

## NOTICE OF DECISION

---

**Case File:** T2-2021-15380

**Permit:** Significant Environmental Concern for Scenic View (SEC-v) and Significant Environmental Concern for Wildlife Habitat (SEC-h)

**Applicants:** Cory Trano **Owners:** Cory Trano & Jessica Tresser

**Location:** **Address:** 20245 NW Clark Ave. Portland **Map, Tax lot:** 2N2W12C-00100  
**Tax Account #:** R708300020 **Property ID #:** R255818

**Base Zone:** Commercial Forest Use (CFU-2)

**Overlays:** Significant Environmental Concern for Wildlife Habitat (SEC-h), Significant Environmental Concern for Scenic View (SEC-v), Significant Environmental Concern for Stream (SEC-s), and Geological Hazard (GH)

**Proposal Summary:** Applicant is seeking approval to build a 40' x 50' garage and retroactively permit a 97 sq. ft. shed and a 192 sq. ft. shed within the Significant Environmental Concern Overlays. The request also includes a Geologic Hazards permit exemption.

---

**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, September 23, 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 Marisol Cervantes, Staff Planner at 503-988-9452 or at Marisol.Cervantes@multco.us. Paper 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.

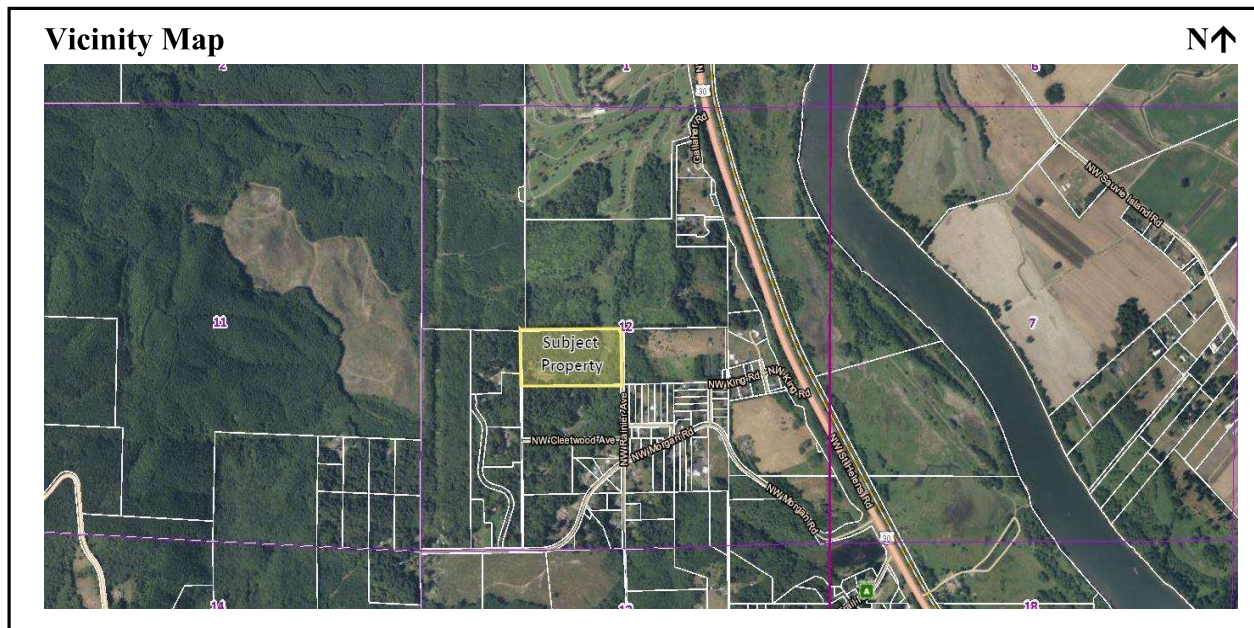
---

**Issued by:** \_\_\_\_\_

**By:** Marisol Cervantes, Planner

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

**Date:** Friday, September 09, 2022



### **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 Violations, MCC 39.2000 Definitions, MCC 39.3005 Lot of Record – Generally, MCC 39.3030 Commercial Forest Use – 2 (CFU-2), MCC 39.6235 Stormwater Drainage Control, MCC 39.6850 Dark Sky Lighting Standards

Commercial Forest Use – 2 (CFU-2) Zone: MCC 39.4070(T) Allowed Uses – Accessory Structures, MCC 39.4105 Building Height Requirements, MCC 39.4110 Forest Practice Setbacks and Fire Safety Zones, MCC 39.4115 Development Standards for Dwellings and Structures

Significant Environmental Concern for Wildlife Habitat (SEC-h): MCC 39.5510 Uses; SEC Permit Required, MCC 39.5520 Application for SEC permit, MCC 39.5860 Criteria for Approval of SEC-h permit

Significant Environmental Concern for Scenic View: MCC 39.5510 Uses; SEC Permit Required, MCC 39.5520 Application for SEC permit, MCC 39.5650 Criteria for Approval of SEC-v permit

Geological Hazards (GH): MCC 39.5075 Permits Required, MCC 39.5080 Exemptions

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 four (4) years of the date of the final decision for residential development on land zoned for Commercial Forest Use 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, 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 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 [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 these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein. [MCC 39.1170(B)]
3. Prior to land use sign-off for building plan check, the property owners or their representative shall:
  - a. The property owners shall 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 to Marisol Cervantes at [Marisol.Cervantes@multco.us](mailto:Marisol.Cervantes@multco.us). [MCC 39.1170(A) & (B)]
  - b. Record the Covenant to Prohibit Residential Use of Accessory Structure with the County Recorder. Proof of recording shall be made prior to the issuance of any permits and shall be filed with Land Use Planning Division. Recording shall be at the applicant's expense. [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 the exterior lighting complies with the Dark Sky Lighting Standards of MCC 39.6850. Provide pictures and spec. sheets for the proposed exterior lighting for the proposed garage and pictures of the existing lighting on the shed, chicken coop and the existing home.

- b. Provide revised building elevations to demonstrate the proposed structure will have a fire retardant roof and spark arrester for any chimney. [ MCC 39.4115(C)]
  - c. Provide a Minimal Impact Project erosion control plan for the proposed garage and Stormwater infiltration rock gallery as part of your plans. No excavated materials shall be placed on slopes over 10% or in a Geologic Hazard overlay zone. [MCC 39.6220]
  - d. Please submit a paint chip color sample you plan to paint the proposed garage. The paint chip sample shall be a dark earth tone color in order to meet the Scenic View criteria. Please choose a color from (Exhibit A.18, Page 4) and provide a copy of the paint sample.
  - e. Please submit detail information as to how the metal roof will be finished and the reflectivity level (Exhibit A.15). The metal roofing shall be treated with a matte finish that has a low-reflectivity rating. [MCC 39.5650(C)(2)]
5. Prior to and during construction, the property owner or their representative shall ensure that:
- a. The Best Management Practices related to erosion control and the Best Management Practices shall be in place for the proposed garage and stormwater infiltration system. [MCC 39.6220]
6. Prior to the construction of the proposed 40-ft by 50-ft accessory building, the property owners or their representatives shall obtain all required building permits. Upon completion of the structure, the owners shall obtain final inspections of the building permit before it is used. [MCC 39.4115(C)(1)]
7. As an on-going condition, the property owner shall:
- a. Establish and maintain the Primary Fire Safety Zones [MCC 39.4110(D)]
    - i. A primary fire safety zone is a firebreak extending a minimum of 30 feet in all directions around the proposed garage and existing structures. Trees within this safety zone shall be spaced with greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height.
  - b. The proposed Accessory structure, existing chicken coop and shed shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use. [MCC 39.4070(T)(2)]
  - c. 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. [MCC 39.5860(B)(7)]

**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 compete 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 Marisol Cervantes, Planner, at 503-988-9452 or [Marisol.Cervantes@multco.us](mailto:Marisol.Cervantes@multco.us), **for an appointment** for review of the conditions of approval and to sign the building permit plans. Please ensure that any items required under, “At the time of land use sign-off for building plan check...” are ready for land use planning review. Land Use Planning must sign off on the plans and authorize the building permit before you can go to the Building Department.

The above must be completed before the applicant can obtain building permits from the City of Portland. Two (2) sets each of the site plan and building plans are needed for building permit sign off. At the time of building permit review, Land Use Planning may collect additional fees, including an erosion control inspection fee, if applicable.

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

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

## **Findings of Fact**

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

### **1.0 Project Description:**

**Staff:** The applicant requests a Significant Environmental Concern for Scenic View (SEC-v) permit and a Significant Environmental Concern for Wildlife Habitat (SEC-h) permit for a 40’x 50’ (2,000 sq. ft.) garage and retroactively permit a 97 sq. ft. shed and a 192 sq. ft. shed. Additionally the applicant request also includes a Geologic Hazards permit exemption. The proposed development will occur within 100 feet of the existing dwelling.

### **2.0 Property Description**

**Staff:** The subject property is located in unincorporated west Multnomah County in the area known as the West Hills Rural Planning Area (RPA). The property is zoned Commercial Forest Use – 2 (CFU-2) and contains a dwelling, a garden shed and an existing chicken coop.

### **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.4. Staff did not receive any public comments during the 14-day comment period.

### **4.0 Administrative Procedures 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.

Presently, there is a garden shed and chicken coop (accessory structures) on the property that have not been granted zoning approval. As part of this application, these two structures will be reviewed. Approval of this application will help to resolve the code compliance issue identified during planning review. *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**

**\*\*\***

**MCC 39.3030 LOT OF RECORD – COMMERCIAL FOREST USE-2 (CFU-2)**

**(A) In addition to the standards in MCC 39.3005, for the purposes of the CFU-2 district a Lot of Record is either:**

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

**(2) A group of contiguous parcels or lots:**

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

**\*\*\***

**Staff:** The subject property is Lot 3 and Lot 4 of the River Road Tract subdivision. In 1992, the County approved a dwelling on the subject property under case file PRE 19-92 identifying that the subject property is a verified Lot of Record as the deeds reads Lot 3 and Lot 4 of River Road Tract Subdivision. The current configuration of the subject property matches the configuration of the approved case file PRE 19-92 as the most current deed of the subject property is from 2021 and has the same legal description. (Exhibit A.12 & Exhibit A.13). Therefore, the subject property remains a single Lot of Record. *Criteria met.*

**6.0 Commercial Forest Use – 2 (CFU-2)**

**6.1 MCC 39.4070 ALLOWED USES.**

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

**(T) Accessory Structures subject to the following:**

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

**(a) Garages or carports;**

**(c) Garden sheds;**

**(n) Similar structures.**

**\*\*\***

**Staff:** The applicant proposes a 40’ x 50’ garage accessory building to be used for personal use, which is incidental and customarily accessory to the established residential dwelling of the property. Additionally, the applicant proposes to retroactively permit a 197 square foot garden



shed and a 97 square foot chicken coop. The accessory buildings will all be located between 50 to 70+/- feet from the dwelling (Exhibit A.15 & Exhibit A.17). *Criteria met.*

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

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

**(4) The Accessory Structure shall not contain:**

**(a) More than one story;**

**(b) Cooking Facilities;**

**(c) A toilet;**

**(d) Bathing facilities such as a shower or bathing tub;**

**(e) A mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage; or**

**(f) A closet built into a wall.**

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

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

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

**Staff:** According to the proposed building plans (Exhibit A.18), the accessory structure is one story, open floor plan, does not contain any cooking facilities, nor a toilet or bathing facilities, or a closet. The proposed accessory structure is 40' x 50' (2,000 sq. ft.), the existing chicken coop is 97 square feet and the existing garden shed is 192 square feet with a total of 2,289 square feet of combined footprint of accessory buildings. The combined footprint of accessory building will not exceed 2,500 square feet of combined footprint.

A condition of approval requires the applicant to record the accessory structure covenant outlines in MCC 39.8860. *As conditioned, the above criteria are met.*

## **6.2 MCC 39.4105 BUILDING HEIGHT REQUIREMENTS**

**(A) Maximum structure height – 35 feet.**

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

**Staff:** According to the proposed building plans (Exhibit A.18), the proposed garage, existing garden shed and chicken coop shed height will not exceed 35 feet. The proposed garage plans show a height of 25 feet, for the chicken coop a height of 9 feet and for the shed a height of 12 feet. The proposed structure and existing structures meet the structure height requirement.

*Criteria met.*

### 6.3

#### MCC 39.4110 Forest Practice Setbacks & Fire Safety Zones

The Forest Practice Setbacks and applicability of the Fire Safety Zones is based upon existing conditions, deviations are allowed through the exception process and the nature and location of the proposed use. The following requirements apply to all structures as specified:

Use	Forest Practice Setbacks			Fire Safety Zones
Description of use and location	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)
Accessory structures within 100 ft. of the dwelling	N/A	30	30	Primary required

**Staff:** The proposed garage and garden shed will be placed approximately 50 feet of the existing dwelling and the chicken coop is approximately 65 feet from the dwelling (Exhibit A.17). The proposed garage is 130 feet from the west property line, 151 +/- feet from the south property line, 534 feet from the north property line, and 600 plus feet from the eastern property line. The existing garden shed and chicken coop are approximately the same distance as the proposed accessory building (Exhibit A.17). The proposed accessory building and existing garden shed and chicken coop exceed the minimum required setback distances. *Criteria met.*

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

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

**Staff:** The applicant does not propose any reductions to the Forest Practices Setbacks or an exception to the Secondary Fire Safety Zone. *Criteria Met.*

**(C) The minimum forest practices setback requirement shall be increased where the setback abuts a street having insufficient right-of-way width to serve the area.**

**Staff:** The Transportation Planning Review completed by the County Right-of-way office does not indicate the need for increased setbacks due to insufficient right-of-way (Exhibit A.22). *Criteria met.*

**(D) Fire Safety Zones on the Subject Tract.**

**(1) Primary Fire Safety Zone.**

**(a) A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure. Trees within this safety zone shall be spaced with greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height.**

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

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

**(2) Secondary Fire Safety Zone.**

**\*\*\***

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

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

**(5) Required Primary and Secondary Fire Safety Zones shall be maintained by the property owner in compliance with the above criteria listed under (1) and (2).**

**Staff:** According to the revised site plan (Exhibit A.17), the proposed accessory building and existing structures will have the required 30 foot Primary Fire Safety Zones. The proposed site plan shows the primary fire safety set back. The secondary fire safety set back is not required for the proposed project as all existing and proposed structures are within 100 feet of the existing dwelling. *Criterion met.*

**6.4 MCC 39.4115 DEVELOPMENT STANDARDS FOR DWELLINGS & STRUCTURES**  
**All dwellings and structures shall comply with the approval criteria in (B) through (D) below except as provided in (A). All exterior lighting shall comply with MCC 39.6850:**

**(3) Accessory buildings.**

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

**\*\*\***

**(C) The dwelling or structure shall:**

**(1) Comply with the standards of the applicable building code or as prescribed in ORS 446.003 through 446.200 relating to mobile homes;**

**(2) If a mobile home, have a minimum floor area of 600 square feet and be attached to a foundation for which a building permit has been obtained;**

**(3) Have a fire retardant roof; and**

**(4) Have a spark arrester on each chimney.**

**Staff:** The proposed garage and existing sheds are not a mobile home. The proposed garage will be stick built and subject to building permits for applicable building codes. The other two structures are exempt from obtaining building permits as they are less than 200 sq. ft. in size. A condition of approval requires the applicant to demonstrate compliance with (3) and (4) during building plan review. *Through a condition, the above criteria can be met.*

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

### **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.**

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

**Staff:** The applicant has provided the required information as Exhibits A.14 – A.23 including site plans, floor plans and areas of proposed grading and Stormwater infiltration system.

### **7.2 MCC 39.5520 APPLICATION FOR SEC PERMIT.**

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

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

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

**(2) A map of the property showing:**

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

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

**(c) Contour lines and topographic features such as ravines or ridges;**

**(d) Proposed fill, grading, site contouring or other landform changes;**

**(e) Location and predominant species of existing vegetation on the parcel, areas where vegetation will be removed, and location and species of vegetation to be planted, including landscaped areas;**

**(f) Location and width of existing and proposed roads, driveways, and service corridors.**

**Staff:** The applicant provided a detailed narrative and site plan of the above criteria (Exhibit A.15 & A.17). *Criteria met.*

### **7.3 MCC 39.5860 CRITERIA FOR APPROVAL OF SEC-H PERMIT**

**(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 provided the required application materials as Exhibits A.14 – A.23. As shown on the site plan and stated in the narrative (Exhibit A.15 & A.17). *Criteria met.*

#### **(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 development is limited to the existing cleared area as shown on the site plan (Exhibit A.17). No new clearing of trees is proposed only limbing up of trees to meet the primary fire safety zone requirements. The proposed thinning is only proposed to the trees within 30 feet of the garage, shed and chicken coop. (Exhibit A.15). *Criterion met.*

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

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

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

**(a) The access road/driveway approach onto a public road shall be located within 100 feet of a side property line if adjacent property on the same side of the road has an existing access road or driveway approach within 200 feet of that side property line; or**

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

\*\*\*

**Staff:** The proposed development is more than 200 feet from a public road and the existing driveway is more than 500 feet in length. While the subject property is bordered by two public right-of-ways on its eastern and western boundaries, these right-of-ways are not developed. The subject property is accessed via an easement from the eastern neighboring property (Exhibit A.15). On the property to the east, the subject property's driveway enters NW Clark Avenue immediately adjacent to the driveway for 20215 NW Clark Avenue and this same access point serves the dwelling at 19029 NW King Rd (Exhibit B.4). *Criteria (2) and (3) have not been met. Criterion (4) has been 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:** Per the site plan (Exhibit A.17) and recent 2020 aerial photos, the adjacent properties do not have development within 200 feet of a common side property line. *Criterion met.*

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

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

**(b) Wood and wire fences are permitted. The bottom strand of a wire fence shall be barbless. Fences may be electrified, except as prohibited by County Code.**

**(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.**

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

**Staff:** No new fencing is proposed as part of this development. (Exhibit A.15). *Criteria met.*



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

**Staff:** The applicant does not propose to plant any nuisance plants listed in MCC 39.5580 (Exhibit A.15). A condition of approval is included to ensure the above criterion is met. *As conditioned, the above criterion is 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;**

**Staff:** The applicant cannot meet the development standards in subsection (B) due to the existing physical characteristics of the subject property such as the length of the driveway. The applicant has proposed no clearing of trees and is proposing to cluster the accessory garage, small shed, and chicken coop with the dwelling in an already cleared area. (Exhibit A.23).

**(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 proposed garage and existing chicken coop and shed will be placed in the existing cleared areas and no proposed clearing of trees will occur. To maintain the fire safety standards and the existing forest tree canopy the applicant proposes only minimal limbing up of the existing trees surrounding the existing and proposed development to meet the primary fire safety zone requirements. No new fencing is proposed for this development and no new cleared areas are proposed (Exhibit A.17). The existing forest tree canopy cover on-site will not be disturbed, will help maintain coverage of the existing structures, and proposed garage

and no disturbed stream area will be affected for this development. *As conditioned, criteria met.*

## **8.0 Significant Environmental Concern for Scenic View (SEC-v)**

### **8.1 MCC 39.5650 CRITERIA FOR APPROVAL OF SEC-V PERMIT -SIGNIFICANT SCENIC VIEWS.**

**(A) For purposes of this Section, the following terms and their derivations shall have the meanings provided below:**

**(1) Significant Scenic Resources – Those areas designated SEC-v on Multnomah County sectional zoning maps.**

**(2) Identified Viewing Areas – Public areas that provide important views of a significant scenic resource, and include both sites and linear corridors. The Identified Viewing Areas are:**

**Bybee-Howell House**

**Virginia Lakes**

**Sauvie Island Wildlife Refuge**

**Kelley Point Park**

**Smith and Bybee Lakes**

**Highway 30**

**The Multnomah Channel**

**The Willamette River**

**Public roads on Sauvie Island.**

**(3) Visually Subordinate – The subject development does not noticeably contrast with the surrounding landscape, as viewed from an identified viewing area. Development that is visually subordinate may be visible, but is not visually dominant in relation to its surroundings.**

**Staff:** The above criteria is for information purposes the below section will describe how the proposed development meets the scenic view overlay. *Criteria is for informational purposes.*

**(B) In addition to the information required by MCC 39.5520, an application for development in an area designated SEC-v shall include:**

**(1) Details on the height, shape, colors, outdoor lighting, and exterior building materials of any proposed structure;**

**(2) Elevation drawings showing the appearance of proposed structures when built and surrounding final ground grades;**

**(3) A list of identified viewing areas from which the proposed use would be visible; and,**

**(4) A written description and drawings demonstrating how the proposed development will be visually subordinate as required by subsection (C) below, including information on the type, height and location of any vegetation or other materials which will be used to screen the development from the view of identified viewing areas.**

**Staff:** Elevation drawings are included in (Exhibit A.18) for the proposed accessory garage and the existing structures. The applicant provided the locations of the existing and proposed lighting fixtures (Exhibit A.18), but no details to the fixtures were provided. A condition of approval requires he provides the fixture details. Applicant narrative (Exhibit A.15) describes the existing colors for the existing structures (garden shed and coop) as dark grey with asphalt shingle roofs. The proposed structure will have siding material of cement fiber and a metal roofing that will be finished to have minimal reflectivity (Exhibit A.15).

The applicant has supplied information (Exhibit A.23) that represents that the site is not visible from the identified viewing areas. County LIDAR studies have determined that the subject development area is topographically visible from the following Identified Viewing Areas: Bybee-Howell House, Virginia Lakes, Sauvie Island Wildlife Refuge, Kelley Point Park, Smith and Bybee Lakes, Highway 30, Multnomah Channel, and Public roads on Sauvie Island. *Criteria met.*

**(C) Any portion of a proposed development (including access roads, cleared areas and structures) that will be visible from an identified viewing area shall be visually subordinate. Guidelines which may be used to attain visual subordination, and which shall be considered in making the determination of visual subordination include:**

**(1) Siting on portions of the property where topography and existing vegetation will screen the development from the view of identified viewing areas.**

**(2) Use of nonreflective or low reflective building materials and dark natural or earthtone colors.**

**(3) No exterior lighting, or lighting that is directed downward and sited, hooded and shielded so that it is not highly visible from identified viewing areas. Shielding and hooding materials should be composed of nonreflective, opaque materials.**

**(4) Use of screening vegetation or earth berms to block and/or disrupt views of the development. Priority should be given to retaining existing vegetation over other screening methods. Trees planted for screening purposes should be coniferous to provide winter screening. The applicant is responsible for the proper maintenance and survival of any vegetation used for screening.**

**(5) Proposed developments or land use shall be aligned, designed and sited to fit the natural topography and to take advantage of vegetation and land form screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics.**

**(6) Limiting structure height to remain below the surrounding forest canopy level.**

**(7) Siting and/or design so that the silhouette of buildings and other structures remains below the skyline of bluffs or ridges as seen from identified viewing areas. This may require modifying the building or structure height and design as well as location on the property, except:**

**(a) New communications facilities (transmission lines, antennae, dishes, etc.), may protrude above a skyline visible from an identified viewing area upon demonstration that:**

- 1. The new facility could not be located in an existing transmission corridor or built upon an existing facility;**
- 2. The facility is necessary for public service; and**
- 3. The break in the skyline is the minimum necessary to provide the service.**

**Staff:** The proposed development is located in a cleared area of the property with surrounding forest canopy. The proposed structure will be painted a dark earth tone that is selected from the palette attached (Exhibit A.18, page 4), and siding materials will consist of cement fiber composite material typically like hardy board. The proposed roof is metal but the applicant has not provided information regarding its reflectivity rating. They will need to provide information as to how the metal roof will be finished to ensure low reflectivity. Although the proposed structure and existing structures are to be screened through the existing tree canopy metal roofing is highly reflective and will need to have a low reflectivity rating. The existing shed and farm building are painted dark grey and have an asphalt shingle roof (Exhibit A.18). The proposed structure and existing structures are screened from view of the identified viewing areas by an existing tree canopy of Big Leaf Maple, Red Alder, and Red Cedar as tall as 50 feet (Exhibit A.23). The proposed structure height is 25 feet. The use of metal roofing treated to have a low reflectivity rating and the use of dark earth tones along with the maintenance of the surrounding tree canopy, will allow the proposed accessory building and the two existing structures to be visually subordinate from identified viewing areas. *As conditioned, criterion met.*

**(D) Mining of a protected aggregate and mineral resource within a PAM Overlay shall be done in accordance with any standards for mining identified in the protection program approved during the Goal 5 process. The Application for SEC-v permit must comply only with measures to protect scenic views identified in the Goal 5 protection program that has been designated for the site.**

**(E) The approval authority may impose conditions of approval on an SEC-v permit in accordance with MCC 39.5535, in order to make the development visually subordinate. The extent and type of conditions shall be proportionate to the potential adverse visual impact of the development as seen from identified viewing areas, taking into consideration the size of the development area that will be visible, the distance from the development to identified viewing areas, the number of identified viewing areas that could see the development, and the linear distance the development could be seen along identified viewing corridors.**

**Staff:** The proposal does not include any mining of a protected aggregate or mineral resource. Therefore, (D) is not applicable to this proposal. The proposal does not require the development to be visually subordinate as described

## **9.0 Geological Hazards (GH)**

### **9.1 MCC 39.5075 PERMIT REQUIRED.**

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

### **9.2 MCC 39.5080 EXEMPTIONS**

**Ground disturbing activity occurring in association with the following uses is exempt from GH permit requirements:**

**(N) Uses not identified in subsections (A) through (M) that meet all of the following requirements:**

- (1) Natural and finished slopes will be less than 25 percent; and,**
- (2) The disturbed or filled area is 20,000 square feet or less; and,**
- (3) The volume of soil or earth materials to be stored is 50 cubic yards or less; and,**
- (4) Rainwater runoff is diverted, either during or after construction, from an area smaller than 10,000 square feet; and,**
- (5) Impervious surfaces, if any, of less than 10,000 square feet are to be created; and,**
- (6) No drainageway is to be blocked or have its stormwater carrying capacities or characteristics modified; and,**
- (7) The use will occur outside the Tualatin River and Balch Creek drainage basins.**

**Staff:** The area where the development is proposed is within the mapped Geologic Hazard overlay zone. The terrain where the building and structures will be located is a bench at the top of the slope leading up to the site. The proposed development of the accessory building and two existing structures and the Stormwater infiltration system will have finished slopes of 5% and the total disturbed area will be 5,500 square feet. Eight inches of top soil will be excavated from the stormwater infiltration area where gravel will then refill the area. The applicant has not identified where the excavated materials will be placed. He stated it will not be stored on-site (Exhibit A.15 & A.17). The spreading of excavated materials cannot occur on slopes over 10% unless an Erosion and Sediment Control permit is issued. In addition, soil cannot be placed within the GH zone. The proposed Stormwater infiltration system will have rainwater runoff diverted to the proposed gravel infiltration bed as show in (Exhibit A.19). The total new impervious surface is 4,837 square feet including the Stormwater infiltration system. Lastly, the work is located outside the Tualatin River and Balch Creek Drainage basins. *Criterion met.*

## 10.0 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Significant Environmental Concern Wildlife Habitat and Scenic View and Commercial Forest Use Development Standards to establish an accessory shop in the CFU-2 zone. This approval is subject to the conditions of approval established in this report.

## 11.0 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 T2-2021-15380 by contacting Marisol Cervantes at 503-988-9452 or via email at [Marisol.Cervantes@multco.us](mailto:Marisol.Cervantes@multco.us).

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	12.29.2022
A.2	6	Applicant Narrative	12.29.2022
A.3	1	Site Plan	12.29.2022
A.4	3	Floor Plans & Elevations	12.29.2022
A.5	8	Stormwater Certificate	12.29.2022
A.6	6	Septic Review Certificate	12.29.2022
A.7	7	Fire Service Review Form	12.29.2022
A.8	4	Transportation Planning Review Form	12.29.2022
A.9	4	Significant Environmental Concern Scenic View Site Photos	12.29.2022
A.10	1	Warranty Deed recorded May 12, 1947 in Book 1170, Pages 534-535	12.29.2022
A.11	1	Statutory Special Warranty Deed recorded September 6, 1994 instrument #94-133955	12.29.2022
A.12	3	Statutory Warranty Deed recorded April 16, 2021 instrument #2021-062195	12.29.2022
A.13	1	River Road Tract Plat Map	12.29.2022
A.14	1	Revised General Application to include shed & chicken coop	03.12.2022
A.15	9	Revised Applicant Narrative	03.12.2022



A.16	3	Cover Letter & Incomplete Letter Response	03.12.2022
A.17*	1	Revised Site Plan	03.12.2022
A.18	8	Revised Floor Plans & Elevations of Buildings	03.12.2022
A.19	7	Revised Stormwater Certificate to include unpermitted structures	03.12.2022
A.20	5	Revised Septic Review Certificate to include unpermitted structures	03.12.2022
A.21	22	Revised Fire Service Review Form & Fire Agency Comments	03.12.2022
A.22	12	Revised Transportation Planning Form	03.12.2022
A.23	13	Revised Significant Environment Concern for Scenic View Site Photos	03.12.2022
<b>‘B’</b>	<b>#</b>	<b>Staff Exhibits</b>	<b>Date</b>
B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for R255818 (Alt Acct#R708300020)	12.29.2022
B.2	1	Division of Assessment, Recording, and Taxation (DART): Map with R560871 (Alt Acct#R708300021)	12.29.2022
B.3	1	Property Tax Map 2N2W12C-00100	12.29.2022
B.4	1	Aerial photo of driveway access onto NW Clark Rd.	09.06.2022
<b>‘C’</b>	<b>#</b>	<b>Administration &amp; Procedures</b>	<b>Date</b>
C.1	4	Incomplete letter	01.25.2022
C.2	1	Applicant’s acceptance of 180 day clock	02.01.2022
C.3	1	Complete letter (day 1)	04.08.2022
C.4	4	Opportunity to Comment and mailing list	05.27.2022
C.5	1	Applicant 150 Day Deadline Extension Form	08.18.2022
C.6	21	Administrative decision and mailing list	09.09.2022