

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

NOTICE OF DECISION

This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

Case File: T2-2017-7920

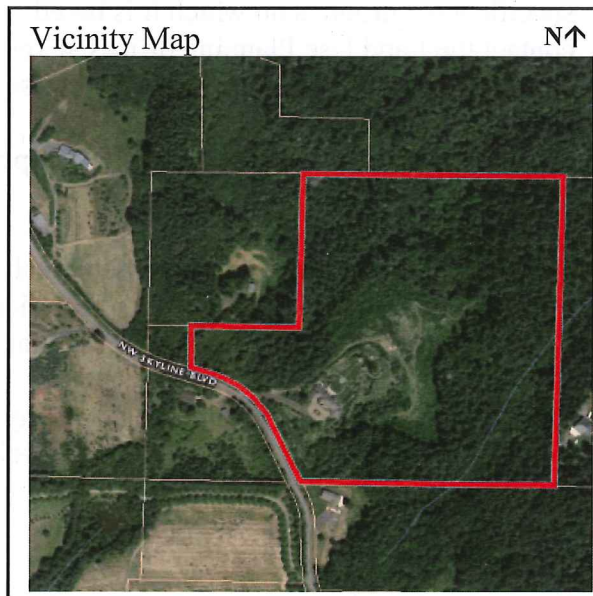
Permit: Forest Development Standards and Significant Environmental Concern for Wildlife Habitat

Location: 13610 NW Skyline Blvd.
Tax Lot 3500, Section 25
Township 2 North, Range 2 West, W.M.
Tax Account #R972250250
Property ID #R325920

**Applicants/
Owners::** Brad & Lisa Graff

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

Overlays: Significant Environmental Concern for Wildlife Habitat (SEC-h)

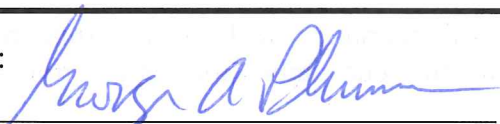


Summary: A request for a Forest Development Standards and Significant Environmental Concern Permits reviews for ground mount solar system and new forest practices building (more than 100 feet from dwelling), a greenhouse within 100 feet of dwelling and “after the fact” permitting of additional landscaping area/geothermal system installation, farming area, and a gazebo more than 100 feet from dwelling.

Decision: Approved with Condition

Unless appealed, this decision is effective April 12, 2018, at 4:00 PM.

Issued by:



George A. Plummer, Planner

For: Michael Cerbone, AICP, Planning
Director

Date March 29, 2018

Instrument Number for Recording Purposes: #2010016504

Opportunity to Review the Record: A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact George Plummer, Planner at george.a.plummer@multco.us or (503) 988-0202 (8 am to 4 pm Tuesday through Friday).

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 37.0640. 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 offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Land Use Board of Appeals until all local appeals are exhausted.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is April 12, 2018, at 4:00 PM.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 33.2200 - .2310: Commercial Forest Use -2, MCC 33.4500-.4535: Significant Environmental Concern and 33.4567-4570: Significant Environmental Concern for Wildlife Habitat.

Copies of the referenced Multnomah County Code (MCC) sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at <http://www.multco.us/landuse>

Scope of Approval

1. 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.
2. **This land use permit expires two years from the date the decision is final pursuant to MCC 37.0690 as applicable. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0695, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.**

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. 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 owners to comply with these documents and the limitations of approval described herein. [MCC 37.0660]

2. The property owners shall ensure that the forest practices building is to be used exclusively for storage and repair of equipment and other items used in the management of the forest use on the property. [MCC 33.2220(A)]
3. The property owners shall ensure that the photovoltaic solar system is accessory to a primary structure or use that converts energy into a usable form such as electricity and conveys that energy to uses allowed on the premises. [MCC 33.2220 (W)]
4. The property owners shall establish and maintain Primary Fire Safety Zones around each building and the solar array structure. A Primary Fire Safety Zone shall be as follows [MCC 33.2256(D)(4) & (5)]:
 - (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 down the slope from a dwelling or structure as follows: 10 % to 20% increases the primary fire safety to 80 feet. [MCC 33.2256(D)(1)]
5. The property owners shall establish and maintain Secondary Fire Safety Zones around each building and the solar array structure. A Secondary Fire Safety Zone shall be as follows [MCC 33.2256(D)(4) & (5)]:

A secondary fire safety zone is a fire break extending a minimum of 100 feet in all directions around the primary safety zone. The goal of this safety zone is to reduce fuels so that the overall intensity of any wildfire is lessened. Vegetation should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent the spread of fire up into the crowns of the larger trees. [MCC 33.2256(D)(2)]
6. The property owners shall obtain building permit for the gazebo and the solar array and ensure that structures comply with the standards of the applicable building code.
7. The property owners shall ensure that the forest practices building, gazebo and the greenhouse have a fire retardant roofs and have a spark arrester on any chimney. [MCC 33.2261(C)]
8. The property owners shall ensure that the reforestation plan detailed in the submittal and the Wildlife Conservation Plan (Exhibits A.12, A.14 and A.36) are implement and maintained. [MCC 33.2261 and MCC 33.4570(C)(1)]
9. The property owners shall ensure that the commercial farm use operation detailed in the application is implemented. [MCC 33.2261]

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.

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, the applicant shall call the Staff Planner, George Plummer, Planner at george.a.plummer@multco.us or (503) 988-0202 (8 am to 4 pm Tuesday through Friday) for an appointment for review and approval of the conditions and to sign the building permit plans. Please note, Multnomah County must review and sign off the building permits before the applicant submits building plans to the City of Portland. Five sets each of the site plan and building plans are needed for building permit sign off. At the time of building permit review, a fee will be collected. In addition, an erosion control inspection fee may be required.

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. PROJECT DESCRIPTION:

Staff: A request for a Forest Development Standards and Significant Environmental Concern Permits reviews for ground mount solar system and new forest practices building (more than 100 feet from dwelling), a greenhouse within 100 feet of dwelling and “after the fact” permitting of additional landscaping area/geothermal system installation, farming area, and a gazebo more than 100 feet from dwelling.

This permit review is the first step in correcting code compliance issues resulting from in development previously done without permits. This permit review will also review and permit the additional buildings and solar system structure.

2. PROPERTY DESCRIPTION AND HISTORY :

Staff: A single family dwelling was approved on January 13, 2010 for the subject property by Case T2-09-054 through ‘template test’ provisions. On July 8, 2010 Case T2-10-012 approved relocating the dwelling site 50 feet to the north of the site previously was approved. A Grading and Erosion Control Permit was issued July 9, 2010 through Case T1-2010-548. Case T2-10-012 and T1-2010-548 and the Building Permit Plans show the area committed to the residential development as the area between the dwelling and Skyline Blvd. and about 100 feet of landscaped lawn to the northeast of the dwelling.

When the property owners/applicants inquired about placement of the proposed ground mount solar system, it was discovered that there had been additional development beyond what was previously approved. The landscaped area to the northeast of the dwelling was expanded by about 180 feet by 170 feet or about 30,600 square feet. In that area (the 30,600 sq ft area), a geothermal system was installed, a gazebo was built and a pond was dug. The additional area was not approved through the previous cases, the a geothermal system and gazebo were not approved and the pond while previously mentioned was not included in the submitted plans for Grading and Erosion Control Permit Case T1-2010-548 or the Building Permit stamped plans.

The narrative states that a Grading and Erosion Control (GEC) permit was deemed as unnecessary for the part of the development that wasn’t shown on the GEC site plan because the applicant claims slopes were less than 10 percent. A GEC permit was in fact needed for the

earth work. Given a GEC was needed for the rest of the development, the soil disturbance exceeded 10,000 square feet, it was required for all the development. All the development needed to be on the Case T2-10-012 site plan, GEC plan, and on the building permit plan. The pond was not depicted in a legible site plan that could be reviewed and approved by County Planning.

The property owners have entered into a Voluntary Compliance Agreement allowing for the sequencing of permits. This permit review is the first step in correcting code compliance issues with development previous done without permits and to permit the additional buildings and solar system structure.

3. COMMERCIAL FOREST USE – 2 ZONE (CFU-2)

3.1. ALLOWED USES

3.1.1. MCC 33.2220(A): The following uses pursuant to the Forest Practices Act and Statewide Planning Goal 4:

- (2) Temporary or permanent on site structures which are auxiliary to and used during a particular forest operation per ORS 215 and 455.315. Conversion of these structures is subject to any applicable land use and building permit review procedures**

Findings: The application request includes a new 30' by 50' forest practices building to be exclusively used for storage and repair of equipment used to manage the forest use on the property. The building will be located within 100 feet from the existing dwelling as show on Exhibit A.57. A condition will require that the building be used only as a forest practices building. *This standard is met through meeting a condition of approval.*

3.1.2. MCC 33.2220(C): Farm use, as defined in ORS 215.203.

ORS 215.203: Zoning ordinances establishing exclusive farm use zones; definitions.

- (1) Zoning ordinances may be adopted to zone designated areas of land within the county as exclusive farm use zones. Land within such zones shall be used exclusively for farm use except as otherwise provided in ORS 215.213, 215.283 or 215.284. Farm use zones shall be established only when such zoning is consistent with the comprehensive plan.**
- (2) (a) As used in this section, “farm use” means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, ... “Farm use” includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use.**

Findings: The application request includes a proposal to use the area labeled C on Exhibit A.55 for growing flowers and plants for harvest to market as farm crops (Exhibit A.54). The farm area (labeled C on Exhibit A.55) will have a dual purpose of farm use and residential use that includes the geothermal system and landscaped garden area. Additionally, the application includes a new 199 square foot greenhouse about 60 feet from the dwelling for the proposed farm use (Exhibit A.55). If the flowers and plants are marketed commercially this is a farm use. *This standard is met through this decision.*

3.1.3. MCC 33.2220(T): Accessory Structures subject to the following:

- (1) The Accessory Structure is customarily accessory or incidental to any use permitted or approved in this district and is a structure identified in the following list:**

* * *

(k) Gazebos, pergolas, and detached decks;

(m) Mechanical equipment such as air conditioning unites, heat pumps and electrical boxes;

Findings: A gazebo was built and mechanical equipment (geothermal heat pump lines) were installed in an area that was not approved for the residential development. In order to bring these uses into compliance, an after the fact (post development) forest development standards permit review, SEC-h permit review and Grading and Erosion Control (GEC) permit review are required. This application request includes the after the fact (post development) forest development standards permit and SEC-h permit review. The GEC Permit Type I has been applied for and will be processed after this decision is issued. *This standard is met through this decision.*

3.1.4. MCC 33.2220 (W) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the zoning district, provided that:

- (1) All systems shall meet the following requirements:**

(a) The system is an accessory alternative energy system as defined in MCC 33.0005;

(b) The system meets all special district requirements;

(c) The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

Accessory Alternative Energy System -- A system accessory to a primary structure or use that converts energy into a usable form such as electricity or heat, and conveys that energy to uses allowed on the premises. An Accessory Alternative Energy System is a solar thermal, photovoltaic or wind turbine structure, or group of structures designed to offset all or part of the annual energy requirements of the property.

Findings: This application request includes a proposed ground mount solar system (Exhibit A.30) to be used for residential energy uses on the property. The applicants have submitted an energy usage analysis for the site (Exhibit A.37) as well as a proposed system capacity demonstrating the system is an accessory alternative energy system as defined in MCC 33.0005. This decision includes a review for meeting special district requirements. *These standards are met by this decision review.*

3.2. Forest Practices Setbacks

MCC 33.2256: 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 lo-cation	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Set-backs (feet)	Fire Safety Zone Requirements (FSZ)
Accessory structures within 100 ft. of the dwelling	N/A	30	30	Primary required
Accessory structures located more than 100 ft. from the dwelling	N/A	30	130	Primary & Secondary required

Findings: The proposed forest practices building and the proposed greenhouse will be within 100 feet of the dwelling (Exhibit A.55). The proposed new building will meet the setbacks. The proposed solar array will exceed the 100 foot distance from the dwelling and will have setbacks of more than 300 feet exceeding the 130 foot minimum. The existing gazebo exceeds the 100 foot distance from the dwelling and has setbacks of more than 300 feet exceeding the 130 foot minimum. *The forest practice setback standards are met.*

3.3. Fire Safety Zones on the Subject Tract

3.3.1. MCC 33.2256(D)(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 down the slope from a dwelling or structure as follows:

Findings: For the forest practices building, the greenhouse, the gazebo and the solar array the primary fire safety zone is required to be met and maintained. A condition of approval will require it to be met. *This standard is met through meeting conditions of approval.*

3.3.2. MCC 33.2256(D)(2): Secondary Fire Safety Zone

A secondary fire safety zone is a fire break extending a minimum of 100 feet in all directions around the primary safety zone. The goal of this safety zone is to reduce fuels so that the overall intensity of any wildfire is lessened. Vegetation should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be re-moved to prevent the spread of fire up into the crowns of the larger trees. Assistance with planning forestry practices which meet these objectives may be obtained from the State of Oregon Department of Forestry or the local Rural Fire Protection District. The secondary fire safety zone required for any dwelling or structure may be reduced under the provisions of 33.2310.

Findings: The secondary fire safety zone is required for the gazebo and the solar array. A condition of approval will require it to be met. *This standard is met through meeting conditions of approval.*

- 3.3.3. MCC 33.2256(D)(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**

Findings: The fire safety zones will not restrict or contradict a forest management plan approved by the State of Oregon Department of Forestry pursuant to the State Forest Practice Rules.

- 3.3.4. MCC 33.2256(D)(4) Required Primary and Secondary Fire Safety Zones shall be established within the subject tract as required by Table 1 above.**

Findings: A condition of approval will be required to be met. *This standard is met through meeting conditions of approval.*

- 3.3.5. MCC 33.2256(D)(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).**

Findings: A condition of approval will be required to be met. *This standard is met through meeting conditions of approval.*

4. CFU-2 FOREST DEVELOPMENT STANDARDS PERMIT

Development Standards for Dwellings and Structures

MCC 33.2261 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 33.0570:

- 4.1. MCC 33.2261(A) For the uses listed in this subsection, the applicable development standards are limited as follows:**

* * *

(3) Accessory buildings.

(a) Accessory buildings within 100 feet of the existing dwelling: Shall meet the development standards of MCC 33.2261(C);

(b) Accessory buildings located farther than 100 feet from the existing dwelling: Shall meet the development standards of MCC 33.2261(B)&(C);

Findings: The proposed new greenhouse, is proposed to be within 100 feet of the dwelling. While the application states that the forest practices building will be within 100 feet of the dwelling, Ms. Graff, the applicant has informed me building may need to be a small distance beyond the 100 feet from the dwelling. Both buildings are exempt from building permit requirements, however, both are required to have a fire retardant roof. A condition of approval will require fire retardant roofs. The forest practices building may need to be a small distance

beyond the 100 feet from the dwelling. *This standard is met through meeting conditions of approval.*

The forest practices building may need to be a small distance beyond the 100 feet from the dwelling. The gazebo is more than 100 feet from the dwelling. All the development is required to be reviewed per MCC 33.2261(B). This decision includes finding that the proposed development including the previously unpermitted development meets the development standards of MCC 33.2261(B). *A condition of approval will require it to meet of MCC 33.2261(C) and fire safety zones.*

- 4.2. MCC 33.2261(B): New dwellings shall meet the following standards in (1) and (3) or (2) and (3); restored or replacement dwellings greater than 100-feet from an existing dwelling, and accessory buildings (or similar structures) greater than 100-feet from the existing dwelling shall meet the following standards in (1) and (3) or (2) and (3):**

Findings: In Case T2-10-012 the findings determined that the dwelling proposal met the development standards, however, the development on site exceeded what was proposed by about 30,600 square feet of landscaped area. Thus the existing development (landscaped area and the geothermal system) to the northeast of the dwelling (beyond 100 feet from the dwelling) and the existing gazebo must be reviewed along with the proposed new uses, the solar array, forest practices building and greenhouse. The entire proposal must be reviewed under MCC 33.2261(B)(2) & (3).

- 4.2.1. MCC 33.2261(B)(1) The structure shall satisfy the following requirements:**

- (a) To meet the Forest Practices Setback, the structure shall be located a minimum of 30-feet from a front property line adjacent to a county maintained road and 130-feet from all other property lines;**
- (b) The structure shall be located in a cleared area of at least 10,000 square feet that meets the tree spacing standards of a primary fire safety zone;**
- (c) The entirety of the development site is less than 30,000 square feet in total cleared area, not including the driveway;**
- (d) The structure is sited within 300-feet of frontage on a public road and the driveway from the public road to the structure is a maximum of 500-feet in length;**
- (e) The local Fire Protection District verifies that their fire apparatus are able to reach the structure using the proposed driveway; or**

Findings: The entire development site exceeds 30,000 square feet in total cleared area, not including the driveway, thus the entire proposal must be reviewed under MCC 33.2261(B)(2) & (3).

- 4.2.2. MCC 33.2261(B)(2) The structure shall satisfy the following requirements:**

- 4.2.1.1. (a) It has the least impact on nearby or adjoining forest or agricultural lands and satisfies the standards in MCC 33.2256;**

Findings: The proposed uses exceed the forest practices setbacks by twice the distance for the development except for the forest practices building which exceeds the setback by about 100 feet. The fire safety zones will be required to be maintained by conditions of approval.

Given these factors there should be no increased impact on nearby or adjoining forest or agricultural lands. *This standard is met through meeting conditions of approval.*

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

Findings: The property owners have worked closely with West Multnomah County Soil and Water Conservation District and the Oregon Department of Forestry to reduce impacts on forest operations on the site. They have proposed a complex diverse species forest plan which also provide habitat for forest creatures and pollinators. They are also proposing a small farming operation on site.

For the forest practices building, the greenhouse, the gazebo and solar array; the primary fire safety zone is required to be met and maintained. A condition of approval will require it to be met. This standard is met through meeting conditions of approval. *This standard is met through meeting conditions of approval.*

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

Findings: In Case T2-10-012 the findings determined that the dwelling proposal met the development standards, however the development on site exceeded what was proposed by about 30,600 square feet of landscaped area, thus the existing development (landscaped area and the geothermal system) to the northeast of the dwelling (beyond 100 feet from the dwelling) and the existing gazebo must be reviewed along with the proposed new uses, the solar array, forest practices building and greenhouse.

The landscaped area beyond 100 feet to the northeast of the dwelling is proposed to be a mixed use area. The geothermal system for the dwelling was installed in this area and the applicants are proposing to farm this area as well with flowers and plants to be harvested and commercially marketed. The proposed farm use also includes bee keeping utilizing the large amount of flowers planted in this area. Thus, the area will be a mixed residential and farm use area. The gazebo is located in this area.

The solar array needs to be installed in an area where the solar relation is high. The proposed site for the ground mount array provides a 92 percent rating when other areas a significantly less. While this development does use a significant amount of forest land, the development amount of land is minimized for the residential/farm use given the standard development needs to serve for a large dwelling with alternative energy systems, fire suppression pond and farm us.

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

Findings: There are two access driveways; one that goes to the dwelling which meets the less than 500 foot standard and one that will serve as forest access and access to solar array which is a little more than 600 feet, thus exceeding 500 feet in length. The proposed solar array is ground mounted proposed site was determined to be the best site location for

the solar array as shown on Exhibit A.56 it has the best solar radiation ranking. The access driveway is the minimum needed to access the location. The solar array only needs occasional access to construct and install it and for periodic maintenance which should be infrequent. *This standard is met*

4.2.3. MCC 33.2261(B)(3) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:

- (a) Access roadways shall be approved, developed and maintained in accordance with the requirements of the structural fire service provider that serves the property. Where no structural fire service provider provides fire protection service, the access roadway shall meet the Oregon Fire Code requirements for fire apparatus access.**
- (b) Access for a pumping fire truck to within 15 feet of any perennial water source of 4,000 gallons or more within 100 feet of the driveway or road on the lot. The access shall meet the fire apparatus access standards of the Oregon Fire Code with permanent signs posted along the access route to indicate the location of the emergency water source.**

Findings: The access driveway, used to access the solar array, provides access to a pond (within 100 feet) and to the forest to be used for access in case of fire. The application includes a Tualatin Valley Fire & Rescue review of the proposed solar array site as Exhibit A.10. The forest practice building, and greenhouse are located near the dwelling and close to access driveways. The gazebo is located next to the pond and within 100 feet of an access road. *These standards are met.*

4.3. MCC 33.2261(C): The dwelling or structure shall:

- (1) Comply with the standards of the applicable building code**

* * *

- (3) Have a fire retardant roof; and**
- (4) Have a spark arrester on each chimney.**

Findings: A condition will require building permits for the solar array, forest practice building, greenhouse, and gazebo. A condition will require fire retardant roof for the buildings, and if there are any chimneys, spark arrester installed. *These standards are met though meeting conditions.*

4.4. MCC 33.2261(D): The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class 1 stream as defined in the Forest Practices Rules.

- (1) If the water supply is unavailable from public sources, or sources located entirely on the property, the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.**

Findings: The property met this standard for domestic water supply through the previous land use case approving the dwelling, Case T2-10-012. *This standard is met*

5. SIGNIFICANT ENVIRONMENTAL CONCERN FOR WILDLIFE HABITAT

5.1. SEC-H Development Standards

- 5.1.1. MCC 33.4570(B)(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.**

Findings: The proposed development is in previously approved cleared area except for the area beyond a 100 feet to the northeast of the dwelling. While this area was clear through a forest practice, lands cleared through forest practices are required to be replanted unless approved for a change in use. This permit is including that change of use approving that area that is landscaped to and including the pond as mixed residential for the geothermal and farm use land. The area where the proposed ground mount solar array was also a cleared area that needed to be replanted unless a change of use is approved. This decision is approving the solar array. There is no other cleared area on the property for these uses. *This standard is met.*

- 5.1.2. MCC 33.4570(B)(2): Development shall occur within 200 feet of a public road capable of providing reasonable practical access to the developable portion of the site.**

Findings: The proposed solar array and gazebo exceed the 200 foot distant. *This standard is not met thus a wildlife conservation plan is required.*

- 5.1.3. MCC 33.4570(B)(3): The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.**

Findings: The access road to the solar array exceeds 500 feet in length. *This standard is not met thus a wildlife conservation plan is required.*

- 5.1.4. MCC 33.4570(B)(4): For the purpose of clustering access road/driveway approaches near one another, one of the following two standards shall be met:**

Findings: Driveway was reviewed and approved in previous cases discussed in Section 2 of this decision. *This standard not applicable.*

- 5.1.5. MCC 33.4570(B)(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.**

Findings: Driveway was reviewed and approved in previous cases discussed in Section 2 of this decision. *This standard not applicable.*

- 5.1.6. MCC 33.4570(B)(6): Fencing within a required setback from a public road shall meet the following criteria:**

Findings: No fencing is proposed. *This standard not applicable.*

5.2. Wildlife Conservation Plan

An applicant shall propose a wildlife conservation plan if one of two situations exist.

- 5.2.1 MCC 33.4570(C)(1): The applicant cannot meet the development standards of Section (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**

Findings: The development standards can not be met. The site location for the solar array depends on good access to the sunshine. Exhibit A.56 demonstrates that the best site is the proposed location. Additionally, the gazebo is placed next to the fire suppression pond which needed to be within 100 feet of the forest access roads. *The proposed development can not meet the development standards of Section (B).*

- 5.2.2. MCC 33.4570(C)(2): The applicant can meet the development standards of Section (B), but demonstrates that the alternative conservation measures exceed the standards of Section (B) and will result in the proposed development having a less detrimental impact on forested wildlife habitat than the standards in Section (B).**

Findings: The proposed development can not meet the development standards of Section (B). *Thus this subsection is not applicable.*

- 5.2.3 (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.**

Finding: The amount of forested area impacted is minimum necessary to serve the proposed development. The property owners have worked with Oregon Department of Forestry (Exhibit A.13) to replant the previously cleared area with a biologically diverse forested area that meets the restocking requirements. They have also worked with the West Multnomah Soil and Water Conservation District in an effort to provide wildlife habitat (Exhibits A.12 and a.14.). The proposed Wildlife Conservation Plan (Exhibit A.36). A condition will require implementation of the proposed Wildlife Conservation Plan. This standard is met through implementing conditions.

6. CONCLUSION

Based on the findings and other information provided above, the applicant has carried the burden necessary for the approval of Forest Development Standards Permit and SEC-h Wildlife Conservation Plan Permit for proposed development, a ground mount solar array, a forest practices building, a greenhouse, and the “after the fact” permitting of gazebo and the landscaped geothermal area and farm use mixed use area in the CFU-2 zone. This approval is subject to the conditions of approval established in this report.

7. EXHIBITS

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Application form	6/19/17
A.2	38	Narrative (17 pages) including Ex. A.2(a). SEC-H Details (2 pages) Ex. A.2(b). SEC-h Worksheet (9 pages)	6/19/17
A.3	2	Attachment 1: Site Plan Aerial Photo and Pre-development Aerial Photo with 10 contours	6/19/17
A.4	1	Attachment 2: Site Plan with Solar Sun Factors Aerial Photo	6/19/17
A.5	1	Attachment 3: Reforested Areas Aerial Photo	6/19/17
A.6	1	Attachment 4: Solar Array Dimensions and Arrangement chart	6/19/17
A.7	1	Attachment 5: Pre-timber Operations Aerial Photo	6/19/17
A.8	1	Attachment 6: 2009 mid-way thru forest operation aerial photo	6/19/17
A.9	1	Attachment 7: 2009 forest operation mostly complete aerial photo	6/19/17
A.10	2	Attachment 8: Fire Service Agency Review	6/19/17
A.11	1	Attachment 9: Oregon Department of Forestry Letter dated February 28, 2011	6/19/17
A.12	2	Attachment 10: West Multnomah Soil and Water Conservation Letter dated May 5, 2017 with aerial photo attached	6/19/17
A.13	1	Attachment 11: Oregon Department of Forestry Letter dated May 30, 2017 with three pages of aerial photos	6/19/17
A.14	2	Attachment 12: West Multnomah Soil and Water Conservation Pollinator Monitoring Achievement in 2016	6/19/17

A.15	1	Attachment 13: Invoice for Restocking	6/19/17
A.16	2	Attachment 14: From Lindsey Reschke, Site Development Inspector, BDS, Onsite Sanitation, Multnomah County dated May 30, 2017 with attached site plan (signed)	6/19/17
A.17	1	Attachment 15: Pre-Filing Conference Aerial Map	6/19/17
A.18	3	Attachment 16: Multnomah County 100 Percent Renewable Energy Goal Announcement	6/19/17
A.19	1	Attachment 17: Building Envelope (includes area not permitted)	6/19/17
A.20	1	Attachment 18: South of House - Zoom	6/19/17
A.21	1	Attachment 19: Email from Lynn Demicheli addressing Portland General Electric Netmetering	6/19/17
A.22	1	Attachment 20: Energy Trust of Oregon Incentive Application – Commercial (no commercial business approved on the property other than growing trees and logging)	6/19/17
A.23	17	Attachment 21: Solar Access and Shade Report dated 5/26/2017	6/19/17
A.24	4	Attachment 22: Solar Access and Shade Report dated 6/9/2017	6/19/17
A.25	1	Attachment 23: Storm Water Certificate completed by Chuck Gregory PE	6/19/17
A.26	2	Attachment 24: As Built Septic	6/19/17
A.27	1	Attachment 25: Energy Savings Chart	6/19/17
A.28	3	Attachment 26: Driveway Sight Distances Analysis dated December 23, 2009	6/19/17
A.29	1	Amended Application form to add forestry building and greenhouse	6/19/17
A.30	22	Revised Narrative	11/15/17
A.31	6	Narrative Response to Incomplete Application Letter	11/15/17
A.32	1	Revised Attachment 1: Revised Site Plan Aerial Photo	11/15/17
A.33	1	Revised Attachment 2: Revised Site Plan with Solar Sun Factors and Hedgerow Aerial Photo	11/15/17
A.34	1	Attachment 7 Addition: Overhead Site View 1990, 2002, 2010 and 2017	11/15/17
A.35	1	Attachment 27: Solar Panel Location with ODF Requirements	11/15/17
A.36	35	Attachment 28: Brad and Lisa Graff Forest Stewardship Plan prepared with assistance by West Multnomah County Soil and Water Conservation District.	11/15/17
A.37	1	Attachment 29: Site Electrical Use	11/15/17
A.38	8	Attachment 30: Site Inspections	11/15/17

A.39	12	Attachment 31: Narrative from Decision T2-10-012 & Exhibit A.6 of that decision	11/15/17
A.40	18	Attachment 32: Case T2-10-012 Decision with site plans added	11/15/17
A.41	1	Attachment 33: Pre-Development Slope (with an incorrectly calculated slope)	11/15/17
A.42	1	Attachment 34: Post Development Slope	11/15/17
A.43	2	Attachment 35: Geothermal Trench Measurements	11/15/17
A.44	3	Attachment 36: Habitat Evaluation	11/15/17
A.45	1	Attachment 37: Oregon Administrative Rule 629-610-0080	11/15/17
A.46	1	Attachment 38: Wildlife Conversation Plan	11/15/17
A.47	12	Revised SEC-h Worksheet	11/16/17
A.48	1	Email from Applicants addressing addition submittals	11/16/17
A.49	9	Supplemental Narrative	11/16/17
A.50	1	Attachment 39: Updated Site Plan	11/16/17
A.51	1	Aerial Photo showing property and adjacent properties	11/16/17
A.52	1	Oregon Department of Forestry letter to Applicant dated February 28, 2011	11/16/17
A.53	1	Email from Applicants addressing addition submittals	12/15/18
A.54	2	Supplemental Narrative	12/15/18
A.55	1	Attachment 1: Updated site Plan dated 12/13/2017	12/15/18
A.56	1	Attachment 2: Updated Site Plan with Solar Factors and Hedgerow dated 12/13/2017	12/15/18
'B'	#	Staff Exhibits	Date
B.1	2	A&T Property Information	NA
B.2	1	A&T Tax Map with Property Highlighted	NA
B.3	17	Case T2-10-012 Decision	NA
B.4	1	Site Plan and Erosion Control Plan Stamped for the Building Permit and Development Approved by Case T2-10-012 Decision	NA