

NOTICE OF DECISION

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

Case File: T2-2018-9865

Permits: Accessory Use Determination and
Significant Environmental Concern

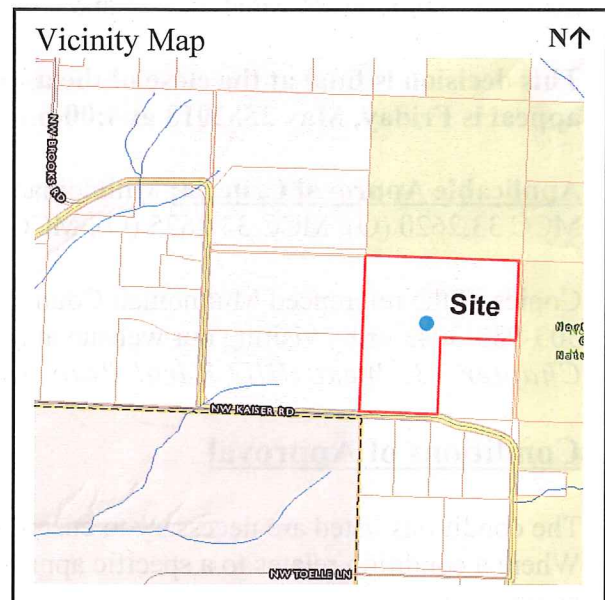
Location: 9430 NW Kaiser Rd
Tax Lot 700, Section 05C
Township 1 North, Range 1 West, W.M.
Tax Account #R749706050

Applicant: Randy and Diana Robinson

Owners: Randy & Diana Robinson

Base Zone: Exclusive Farm Use

Overlays: Significant Environmental Concern for
wildlife habitat (SEC-h)



Summary: The applicant is requesting retroactive approval of an Accessory Use Determination for a 1,680 square foot addition onto a 2,520 sq. ft. existing accessory structure. The building will be a total of 4,200 sq. ft. The addition and building is used for storage of equipment, dry storage and cold storage associated with the vineyard operation and residential use of the property. In addition, a Significant Environmental Concern for wildlife habitat permit is required to allow the building's expansion.

Decision: Approved with Conditions.

Unless appealed, this decision is effective Friday, May 25, 2018, at 4:00 PM.

Issued by:



Katie Skakel, Senior Planner

For: Michael Cerbone, AICP
Planning Director

Date: Friday, May 11, 2018.

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 Katie Skakel, Senior Planner at 503-988-0213 or email at katie.skakel@multco.us.

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 Friday, May 25, 2018 at 4:00 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 37.0560, MCC 33.0565, MCC 33.2620 (O), MCC 33.2625 (O), MCC 33.2660, MCC 33.2675, MCC 33.4520, MCC 33.4570

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at multco.us/landuse/zoning-codes under the link *Chapter 33: West Hills Rural Plan Area*.

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 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(A) for the accessory building. The property owners shall obtain and finalize the retroactive building permits for the addition to accessory building within this two year time period.
3. By June 15, 2018, the property owners shall plant the thirteen (13) 3-4 foot native trees as shown on Exhibit (A.6) and commence removal of the blackberries within the SEC-h overlay zone. Blackberry removal shall be by hand or via chemical spraying. No ground disturbing activities shall occur with machinery within the SEC-h overlay. Active replanting of exposed soils shall occur where blackberries are removed and shall utilize native vegetation or seeds.
4. The thirteen (13) native trees shall be maintained in a living state. If they die, are damaged, removed or become diseased they shall be replanted by the next growing season with trees that are at least 5-gallons in size.

5. The nuisance plants listed in MCC 33.4570(B)(7) or its corresponding list in subsequent Multnomah County Codes shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property.
6. The property owners shall obtain the necessary land and buildings permits as specified in the signed Voluntary Compliance Agreement. [MCC 37.0560]
7. Pursuant to T2-2015-4601, no more than 540 sq. ft. of the accessory building shall be used for the approved Type B home occupation. To increase the amount of square footage of the home occupation, a new home occupation permit will need to be applied for and approved.
8. Prior issuance of land use sign-off for building plan check, the County's Covenant to Prohibit Residential Use of Accessory Structure document shall be recorded. The Covenant states that the owner understands and agrees that the structure cannot be occupied as a dwelling or for any other form of permanent or temporary residential use.
 - a. Documentation of the recordation shall be provided to Land Use Planning before sign off. [MCC 33.0565] No accessory building shall be used or occupied as a dwelling.
9. No accessory structure shall be used for agri-tourism or commercial use unless approved for such use.
10. Property owners must receive retroactive approval by City of Portland Sanitation Department for toilet, septic tank and drainfield in accessory structure as City of Portland Sanitation Department. If approval cannot be achieved, the toilet and any sink shall be removed from the building
11. Prior to land use sign-off for building plan check the property owners or their representative shall provide building plans (site plan, floor plan, and building elevations) that show compliance with this decision. [MCC 37.0560].
12. To ensure compliance with dark sky requirements and lighting, at the time of the retroactive building permit review, a building plan be submitted demonstrating compliance with this requirement. Applicant will be required to show lighting fixtures on accessory building are compliant with dark sky requirements. {MCC 33.0570}.

Note: Once this decision is final, application for building permits may be made with the City of Portland/Gresham, but first you need to follow the guidance below. When you are ready to start the building permit process, you will need to complete the following steps:

1. Please 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 the City of Portland, Bureau of Development Services, On-site Sanitation at 503-823-6892, or email 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.
3. Contact Right-of-Way Permits at (503) 988-3582, or email row.permits@multco.us for an appointment to review of your plans for building plan check and to sign the building permit form. Failure to make an appointment with County Right-of-Way may result in delay in entering building plan check or obtaining building permits.

4. Contact Staff Planner, Katie Skakel, at (503) 988-0213, or email katie.skakel@multco.us for an appointment for review of the conditions of approval and to sign the building permit plans. Land Use Planning must sign off on the plans and authorize the building permit before you can go to the building department. At the time of this review, Land Use Planning will collect additional fees.

Please note, the above three agencies must review and sign off on the building permit application before the applicant can obtain building permits at the City of Portland/Gresham. Five/three (5)/(3) sets of the construction plans (site plan showing erosion control, floor plans, building elevations, construction details, location of existing and/or proposed septic systems including repair drainfield area, stormwater disposal location, etc.) and compliance with the Conditions of Approval are needed for building permit sign off.

NOTE: A Type B home occupation must be renewed every three years to remain in compliance with MCC 33.0550.

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*.

1.00 Project Description:

Staff: The Owner/Applicant is requesting a retroactive accessory use determination for a 1,680 sq. ft. addition to the existing 2,520 accessory building. Once authorized, the total square footage in the accessory building will be 4,200 sq. ft. In addition to the accessory use determination, a significant environmental concern for wildlife habitat (SEC-h) permit is required for an addition of over 400 sq. ft. to an existing building.

2.00 Property Description & History (if needed):

Staff: The subject property is 28.87 acres and currently contains an existing single family dwelling and two outbuilding (subject building and a small pool house). In 1998, the County approved a 36-ft wide by 70-ft long accessory building. Presently, the building measures approximately 60-ft wide by 70-ft long with eaves. In previous decision T2-2015-4601 a Type B Home Occupation was approved for approximately 540 sq. ft. of the accessory building to be used to store the bottled wine created from the grapes grown on the property.

According to a site visit conducted by Bill Gotzinger, Code Compliance Officer, there is a toilet in the accessory use structure but the Planning Consultant did not indicate that there was a toilet. According to City of Portland Bureau of Development Services Engineering Plan Review Plan Review/Permitting Services Division “any septic tank and drainfield by the barn has not permitted. This is a violation.

There are two courses of action:

- 1) Legalize the existing system. This begins with test pits for New Construction. Once the Site Evaluation report is completed and the criteria for the system has been determined, the components of what was installed will be examined to see if they meet the criteria of the Site Evaluation Report. If they do, a Construction-Installation Permit will be required to legalize the system. If the installed system does not meet the conditions of the Site Evaluation Report, a new drainfield installed meeting the conditions of the Site Evaluation Report will be required.
- 2) They can cap the existing drainfield, retrofit the septic tank with a pump, install a pressure effluent line, and pump up to the home’s drainfield. This would only require a Minor Alteration Permit.”

The property owner telephoned County Planning on May 2, 2018 and confirmed that the accessory structure has plumbing. Mr. Robinson indicated that it was needed for the workers on the vineyard.

The Robinson’s have entered into a Voluntary Compliance Agreement with the County to correct the situation in the near future [MCC 33.0560] (Exhibit D.). The Sanitation issue will be added to the VCA to ensure that this violation is rectified.

3.00 Exclusive Farm Use Criteria:

3.01 § 33.2675 LOT OF RECORD

(A) In addition to the Lot of Record definition standards in MCC 33.0005, for the purposes of this 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

Staff: The subject property consists of portions of Lot 7 and Lot 8 of Schoppe Acres. The County determined that this unit of land was a Lot of Record when granting land use approval for the dwelling in PRE 26-90. The 28.86 acres unit of land is a Lot of Record.

3.02 § 33.2620 (O) Allowed Uses

(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:

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

Staff: The applicant states that the primary use of the property is “to preserve and maintain agricultural lands for farm uses consistent with existing and future needs of agriculture products” and the subject property has a vineyard. The property owners are requesting authorization for the 1,680 addition that had not been permitted and was added onto the existing accessory building. The accessory building is used for a combination of farm, home occupation and personal storage use. The floor plan (Exhibit A.3) shows that a 15-ft by 36-ft (540 sq. ft.) area of the accessory structure will be used for the Type B home occupation (wine storage).

The subject property as it exists now contains two outbuildings (this accessory building and a 126 sq. ft. pool house) and one single family dwelling with an attached garage. Based on tax records, the single family dwelling and attached garage is approximately 10,415 sq. ft. Since the subject site already has 2,520 sq. ft. of lawfully existing accessory buildings, the proposed expansion must be reviewed through an Accessory Use Determination (MCC 33.2625(O) to determine if the requested accessory building square footage is “customarily accessory” to the residential use of the property.

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

Staff: The applicant has demonstrated that the building is used for farm equipment, personal storage and approved home occupation use. A condition of approval will be included that a covenant be recorded indicating that the building cannot be used or occupied as a dwelling.

(3) The Accessory Structure may contain one sink.

Staff: The structure contains one toilet but the Code Compliance officer did not verify that there was a sink. A condition of approval will require that the applicant submit a floor plan that shows the toilet (and sink if there is one). The applicant explained that the toilet is required for farm workers that take care of vineyard. . A retroactive permit will need to be reviewed and approved by County Sanitation prior to resolution of VCA.

(4) The Accessory Structure shall not contain:

(a) More than one story;

Staff: The accessory structure has an interior loft used for personal storage. The building qualifies as a one and one-half story building.

(b) Cooking Facilities;

Staff: There is no cooking facility.

(c) A toilet;

Staff: According to site visit by Code Compliance Officer there is a one toilet in the accessory structure. The applicant will need to submit a revised floor plan showing the toilet (and sink), retroactive permit from County Sanitarian in order for the VCA to be resolved.

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

Staff: There is no shower or bath 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

Staff: There is no mattress or bed.

(f) A closet built into a wall.

Staff: There is no closet built into a wall.

(5) Compliance with MCC 33.0565 is required.

Staff: A condition of approval will be included that a covenant be recorded indicating that the building cannot be used or occupied as a dwelling.

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

Staff: The combined footprints of accessory buildings exceed 2,500 sq ft. Planning staff has addressed the Accessory Use Determination standards of MCC 33.2625(O) in section 3.03 below.

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

Staff: An accessory use determination has been submitted.

(8) Building in conjunction with farm uses as defined in ORS 215.203 are not subject to these provisions. Such buildings shall be used for their allowed farm purposes only and, unless so authorized, shall not be used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.

Staff: The building will be used for a mixture of farm storage, personal storage and an approved home occupation use. Since it is not strictly a farm building, it must go through an Accessory Use Determination and meet the standards of MCC 33.2625(O).

3.03 § 33.2625 Review Uses(O) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the “accessory structures” standard in MCC 33.2620 Allowed Uses, but which meet the following provisions:

- (1) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential unit.**
- (2) The Accessory Structure shall not contain a bathing tub.**
- (3) Any toilet or bathing facilities, such as a shower, shall be located on the ground floor of any multi-story building.**
- (4) An Accessory Structure containing a toilet or bathing facilities shall not contain Cooking Facilities.**
- (5) The Accessory Structure shall not contain a mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage.**
- (6) The applicant must show that building features or combined building footprints exceeding the Allowed Use provisions are the minimum possible departure from the Allowed Use standards to accommodate the use.**
- (7) Compliance with MCC 33.0565 is required.**

Staff: The accessory structure has been reviewed under MCC 33.2620 (O) Allowed Uses and was found to exceed the accessory use standards under that provision. Staff must find that it meets the standards of MCC 33.2625(O) to allow it.

The applicant describes that the structure is used for storage of farm equipment, storage of personal materials and wine storage for a home occupation. These uses are listed accessory uses in MCC 33.2620 Allowed Uses. The structure is not designed or used as a dwelling unit. The structure does not contain a bath tub or cooking facilities. According to our Code Compliance Officer, there is a toilet on the lower floor. There is no record of a toilet being approved for the accessory structure. n on Mr. Robinson has explained in a phone call that the toilet is needed for the 10 or so farm workers that work the vineyard. A condition of approval has been included with this decision requiring the location of the toilet on the floor plan and receive retroactive approval from County Sanitation. Planning staff would like this added to the narrative so that we can have an accurate depiction of the need for the toilet.

As required in approval criteria (6) above, the applicant must show that building features or

combined building footprints exceeding the Allowed Uses provisions are the minimum possible departure from the Allowed Use standards to accommodate the use. The existing accessory structure contains one and a half stories and exceeds the 2,500 sq. ft. threshold. The 4,200 square foot accessory structure and farm building is within the normal square footage range for other similar combination buildings in the area. As a condition of approval, it will be required that the applicant not utilize the structure for an accessory dwelling unit.

Based upon the above analysis, the property owners may use this building to store farm equipment, an accessory building and 540 sq. ft. for the Type B home occupation provided it remains in compliance with MCC 33.0550 requirements and renewals. *Conditions of approval have been included to implement the accessory use determination.*

4.00 § 33.2660 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS

4.01 (C) Minimum Yard Dimensions – Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

Staff: According to the submitted site plan (Exhibit A.3), the accessory structure meets the dimensional setbacks of the property. The subject property has road frontage. Transportation Planning has indicated that no additional right-of-way is required. The height of the accessory structure is 18.08-ft. *Criterion met.*

4.02 (F) All exterior lighting shall comply with MCC 33.0570.

Staff: To ensure compliance with this requirement, a condition will be required that at the time of the retroactive building permit review, a building plan be submitted demonstrating compliance with this requirement. *As conditioned, this criterion is met.*

4.03 § 33.3185 ACCESS

All lots and parcels in this district shall abut a public street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and passenger and emergency vehicles. This access requirement does not apply to a pre-existing lot and parcel that constitutes a Lot of Record described in MCC 33.3170(B).

Staff: The lot abuts the Kaiser Road, which is a public street. *This criterion is met.*

5.00 Significant Environmental Concern Criteria

5.01 § 33.4570 CRITERIA FOR APPROVAL OF SEC-H PERMIT -WILDLIFE HABITAT

(B) Development standards:

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

Staff: The applicant states that there are no trees being removed. For each 100 sq. ft. of new building area (additional expansion to previously approved structure), 3-4 foot tall natives will be planted within the non-forested cleared area contiguous to the forested area as shown on Exhibit A.6. The expansion of 1,680 sq. ft. addition, based on one tree per 100 sq. ft. of building, 13 trees will be planted. (Exhibit C).

This criterion is met.

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

Staff: The site plan indicates that the development will not occur within 200 feet of a public road. *This criterion is not met.*

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

Staff: The site plan and narrative indicate that the access road/driveway will be approximately 935 feet in length. *This criterion is not met.*

5.04 (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.

* * *

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

Staff: Aerial photos indicate that there is one adjacent driveway on the same side of the road. The adjacent driveway on the same side of the road is over 500 feet from the shared property line. The driveway to the single-family dwelling is over 200 feet away from the one closest driveway on the opposite side of the road (Exhibit C). Although MCC 33.4570(B)(4) requires that the proposed driveway be within 50 feet of the existing driveways, the standard was modified and approved in the Case File T2-2015-4601 by the County Road official. *As conditioned, these criteria are met.*

5.05 (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: Aerial photos indicate that there is one property with structures and development areas adjacent to this property. The structures and development area on this adjacent parcel are over 200 feet away from common side property line. The proposed development for the subject property does not need to be within 200 feet of a side property line. *This criterion is met.*

5.06

(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 fencing is being proposed and no fencing appears of the site plan provided by the applicant. *These criteria are met.*

5.07

(7) The following nuisance plants shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property:

Scientific Name	Common Name	Scientific Name	Common Name
<i>Chelidonium majus</i>	Lesser celandine	<i>Loentodon autumnalis</i>	Fall Dandelion
<i>Cirsium arvense</i>	Canada Thistle	<i>Lythrum salicaria</i>	Purple Loosestrife
<i>Cirsium vulgare</i>	Common Thistle	<i>Myriophyllum spicatum</i>	Eurasian Watermilfoil
<i>Clematis ligusticifolia</i>	Western Clematis	<i>Phalaris arundinacea</i>	Reed Canary grass
<i>Clematis vitalba</i>	Traveler's Joy	<i>Poa annua</i>	Annual Bluegrass
<i>Conium</i>	Poison	<i>Polygonum</i>	Swamp

<i>maculatum</i>	hemlock	<i>coccineum</i>	Smartweed
<i>Convolvulus arvensis</i>	Field Morning-glory	<i>Polygonum convolvulus</i>	Climbing Binaweed
<i>Convolvulus nyctagineus</i>	Night-blooming Morning-glory	<i>Polygonum sachalinense</i>	Giant Knotweed
<i>Convolvulus seppium</i>	Lady's nightcap	<i>Prunus laurocerasus</i>	English, Portuguese Laurel
<i>Cortaderia selloana</i>	Pampas grass	<i>Rhus diversiloba</i>	Poison Oak
<i>Crataegus sp. except C. douglasii</i>	hawthorn, except native species	<i>Rubus discolor</i>	Himalayan Blackberry
<i>Cytisus scoparius</i>	Scotch broom	<i>Rubus laciniatus</i>	Evergreen Blackberry
<i>Daucus carota</i>	Queen Ann's Lace	<i>Senecio jacobaea</i>	Tansy Ragwort
<i>Elodea densa</i>	South American Water-weed	<i>Solanum dulcamara</i>	Blue Bindweed
<i>Equisetum arvense</i>	Common Horsetail	<i>Solanum nigrum</i>	Garden Nightshade
<i>Equisetum telemateia</i>	Giant Horsetail	<i>Solanum sarrachoides</i>	Hairy Nightshade
<i>Erodium cicutarium</i>	Crane's Bill	<i>Taraxacum officinale</i>	Common Dandelion
<i>Geranium roberianum</i>	Robert Geranium	<i>Utricularia vulgaris</i>	Common Bladderwort
<i>Hedera helix</i>	English Ivy	<i>Urtica dioica</i>	Stinging Nettle
<i>Hypericum perforatum</i>	St. John's Wort	<i>Vinca major</i>	Periwinkle (large leaf)
<i>Ilex aquafolium</i>	English Holly	<i>Vinca minor</i>	Periwinkle (small leaf)
<i>Laburnum watereri</i>	Golden Chain Tree	<i>Xanthium spinosum</i>	Spiny Cocklebur
<i>Lemna minor</i>	Duckweed,	<i>various</i>	Bamboo sp.

	Water Lentil	<i>genera</i>	
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Staff: Nuisance plant removal in the development area shall be required and if replanting occurs, no nuisance plants shall be planted. To ensure that these requirements are met, a condition of approval shall be required. *As conditioned, these criteria are met.*

5.08 (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 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**
- (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).**

* * *

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

- (a) Each tree removed to construct the proposed development shall be replaced on a one to one ration with a six foot tall native tree.**
- (b) For each 100 square feet of new building area, the property owner shall plant, one, 3-4 foot tall native tree or three native tree seedlings. The trees shall be planted to improve wildlife habitat first within non-forested cleared areas contiguous to forested areas, second within any degraded stream riparian areas before being placed in forested areas or adjacent to landscaped yards.**
- (c) Existing fencing located in the front yard adjacent to a public road shall be consistent with MCC 33.4570(B)(6).**
- (d) For non-forested “cleared” areas that require nuisance plant removal pursuant to MCC 33.4570(B)(7), the property owner shall set a specific date for the work to be completed and the area replanted with native vegetation. The time frame must be within two years from the date of the permit.**

Staff: Applicant has provided wildlife mitigation plan that meets the mitigation measures listed in 4) (a-d) as depicted in Exhibit A.6. A condition of approval will be added that the applicant be required to maintain plantings.

6.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Accessory Use Determination and SEC-h permit in the Exclusive Farm Use zone. This approval is subject to the conditions of approval established in this report.

7.00 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. All other exhibits are available for review in Case File T2-2018-9865 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	01/03/2018
A.2	2	Robinson Narrative Coversheet and Table of Contents	01/03/2018
A.3	1	Floor plan and photographs provided by applicant's consultant	05/04/2018
A.4	9	Section A of application	01/03/2018
A.5	31	Section B – Applicable Development Code Standards in application	01/03/2018
A.6	3	Section C and D – Exhibit Drawings Cover Sheet a. Landscape/Mitigation Plan b. Floor Plan/Elevations	01/03/2018
A.7	1	Section D – Appendices Cover Sheet	01/03/2018
'B'	#	Staff Exhibits	Date
B.1	2	A&T Property Information for 1N1W05C – 00700	01/04/2018
B.2	5	Voluntary Compliance Agreement UR-2016-4743	02/06/2016
'C'	#	Administration & Procedures	Date
C.1	1	Complete Letter	2/16/2018
C.2	1	Opportunity to Comment	2/21/2018
C.3	14	Administrative Decision	05/11/2018