 215.203) or accepted forest practices (as  
defined by ORS 527.610 to 527.730) such as pesticide and herbicide spraying, weed cutting, slash  
burning, irrigating, field plowing, harvesting, and any other accepted farming or forest practice. Said  
practices above enumerated ordinarily and necessarily produce noise, dust, spray residue, smoke, vapor,  
and other types of visual, odor, or noise pollution, which grantee accepts as a normal and necessary  
farming or forest practice and as part of the risk of purchasing a residential dwelling in a farm or forest  
area.

\_\_\_\_\_  
*Signature*

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_  
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State of OREGON

County of \_\_\_\_\_

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_\_\_\_ by  
  
\_\_\_\_\_

\_\_\_\_\_  
*Notary Public – State of Oregon*