
NOTICE OF DECISION

Case File: T2-2018-10848

Permits: Forest Development Standards, Significant Environmental Concern, Exception to the Secondary Fire Safety Zone, and Adjustment

Applicant(s): Donis McArdle **Owner:** Tracy Smith, Skyline Investments

Location: No Site Address NW Skyline Blvd.
Tax Lot 1000 & 1201, Section 24B, Township 2b North, Range 2 West, W.M.
Tax Account: R972240060 Property ID: R325877

Zoning: Commercial Forest Use – 2 (CFU-2)

Overlays: Significant Environmental Concern for Wildlife Habitat (SEC-h) and Scenic Views (SEC-v)

Proposal Summary: Request to replace existing dwelling in CFU-2 Zone with an Exception to the Secondary Fire Safety Zone (southern) and an Adjustment to the southern Forest Practices Setback from 130 feet to 79 feet and within SEC-h and SEC-v overlay Zones.

Decision: Approved with Conditions

This decision is final and effective at the close of the appeal period, unless appealed. The deadline for filing an appeal is May 2, 2019, 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 at the Land Use Planning office. Copies of all documents are available at the rate of \$0.30/per page. For further information, George Plummer, Planner at (503) 988-0202 (8 am to 4 pm Tuesday through Friday) or george.a.plummer@multco.us

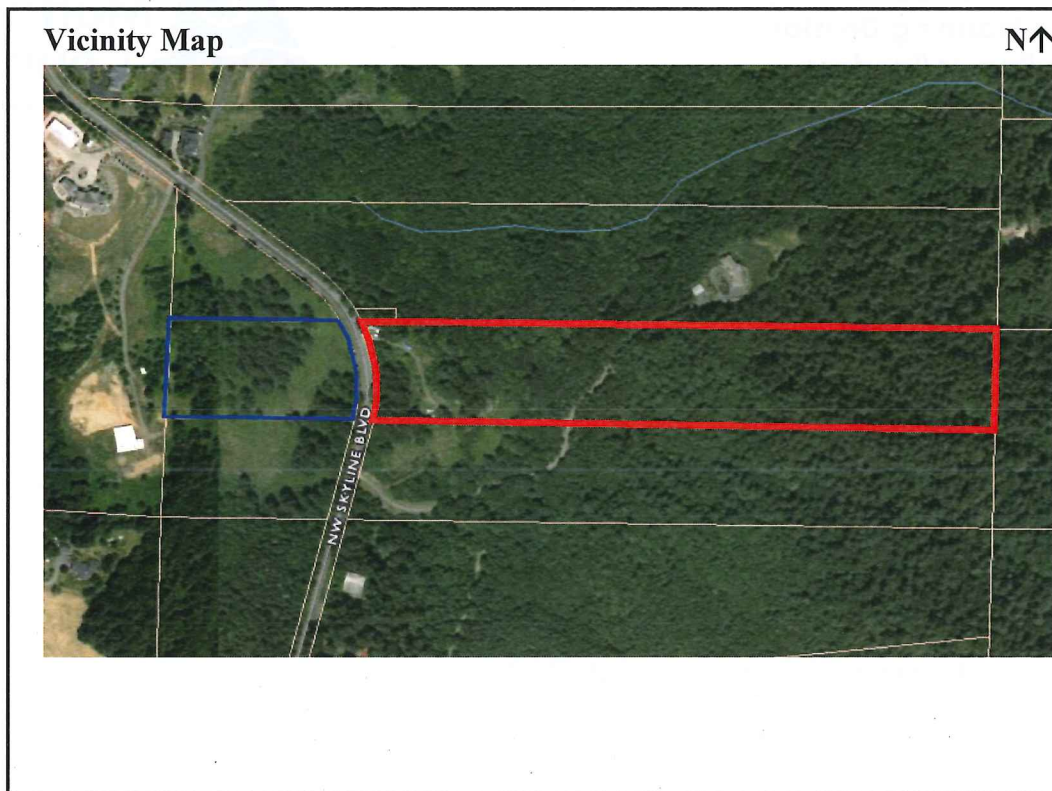
Opportunity to Appeal: An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning office at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision is not appealable to the Land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

Issued By: 
George A. Plummer, Planner

For: Michael Cerbone, AICP
Planning Director

Date: April 18, 2019

Instrument Number for Recording
Purposes: #2017-121355



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

Applicable Approval Criteria: Multnomah County Code (MCC):

MCC 33.0005 Definitions: Habitable Dwelling, Lawfully Established Dwelling and Lot of Record

MCC 33.2225(A) Review Uses

MCC 33.2256 Forest Practices Setbacks and Fire Safety Zones

MCC 33.2261 Development Standards for Dwellings and Structures

MCC 33.2275 Lot of Record

MCC 33.2310 Exceptions to Secondary Fire Safety Zones

MCC 33.4510 Uses; SEC Permit Required

MCC 33.4520 Application for SEC Permit

MCC 33.4570 Criteria for Approval of SEC-h Permit -Wildlife Habitat

MCC 33.4565 Criteria for Approval of SEC-v Permit – Significant

MCC 33.7100 - 33.7606: Adjustment Scope

MCC 33.7611: Adjustment Criteria

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office 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 four years from the date the decision is final pursuant to MCC 37.0690 (C) as applicable.

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.

3. Prior to Land Use Planning review and sign-off for a building permit, the property owners or their representative shall record pages 1 through 5 of this Notice of Decision with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and shall be filed with the Land Use Planning Division. Recording shall be at the applicant's expense. [MCC 37.0670]
4. Prior to soil disturbance and throughout construction, the property owner(s) shall ensure that that erosion control measures are installed and are working. If there is any evidence that erosion is occurring, that sediment is leaving the development site, the property shall improve the existing erosion control measures or install additional erosion control measures. At a minimum erosion control shall include silt/sediment fencing down slope of any soil disturbance area and mulching or covering with gravel and soil distance area. [MCC39.6220]
5. Prior to issuance of the Certification of Occupancy, the property owner(s) shall establish and maintain a Primary Fire Safety Zone and a Secondary Fire Safety Zones as described below:
 - 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.
 - A secondary fire safety zone is a fire break extending a minimum of 100 feet in all directions around the primary safety zone, except to the extent possible (on the subject property) for the southern for which an Exception is approved. Extent possible means the secondary is reduced to the south to the property line, where 100 feet is feasible on the property this is the minimum. 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. 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. [MCC 33.2256(D)(1), (2) and (5)]
6. The property owner(s) shall improve the driveway on the property to meet the specifications listed in the letter dated April 13, 2018 (Exhibit A.12) from the Tualatin Valley Fire and

Rescue (TVFR) The property owner(s) maintain the maintained the driveway in accordance with the requirements of the TVFR letter. [MCC 33.2261(B)(3)]

7. The property owners shall obtain a building permit for the proposed dwelling, pass inspections, and shall pass a final inspection. The dwellings shall have a fire retardant roof; and have a spark arrester on each chimney. [MCC 33.2261(C)]
8. The property owners shall ensure a central station monitored alarm system is install and maintaining in working order. The property owners shall ensure NFPA 13D fire sprinkler system is installed in the dwelling and maintained in working order. The property owners shall ensure the dwelling is constructed in accordance with the International Fire Code Institute Urban– Wildland Interface Code Section 505 Class 2 Ignition Resistant Construction as adopted August, 1996, or as later amended. There shall be no combustible fences located within 12 feet of the exterior surface of the dwelling. [MCC 33.2310(B)]
9. The property owner(s) shall ensure 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. The property owner(s) shall ensure that the existing tree density to the northeast, east and southeast within two hundred feet of the dwelling shall be maintained except within the primary fire safety zone, within 30 feet of the dwelling, tree removal to establish the primary fire safety zone tree is allowed. Tree spacing within the primary fire safety zone shall be spaced to achieve a minimum of 15 feet between crowns which is the minimum standard. Removing all trees within 30 feet of the dwelling can be allowed for fire safety. For the forest area beyond the 30 foot primary fire safety zone the first 100 feet beyond the 30 foot zone, the dead trees, dead branches and brush shall be removed. [MCC 33.4570 (C), MCC 33.4565 (C)(1) and (4)]
10. The property owner(s) shall ensure that the exterior building materials are the approved low reflectivity building materials and are dark earthtone colors this includes:
 - Composite roofing shingles that is dark brown and dark green (Exhibit A.22)
 - Walls a combination of dark earthtone Hardiplank and dark stone
 - Exterior siding shall be painted a brown color that is labeled “Umber” on Exhibit A.33.
 - Exterior trim and doors shall be painted labeled “Umber” or a dark earthtone color as shown in the Gorge Color Chart
 - Windows will have an 11 percent or less visible light reflectivity rating.If the property owner(s) decides to use an alternative exterior color it must be dark natural or earthtone color and must meet the color chart top two rows (A) or (B) or one of the far right four color in row (C) of the Columbia River Gorge Color Chart and the color chip must be confirmed with County Land Use Planning. [MCC 33.4565 (C)(2)]
11. The property owner(s) shall ensure that exterior lighting is directed downward and sited, hooded and shielded so that it is not highly visible from identified viewing areas. Shielding and hooding materials shall be composed of non-reflective, opaque materials.
 - The light source (bulbs, lamps, etc.) must be fully shielded with opaque materials and directed downwards. “Fully shielded” means no light is emitted above the horizontal plane located at the lowest point of the fixture’s shielding. Shielding must be permanently attached.

- The lighting must be contained within the boundaries of the Lot of Record on which it is located. [MCC 33.4565 (C) and MCC 33.0570 (C)]

12. 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. [MCC 33.4570 (B)]

Scientific Name	Common Name
<i>Chelidonium majus</i>	Lesser celandine
<i>Cirsium arvense</i>	Canada Thistle
<i>Cirsium vulgare</i>	Common Thistle
<i>Clematis ligusticifolia</i>	Western Clematis
<i>Clematis vitalba</i>	Traveler's Joy
<i>Conium maculatum</i>	Poison hemlock
<i>Convolvulus arvensis</i>	Field Morning-glory
<i>Convolvulus nyctagineus</i>	Night-blooming Morn-ing-glory
<i>Convolvulus sepium</i>	Lady's nightcap
<i>Cortaderia selloana</i>	Pampas grass
<i>Crataegus sp. except C. douglasii</i>	hawthorn, except na-tive species
<i>Cytisus scoparius</i>	Scotch broom
<i>Daucus carota</i>	Queen Ann's Lace
<i>Elodea densa</i>	South American Wa-ter-weed
<i>Equisetum arvense</i>	Common Horsetail
<i>Equisetum telemateia</i>	Giant Horsetail
<i>Erodium cicutarium</i>	Crane's Bill
<i>Geranium roberianum</i>	Robert Geranium
<i>Hedera helix</i>	English Ivy
<i>Hypericum perforatum</i>	St. John's Wort
<i>Ilex aquafolium</i>	English Holly
<i>Laburnum watereri</i>	Golden Chain Tree
<i>Lemna minor</i>	Duckweed, Water Lentil
<i>Loentodon autumnalis</i>	Fall Dandelion

<i>Lythrum salicaria</i>	Purple Loosestrife
<i>Myriophyllum spicatum</i>	Eurasian Watermilfoil
<i>Phalaris arundinacea</i>	Reed Canary grass
<i>Poa annua</i>	Annual Bluegrass
<i>Polygonum coccineum</i>	Swamp Smartweed
<i>Polygonum convolvulus</i>	Climbing Binaweed
<i>Polygonum sachalinense</i>	Giant Knotweed
<i>Prunus laurocerasus</i>	English, Portugese Laurel
<i>Rhus diversiloba</i>	Poison Oak
<i>Rubus discolor</i>	Himalayan Blackberry
<i>Rubus laciniatus</i>	Evergreen Blackberry
<i>Senecio jacobaea</i>	Tansy Ragwort
<i>Solanum dulcamara</i>	Blue Bindweed
<i>Solanum nigrum</i>	Garden Nightshade
<i>Solanum sarrachoides</i>	Hairy Nightshade
<i>Taraxacum officinale</i>	Common Dandelion
<i>Utricularia vulgaris</i>	Common Bladderwort
<i>Urtica dioica</i>	Stinging Nettle
<i>Vinca major</i>	Periwinkle (large leaf)
<i>Vinca minor</i>	Periwinkle (small leaf)
<i>Xanthium spinosum</i>	Spiny Cocklebur
<i>various genera</i>	Bamboo sp.

13. Within three months of Certification of Occupancy for the new dwelling, the property owners shall ensure the existing dwelling is demolished. A Demolition Permit shall be obtained. [MCC 33.2025(A)]

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 by land use planning, the applicant or property owner shall complete the following steps:

1. Read your land use decision, the conditions of approval and modify your plans, if necessary, to meet any condition that states, "Prior to land use sign-off for building plan check..." Be ready to demonstrate compliance with the conditions.
2. Contact Right-of-Way Permits at row.permits@multco.us, or schedule an appointment at <https://multco.us/transportation-planning/webform/right-way-appointment-request/>, or at 503-988-3582 for an appointment to review your plans, obtain your access permit, and satisfy any other requirements. Failure to make an appointment with County Right-of-Way will result in delaying your building plan review.
3. Contact the City of Portland, Bureau of Development Services, On-Site Sanitation at 503-823-6892 or e-mail septic@portlandoregon.gov for information on how to complete the Septic 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. Included in your materials for a Building Permit signoff, there must be a Septic Review Certificate that includes a site plan and floor plan both signed by one of the sanitarians.
4. Contact George Plummer, Planner at (503) 988-0202 (8 am to 4 pm Tuesday through Friday) or george.a.plummer@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.

The above must be completed before the applicant can obtain building permits from the City of Portland. Five (5) sets each of the building plans with site plan (attached to the front of each set of plans) are needed for building permit sign off. We also need the completed signed Fire District Review and Septic Review form both with a signed site plan and signed floor plan. 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: Request to Replace existing dwelling in CFU-2 Zone with Exception to the Secondary Fire Safety Zone (southern) and an Adjustment to the southern Forest Practices Setback from 130 feet to 79 feet and within SEC-h and SEC-v overlay Zones.

2. PROPERTY DESCRIPTION & HISTORY

Staff: The subject parcel is made up of two tax lots; Tax Lot 1000 (R 972240060) 14.1 acres & Tax Lot 1201 (R972240320) 4.17 acres for a total of is 18.27 acres in size (Exhibit B.2). The property has NW Skyline Blvd. running through it and the two tax lots are across the road from each other. The property is a long somewhat narrow property. The length running east / west is 40 chains (2640 feet) in length and 4.75 chains (313.5 feet) in width. The property has a shallow slope less than 10 percent on east side of the road in the location of the proposed dwelling and at least thirty feet from the dwelling (Exhibit A.8, A.38 and A.39) . The slope drops 10 to 25 % north and east of the proposed dwelling beyond the 30 foot primary fire safety zone. The proposed dwelling location is cleared with few remaining trees and blackberry bushes. To the east of the dwelling site the property is heavily forested.

The existing dwelling was built in 1890. The property was created by deed on January 23 1959 by deed recorded in Book 1939 on Page 28 (A.10).

There are no known code compliance issues on the property.

3. COMMERCIAL FOREST USE -2 ZONE

3.1. Review Uses

MCC 33.2225 The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter:

(A) Replacement or restoration of an existing lawfully established habitable dwelling more than 100 feet from the existing dwelling.

(1) In the case of a replacement dwelling, the existing dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the completion or occupancy of the replacement dwelling.

MCC 33.0005 Definitions – Habitable Dwelling – An existing dwelling that:

(a) Has intact exterior walls and roof structure;

(b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(c) Has interior wiring for interior lights;

(d) Has a heating system; and

(e) Was lawfully established.

Staff: The proposed replacement dwelling will be on a parcel with an existing dwelling established in 1890. The application includes photos demonstrating the existing dwelling has the required habitable dwelling features listed in (a) through (e) [Exhibit A.30].

3.2. Forest Practices Setbacks and Fire Safety Zones

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 location	Front Property Line	All Other	Fire Safety Zone
	Adjacent to County Maintained Road (feet)	Setbacks (feet)	Requirements
			(FSZ)
Replaced or restored dwelling over 100 ft. from existing dwelling	30 feet	130 feet	Primary & Secondary required

Staff: The proposed dwelling meets all the Forest Practices setback except the southern setback for which the application includes requests for an adjustment to the southern Forest Practices setback to reduce it from 130 feet to 79.5 feet and an Exception to the Secondary Fire Safety Zone in the reduced setback area. *This standard is met.*

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

Staff: The application includes an Adjustment request to reduce the Forest Practices Setback between the proposed dwelling and the southern property line, from the required 130 feet to 79.5 feet (see Section 6 for the adjustment findings). *This standard is met.*

3.2.2. (B) Exception to the Secondary Fire Safety Zone shall be pursuant to MCC 33.2310 only. No reduction is permitted for a required Primary Fire Safety Zone through a nonconforming, adjustment or variance process.

Staff: The application includes an Exception to the Secondary Fire Safety Zone (see Section 4 for the exception finding). *This standard is met.*

3.2.3. (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. The county Road Official shall determine the necessary right-of-way widths based upon the county "Design and Construction Manual" and the Planning Director shall determine any additional setback requirements in consultation with the Road Official.

Staff: The right-of-way for NW Skyline Blvd in this area meets Multnomah County Transportation Design and Construction Manual standard for an arterial road of 60 feet in width. No additional setback is required. The proposed dwelling at its closet point will be 181 feet from the right-of-way. *This standard is met.*

3.2.4. (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 down the slope from a dwelling or structure as follows:

Percent Slope

Distance in Feet

Less than 10 No additional required

Less than 20 50 additional

Less than 25 75 additional

Less than 40 100 additional

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

(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 removed 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.

Staff: The down-slope areas from the dwelling are less than ten percent slope (Exhibits A.4, A.38 and A.39), thus the primary fire safety zone, fire break of 30 feet must be established and maintained a minimum of 30 feet in all directions around a dwelling. A condition will require the primary fire safety zone, fire break of 30 feet be established, a secondary fire safety zone and maintain the fire safety zones according to the code. *These standards are met through implementing the conditions of approval and maintaining them.*

(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

Staff: The area around the dwelling will considered residential development so the fire safety zones do not conflict with the forest management per the State Forest Practice Rules.

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

Staff: A condition will require the primary fire safety zone, fire break of 30 feet be established, a secondary fire safety zone and maintain the fire safety zones according to the code. *These standards are met through implementing the conditions of approval and maintaining them.*

- (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: A condition will require the primary fire safety zone, fire break of 30 feet be established, a secondary fire safety zone and maintain the fire safety zones according to the code. *These standards are met through implementing the conditions of approval and maintaining them.*

3.3 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:

Staff: The proposed dwelling is more than 100 feet from the existing dwelling, thus does not meet the criteria of (A). The proposed dwelling must meet the criteria in (B) through (D) and comply with MCC 33.0570.

- 3.3.1. (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):**

- (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**

Staff: The proposed dwelling will not meet the 130 foot setback to the southern property line. Thus the proposal must meet (2) and (3).

- (2) The structure shall satisfy the following requirements:**

- (a) It has the least impact on nearby or adjoining forest or agricultural lands and satisfies the standards in MCC 33.2256;**
- (b) Adverse impacts on forest operations and accepted farming practices on the tract will be minimized;**
- (c) The amount of forest land used to site the dwelling or other structure, access road, and service corridor is minimized;**
- (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**

Staff: There are no adjoining agricultural lands. By locating the dwelling to the south with a 79.5 foot setback from the southern property line, which is in a more shallow sloped area, the primary fire safety zone can be met with as a 30 foot fire break and the 100 foot secondary fire safety zones can be met on the property for the steeper down slope areas to the north and east. The property slopes downward towards the northeast and east. With a more shallow sloped area and up-slope to the south and southwest, locating the dwelling closer to the southern property line (proposed location) provides for establishment of the both the primary fire safety zone and a full secondary fire safety zone on the property down-slope of the dwelling. The proposed setback to the southern property line will be 79.5 feet which requires an Adjustment to the 130 foot setback and an Exception to the secondary fire safety zone to the south. This proposed dwelling location reduces the amount of tree removal necessary to meet the primary fire safety zone because it is a more shallow sloped area. Based on the site topography, the proposed location for the dwelling is a better location fire wise then a location within a 100 feet of the existing dwelling an area with a steeper down-slope. With the proposed setbacks the dwelling will far enough from the property lines to reduce impacts on adjoining forest properties.

The findings that address the standards in MCC 33.2256 are in Section 3.2.4. above. The subject property is narrow, about 313 feet wide, with a down slope to the northeast. The proposed dwelling has about a 3200 square foot footprint without the attached garage which is about 840 square feet. This size of dwelling is common along Skyline Blvd. The access driveway is less than 500 feet in length. *These criteria are met.*

(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.**

Staff: A condition of approval will require the driveway be approved, developed and maintained in accordance with the requirements of the Tualatin Valley Fire and Rescue (TVFR). The TVFR attached a letter to the signed Fire Service Agency Review form requiring driveway improvements (Exhibit A.12). There is no stream on the property. *This standard is met through implementing conditions of approval.*

3.3.2. (C) The dwelling or structure shall:

- (1) Comply with the standards of the applicable building code or as prescribed in ORS 446.002 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: A condition of approval will require dwelling comply with the standards of the applicable building code through obtaining a building permit and obtaining approval of a final inspection. A condition will also require a fire retardant roof and a spark arrester on each chimney. *This standard is met through implementing conditions of approval.*

3.3.3 (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.**
- (2) Evidence of a domestic water supply means:**
 - (a) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or**
 - (b) A water use permit issued by the Water Resources Department for the use described in the application; or**
 - (c) Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.**

Staff: The subject property has an existing well for domestic water supply authorized in accordance with the Department of Water Resources. The application includes a copy of a well report received by the Water Resources Department on October 16, 1995 for well drilled on the property in 1995 (Exhibit A.13). Water Resources Department has informed us that domestic use of well water does not need a water right. *This standard is met.*

3.4. CFU-2 Lot of Record

MCC 33.2075 (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:

- 3.4.1. MCC 33.0005 Definitions - Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof that, when created or re-configured, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) complies with the criteria for the creation of new lots or parcels described in MCC 33.7785. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.**
- (a) “Satisfied all applicable zoning laws” shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.**
 - (b) “Satisfied all applicable land division laws” shall mean the parcel or lot was created:**
 - 1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or**

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

Staff: The property was created by deed on January 23, 1959 by deed recorded in Book 1939 on Page 28 (Exhibit A.10). The current deed for the property recorded 10/06/2017 as Instrument Number 2017-121355 with the same metes and bounds description (Exhibit A.11). The property was zoned Agriculture – 2 (F2) in 1969 with a two acre minimum. The subject parcel met the "Satisfied all applicable zoning laws" standard. There were four parcels listed on the 1959 deed. Four large acreage parcels (exceeding five acres) were allowed to be created by deed (subdivision not required) in 1959. The subject parcel met the land division requirements of 1959. *These standards are met.*

- 3.4.2. (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
 - (b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.
1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be an existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area.

* * *

- (4) Exceptions to the standards of (A)(2) above:
- (a) Where two contiguous parcels or lots are each developed with a lawfully established habitable dwelling, the parcels or lots shall be Lots of Record that remain separately transferable, even if they were held in the same ownership on February 20, 1990.

Staff: The subject parcel dimensions are 313.5 feet by 2640 feet (Exhibits A10 and A.11) for a total area of 827,340 or 19 acres (area within the road are included per MCC 33.2063(B)). The property adjacent to the south is also 19 acres. Other adjacent properties exceed 19 acres.

The subject property meets the standards as not required to be aggregated to any other parcel. The subject property meets the lot of record standards, thus is a lot of record.

4. EXCEPTION TO SECONDARY FIRE SAFETY ZONE

- 4.1. **MCC 33.2310(A) The secondary fire safety zone for dwellings and structures may be reduced pursuant to the provisions of 33.2310 (B) when:**
- (1) **The tract on which the dwelling or structure is proposed has an average lot width or depth of 330 feet or less, or**
 - (2) **The dwelling or structure is proposed to be located within 130 feet of the centerline of a public or private road serving two or more properties including the subject site; or**
 - (3) **The proposed dwelling or structure is intended to be located within 130 feet of a legally existing dwelling or structure.**

Staff: The property is 313.5 feet wide (Exhibit A.5 and A.10) meeting standard (1) allowing for an exception. *This standard is met.*

- 4.2. **(B) Exceptions to secondary fire safety zones shall only be granted upon satisfaction of the following standards:**

- (1) **If the proposed secondary fire safety zone is between 50 and 100 feet, the dwelling or structure shall be constructed in accordance with the International Fire Code Institute Urban– Wildland Interface Code Section 505 Class 2 Ignition Resistant Construction as adopted August, 1996, or as later amended.**

Staff: The proposed forest setback is 89 feet with a 30 foot primary fire safety zone, there will be a 59 foot secondary fire safety zone. A condition of approval will require be constructed in accordance with the International Fire Code Institute Urban– Wildland Interface Code Section 505 Class 2 Ignition Resistant Construction as adopted August, 1996, or as later amended. The TVFR noted on the Fire Service Agency Review form that an NFPA 13D fire sprinkler system is proposed and will need to be installed in the dwelling. *This standard is met through implementing conditions of approval.*

* * *

- (3) **There shall be no combustible fences within 12 feet of the exterior surface of the dwelling or structure; and**

Staff: No fences are proposed. *This standard is met.*

- (4) **A dwelling shall have a central station monitored alarm system if the secondary fire safety zone equivalents of MCC 33.2310 (B) (1) are utilized.**

Staff: A condition of approval will require that a central station monitored alarm system be installed and maintained in operating condition. *This standard is met through implementing conditions of approval.*

* * *

5. SIGNIFICANT ENVIRONMENTAL CONCERN FOR WILDLIFE HABITAT

5.1. MCC 33.4570 (B) SEC-h 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 located in the partially cleared area on the property (Exhibit A.6). *This standard is met.*

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

Staff: While the dwelling is partially within 200 feet of the road, however it is predominately more than 200 feet from the road (Exhibit A.5). *This standard is not met.*

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

Staff: The driveway serving the development does not exceed 500 feet in length (Exhibit A.5). *This standard is met.*

- (4) For the purpose of clustering access road/driveway approaches near one another, one of the following two standards shall be met:**
- (a) The access road/driveway approach onto a public road shall be located within 100 feet of a side property line if adjacent property on the same side of the road has an existing access road or driveway approach within 200 feet of that side property line; or**
 - (b) The access road/driveway approach onto a public road shall be located within 50 feet of either side of an existing access road/driveway on the opposite side of the road.**

Staff: The proposal is for a replacement dwelling with an existing driveway which is proposed to continue to be used. The driveway is within 100 feet of a side property (Exhibit A.5). *This standard is met.*

- (5) The development shall be within 300 feet of a side property line if adjacent property has structures and developed areas within 200 feet of that common side property line.**

Staff: The proposed dwelling is within 300 feet of both side property lines (Exhibit A.5). *This standard is met.*

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

Staff: No fence is proposed. *This standard is met.*

- (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:**

Staff: The nuisance plants list is included in the conditions of approval. A condition can require nuisance plants shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property.

5.2. Wildlife Conservation Plan

- 5.2.1. MCC 33.4570 (C) 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).**

Staff: The proposed dwelling is predominately located more than 200 feet from the public road, thus the development standards of Section (B) are not met. The development met all the other standards of Section (B). The septic system drainfield is located to the front of the property. The dwelling is proposed to be built in an existing cleared area in a somewhat central location (a little to the south) between the northern and southern property lines. The proposed location provides area and shallow slope for the primary fire safety zone and provides area for the secondary fire safety zone except to the south (in an up-slope area) with an Exception to the Secondary Fire Safety Zone approved. Several physical characteristics unique to the property come together to support the proposed location of the dwelling, while only partially within 200 from the road, not predominately, all these factors lead to it being minimum departure from the standards required in order to allow the use. *This standard is met.*

- 5.2.2. (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.**

Staff: The proposed measures are included to minimize the 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. *This standard is met.*

- (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.**

Staff: The proposal is to remove three trees from the mostly cleared dwelling site. The proposed dwelling site is mostly covered in blackberries and several immature small trees. There will need to be some trees removed for the primary fire safety zone. *This standard is met.*

- (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.**

Staff: No fencing is proposed. *This standard is met.*

- (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.**

Staff: The only cleared area on the property is the developed area in the front of the parcel. There is no newly cleared area. *This standard is met.*

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

Staff: There is no stream riparian areas on the property. *This standard is not applicable.*

6. SIGNIFICANT ENVIRONMENTAL CONCERN FOR SCENIC VIEWS

6.1. MCC 33.4565 (A) Definitions

- (1) Significant scenic resources consist of those areas designated SEC-v on Multnomah County sectional zoning maps.**
- (2) Identified Viewing Areas are public areas that provide important views of a significant scenic resource, and include both sites and linear corridors. 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 means 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 lidar analysis indicates that the proposed dwelling site is topographically visible from several of the Identified Viewing Areas listed in (2). The proposed dwelling will need to meet the visually subordinate standard.

6.2. SEC-v Criteria

MCC 33.4565 (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.

Staff: The existing vegetation to the northeast, east and southeast within two hundred feet of the dwelling will provide some screening for the dwelling from some Identified Viewing Areas (IVAs). The primary fire safety zone may require some removal of trees within 30 feet of the dwelling. For primary fire safety zone, trees need to be spaced to have a minimum of 15 feet between crowns which is the required minimum standard. Removing all trees within 30 feet of the dwelling can be allowed for fire safety. For the forest area beyond the 30 foot primary fire safety zone the first 100 feet beyond the 30 foot zone, the dead brush and branches need to be removed. To aid in screening the dwelling from IVAs a condition can require maintaining the existing forest density for 200 feet beyond the 30 foot primary fire safety zone while maintaining the secondary fire safety zone according to the code listed in Section 3.2.4 of this decision. *This standard is met by meeting a condition of approval.*

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

Staff: The proposed building materials include dark brown and dark green composite roofing shingles (Exhibit A.22) and the walls a combination of dark earthtone Hardiplank and stone. The proposed window will have an 11 percent or less visible light reflectivity rating. These proposed materials are low reflective building materials. The singles are dark earth tone colors. The application includes a copy of proposed siding exterior medium dark brown color that is labeled "Umber". Staff find that color is a dark natural or earthtone colors. If the property owner decides to use an alternative exterior color it must be dark natural or earthtone color and must meet the color chart top two rows (A) or (B) or one of the far right four color in row (C) of the Columbia River Gorge Color Chart and confirm the color chips with County land use Planning. A condition of approval can require these standard to be met. *These standards are met through implementing conditions of approval.*

(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 non-reflective, opaque materials.

Staff: The application includes a manufacture's brochure for a light fixture that appeared to not meet the hooded standard. At a horizontal plane the light bulb can not be seen. A condition of approval can require these standards to be confirmed as met at the building permit zoning sign-off of the plans. *These standards are meet through implementing conditions of approval.*

- (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.**

Staff: The existing vegetation to the northeast, east and southeast within two hundred feet of the dwelling will provide some screening for the dwelling from some Identified Viewing Areas (IVAs). The primary fire safety zone may require some removal of trees within 30 feet of the dwelling. For primary fire safety zone, trees need to be spaced to have a minimum of 15 feet between crowns which is the required minimum standard. Removing all trees with 30 feet of the dwelling can be allowed for fire safety. For the forest area beyond the 30 foot primary fire safety zone the first 100 feet beyond the 30 foot zone, the dead brush and branches need to be removed. To aid in screening the dwelling from IVAs a condition can require maintaining the existing forest density for the area within 200 feet beyond the 30 foot primary fire safety zone while maintaining the secondary fire safety zone according to the code listed in Section 3.2.4 of this decision. *This standard is met by meeting a condition of approval.*

- (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.**

Staff: The application proposal is 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 as previously described in this decision.

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

Staff: The proposed two story dwelling will not be taller than the existing trees between the road and the dwelling site. Thus the structure will remain below the surrounding forest canopy level if the tree density in that area is maintained (Exhibit B.3). A condition of approval can require the tree density in that area to be maintain. *This standard is met through implementing conditions of approval.*

- (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,**

Staff: The dwelling is located on the rounded saddle ridge line of the Tualatin Mountain Range (West Hills) with a forested area on the property along the rounded (shallow sloped) ridge line. The proposed two story dwelling will not be taller the existing trees between the road and the dwelling site. Thus the structure will remain below the skyline of bluffs or ridges as seen from identified viewing areas if the tree density in that area is maintained (Exhibit B.3). A condition of approval can require the tree density in that area to be maintain. *This standard is met through implementing conditions of approval.*

- 6.3. **MCC 33.4565 (E)** The approval authority may impose conditions of approval on an SEC-v permit in accordance with MCC 33.4550, 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: Conditions of Approval are 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. The Conditions of Approval when implemented and maintained will assure visual subordination with minor burden.

6. ADJUSTMENT

6.1. PURPOSE

MCC 33.7601 (A) The regulations of this Zoning Code Chapter are designed to implement the Policies of the Comprehensive Framework Plan and each Rural Area Plan. However, it is also recognized that because of the diversity of lands and properties found in the county there should be a zoning pro-vision that permits justifiable departures from certain Zoning Code dimensional standards where literal application of the regulation would result in excessive difficulties or unnecessary hardship on the property owner.

MCC 33.7601 (B) To address those situations, modification of the dimensional standards given in MCC 33.7606 may be permitted if the approval authority finds that the applicant has satisfactorily addressed and met the respective approval criteria in MCC 33.7611, Adjustments, or 33.7616, Variances. If an Adjustment or Variance request is approved, the approval authority may attach conditions to the decision to mitigate adverse impacts which might result from the approval.

MCC 33.7601 (C) The Adjustment review process provides a mechanism by which certain dimensional standards may be modified no more than 40 percent if the proposed development continues to meet the intended purpose of the regulations. Adjustment reviews provide flexibility for unusual situations and allow for alternative ways to meet the purposes of the regulation.

6.1. Scope

MCC 33.7606 (A) Dimensional standards that may be modified under an Adjustment review (modified no more than 40 percent) are yards, setbacks, forest practices setbacks...

Staff: The proposed reduction of the southern 130 foot forest practices setback to 89 feet is less than a 40 percent reduction. *This standard is met.*

6.2. Adjustment Criteria

MCC 33.7611 The Approval Authority may permit and authorize a modification of no more than 40 percent of the dimensional standards given in MCC 33.7606 upon finding that all the following standards in (A) through (E) are met:

Staff: The subject property is CFU-2, (E) does not apply.

6.2.1. (A) Granting the adjustment will equally or better meet the purpose of the regulation to be modified; and

Staff: With the proposed adjustment the location of the dwelling better meets the fire safety zones code due to the topography of the site. By locating the dwelling to the south to 79.5 feet from the southern property line, a more shallow sloped area, the primary fire safety zone can be met with as a 30 foot fire break and the 100 foot secondary fire safety zones can be met on the property for the steeper down slope areas to the north and east. The property slopes downward towards the northeast. With a more shallow sloped area and up-slope to the south and southwest, locating the dwelling closer to the southern property line (proposed location) provides for establishment of the both the primary fire safety zone and a full secondary fire safety zone on the property down-slope of the dwelling. The proposed setback to the southern property line will be 79.5 feet which requires an Adjustment to the 130 foot setback and an Exception to the secondary fire safety zone to the south. The proposed dwelling location reduces the amount of tree removal necessary to meet the primary fire safety zone due to it being a more shallow sloped area. The proposed location for the dwelling is a better location fire wise then a location within a 100 feet of the existing dwelling with a steeper down-slope. With the proposed setbacks the dwelling will be setback from the property lines to reduce impacts on adjoining forest properties. *This criteria is met.*

6.2.2. (B) Any impacts resulting from the adjustment are mitigated to the extent practical. That mitigation may include, but is not limited to, such considerations as provision for adequate light and privacy to adjoining properties, adequate access, and a design that addresses the site topography, significant vegetation, and drainage; and

Staff: The proposed location of the dwelling resulting in the need for an Adjustment mitigates impacts that would potentially occur were the dwelling to meet the forest practices setback for the southern property line. The proposed location will potentially reduce the risk of impact from a wildfire due to the shallow sloped around the dwelling. *This criteria is met.*

6.2.3. (C) If more than one adjustment is being requested, the cumulative effect of the adjustments results in a project which is still consistent with the overall purpose of the zoning district; and

Staff: There is only one adjustment to the southern forest practice setback. *This criteria is not applicable.*

6.2.4 (D) If the properties are zoned farm (EFU) or forest (CFU), the proposal will not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on the subject property and adjoining lands.

Staff: There is no reason the proposed dwelling would not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on the subject property and adjoining lands. The property already has an existing dwelling. The finding under section 3.3.1. (B)(2) of this decision includes finding address this criteria. *This criteria is met.*

7. DARK SKY LIGHTING STANDARDS

MCC 33.0570 (C) The following standards apply to all new exterior lighting supporting a new, modified, altered, expanded, or replaced use approved through a development permit and to all existing exterior lighting on property that is the subject of a development permit approval for enlargement of a building by more than 400 square feet of ground coverage.

- (1) The light source (bulbs, lamps, etc.) must be fully shielded with opaque materials and directed downwards. "Fully shielded" means no light is emitted above the horizontal plane located at the lowest point of the fixture's shielding. Shielding must be permanently attached.
- (2) The lighting must be contained within the boundaries of the Lot of Record on which it is located. To satisfy this standard, shielding in addition to the shielding required in paragraph (C)(1) of this section may be required.

Staff: The application included a manufacturer's brochure of the proposed exterior lighting fixtures. It appears the proposed fixture would not meet the standards because the lightbulb protrudes from the shielding. A condition can require these standards be met. *These standards are met through implementing a condition of approval.*

8. CONCLUSION

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Forest Development Standards and Significant Environment Concern Permits to replacement the dwelling on a property in the CFU-2 zone. This approval is subject to the conditions of approval established in this report.

9. EXHIBITS

'A' Applicant's Exhibits

'B' Staff Exhibits

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Application Form	8/31/18
A.2	20	Narrative	8/31/18
A.3	1	Applicant's Exhibits Table of Contents	8/31/18
A.4	1	Applicant's Exhibit 1: Site Plan	8/31/18
A.5	2	Applicant's Exhibit 1A: 20 foot contour topographic site plan with proposed dwelling area blow-up	8/31/18

A.6	1	Applicant's Exhibit 1B: Aerial Photo of Subject Property and Vicinity (showing tax lot lines)	8/31/18
A.7	1	Applicant's Exhibit 1C: Aerial Photo of Subject Property and Vicinity (without tax lot lines)	8/31/18
A.8	1	Applicant's Exhibit 1D: Generalized County Slope Map	8/31/18
A.9	1	Applicant's Exhibit 2: Photos showing existing dwelling "habitable dwelling" features	8/31/18
A.10	1	Applicant's Exhibit 3: Deed recorded January 23, 1959 in Book 1939 on Page 28 (with staff note clarifying chain distance)	8/31/18
A.11	1	Applicant's Exhibit 3A: Deed recorded 10/06/2017 Instrument Number 2017-121355	8/31/18
A.12	5	Applicant's Exhibit 4: Fire District Review with attached conditions	8/31/18
A.13	1	Applicant's Exhibit 5: Oregon Water Well Report	8/31/18
A.14	1	Applicant's Exhibit 6: Conditions and Restriction Covenant recognizing and accepting farm and forest practices on nearby.	8/31/18
A.15	1	Applicant's Exhibit 7: Storm Water Certification completed, stamped and signed by Mia C Mahedy-Sexton, PE	8/31/18
A.16	1	Applicant's Exhibit 8: Proposed dwelling floor plans	8/31/18
A.17	8	Applicant's Exhibit 9: Septic Review Certification	8/31/18
A.18	1	Applicant's Exhibit 10: Photo of site from the road	8/31/18
A.19	1	Applicant's Exhibit 11: Copy of nine color chops ranging from light tan to medium dark brown	8/31/18
A.20	21	Revised Narrative	9/28/18
A.21	1	Revised Applicant's Exhibits Table of Contents	9/28/18
A.22	1	Applicant's Exhibit 12: Asphalt composite shingle roofing sample, two colors very dark brown and dark brow-dark green mix	9/28/18
A.23	1	Applicant's Exhibit 13: Topographic Map showing show sight lines	9/28/18
A.24	1	Applicant's Exhibit 13-1: Aerial photo distances to nearby dwellings	9/28/18
A.25	7	Applicant's Exhibit 13-A through G: Photos taken from Identified Viewing Areas	9/28/18
A.26	1	Applicant's Responses stating intension of submitting addition information to make application complete	10/4/18
A.27	5	Land Use Planning incomplete application letter with applicant responses	11/20/18
A.28	1	Site Plan showing development area detail trees in the area	11/20/18

A.29	2	Deed recorded January 23, 1959 in Book 1939 on Page 28 with applicant notes highlighting different parcels described on the deed.	11/20/18
A.30	4	Photos showing existing dwelling “habitable dwelling” features with additional photos not included in previous set	11/20/18
A.31	2	Storm Water Certification completed, stamped and signed by Mia C Mahedy-Sexton, PE with attached stamped site plan	11/20/18
A.32	10	Fire District Review with attached conditions and signed site plan	11/20/18
A.33	1	Copy of nine color chops ranging from light tan to medium dark brown with “Umber” medium dark brown selected (same colors listed as Exhibit A.19 but copy poor faded colors)	11/20/18
A.34	3	Milgard manufacturer’s brochure detailing percentage of reflectivity for visible light.	11/20/18
A.35	1	Manufacturer’s brochure of proposed exterior lighting fixture	11/20/18
A.36	1	Email from applicant tolling the clock for a month	3/6/19
A.37	1	Narrative addressing Adjustment criteria	3/6/19
A.38	3	Photos show the 30 foot area around the proposed dwelling site	3/6/19
A.39	1	Photos show the 30 foot area around the proposed dwelling site	3/18/19
B.	#	Staff Exhibits	Date
B.1	2	County Assessment Property Information	NA
B.2	1	County Assessment Map	NA
B.3	1	2016 Aerial Photo	NA