

NOTICE OF DECISION

Case File: T2-2019-11540

Permit: Significant Environmental Concern for

Applicant: Douglas Silton **Owner(s):** Douglas Silton

Location: 35321 SE Dodge Park Blvd, Gresham, OR 97080
Tax Lot 600, Section 22A, Township 1 South, Range 4 East, W.M.
Tax Lot 100, Section 22DB, Township 1 South, Range 4 East, W.M.
Alternate Account #R994221080 Property ID #R342629
Alternate Account #R994221190 Property ID #R342547

Zoning: Commercial Forest Use (CFU)

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

Proposal Summary: Request to replace the single family dwelling destroyed by fire in April 2018 and to remove and replace existing accessory structure with new accessory structure closer to the new home site.

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 September 18, 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 or (503) 988-3043.

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:

Adam Barber, Interim
Planning Director

Date:

September 4, 2019

Vicinity Map

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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 39.4070(D) Replacement Dwelling; MCC 39.4070(T) Accessory Structures; MCC 39.4105 Building Height Requirements; MCC 39.4110 Forest Practices Setbacks and Fire Safety Zones; MCC 39.4115 Development Standards for Dwellings and Structures; MCC 39.3005 Lot of Record – Generally; MCC 39.3010 Lot of Record-Commercial Forest Use (CFU); MCC 39.6850 Dark Sky Lighting Standards; and MCC 39.5860 Significant Environmental Concern (SEC-h) 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 39: Multnomah County Zoning Code

Conditions of Approval

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein. [MCC 39.1100 through 39.1139]
2. Prior to Land Use Planning review and sign-off for a building permit, the property owner(s) or their representative shall:
 - a) Record pages 1 through 4 of this Notice of Decision with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the

issuance of any permits and shall be filed with the Land Use Planning Division.
Recording shall be at the applicant's expense. [MCC 39.1175]

3. The property owner(s) shall ensure that the two parcel of the tract remain aggregated under the same ownership as one Lot of Record, if sold the properties shall be sold together and not transferred separately to different parties. [MCC39.3010]
4. The property owner(s) shall establish and maintain Primary and Secondary Fire Safety Zones on the subject property surrounding the dwelling and the accessory building. [MCC 39.4110(D)]
 - (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) 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
5. The property owner(s) shall ensure that the dwelling and accessory structure comply with the standards of the applicable building code, have a fire retardant roof; and have a spark arrester on each chimney. [MCC 39.4115(C)]
6. The property owner(s) shall ensure accessory building be built as proposed and used for an accessory use listed on the list under MCC 39.4070(T)(1) and meet the standards of (2) through (6) unless reviewed and approval through a future land use review. The property owner shall ensure the accessory building is not used for a commercial use unless approved by a future land use review. The property owner shall ensure the removal of the existing accessory building (as proposed) located on the southern parcel of the tract, described as Tax Lot Tax Lot 100 (Section 22DB, Township 1 South, Range 4 East, W.M) within three months of completing the new accessory building. [MCC 39.4070(T)]
7. The property owner(s) shall ensure that nuisance plants listed below (MCC 39.5580 Table 1) not be planted on the subject property, be removed and kept removed from cleared areas of the subject property. [MCC 39.5860(7)]

Table 1

Common Name	Scientific Name
Lesser celandine	<i>Chelidonium majus</i>
Canada Thistle	<i>Cirsium arvense</i>
Common Thistle	<i>Cirsium vulgare</i>

Common Name	Scientific Name
Western Clematis	<i>Clematis ligusticifolia</i>
Traveler' s Joy	<i>Clematis vitalba</i>
Poison hemlock	<i>Conium maculatum</i>

Common Name	Scientific Name
Field Morning-glory	<i>Convolvulus arvensis</i>
Night-blooming Morning-glory	<i>Convolvulus nyctagineus</i>
Lady's nightcap	<i>Convolvulus sepium</i>
Pampas grass	<i>Cortaderia selloana</i>
Hawthorn, except native species	<i>Crataegus sp. except C. douglasii</i>
Scotch broom	<i>Cytisus scoparius</i>
Queen Anne's Lace	<i>Daucus carota</i>
South American Waterweed	<i>Elodea densa</i>
Common Horsetail	<i>Equisetum arvense</i>
Giant Horsetail	<i>Equisetum telmateia</i>
Cranesbill	<i>Erodium cicutarium</i>
Roberts Geranium, Herb Robert	<i>Geranium robertianum</i>
English Ivy	<i>Hedera helix</i>
St. John's Wort	<i>Hypericum perforatum</i>
English Holly	<i>Ilex aquafolium</i>
Golden Chain Tree	<i>Laburnum watereri</i>
Duckweed, Water Lentil	<i>Lemna minor</i>
Fall Dandelion	<i>Leontodon autumnalis</i>
Purple Loosestrife	<i>Lythrum salicaria</i>
Eurasian Watermilfoil	<i>Myriophyllum spicatum</i>

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

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 Gresham. When ready to have building permits signed off by land use planning, the applicant shall complete the following steps:

1. Read your land use decision, the conditions of approval and modify your plans, if necessary, to meet any condition that states, "Prior to land use sign-off for building plan check..." Be ready to demonstrate compliance with the conditions.
2. Contact Right-of-Way Permits at row.permits@multco.us, 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 and obtaining building permits.
3. Contact the City of Portland, Bureau of Development Services, On-site Sanitation at 503-823-6892 or e-mail septic@portlandoregon.gov for information on how to complete the Septic Evaluation or Permit process for the proposed development. All existing and/or proposed septic system components (including septic tank and drainfield) must be accurately shown on the site plan.
4. Contact George Plummer, Planner at (503) 988-0202 (8 am to 4 pm Tuesday through Friday) or george.a.plummer@multco.us or (503) 988-3043 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 Gresham, three sets of plan (3), each set with the site plan on the front (show erosion control) and building plans are needed for zoning sign-off for the building permit. A fee will be collected for signing the plans. 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 the single family dwelling destroyed by fire in April 2018 and to remove and replace existing accessory structure with new accessory structure closer to the new home site on a Commercial Forest Use (CFU) Zone property within the significant Environmental Concern for Wildlife Habitat (SEC-h) Overlay Zone. Included in the case are exhibits list at the end of the decision with the applicant submitting Exhibits A.1 through A.22.

2. PROPERTY DESCRIPTION & HISTORY

Staff: The ownership tract includes two parcels. The 20.32 acre, northern parcel of the tract (Exhibit B.1 and B.2), Tax Lot 600 (Section 22A, Township 1 South, Range 4 East, W.M., Alternative Account # R994221080, Property ID: R342629) is the property that had the dwelling and is proposed for replacement dwelling and the replacement accessory building. The second parcel, the southern parcel, of the tract is the 8.68 acre (Exhibit B.1 and B.2), Tax

Lot 100 (Section 22DB, Township 1 South, Range 4 East, W.M., Alternative Account # R994220190, Property ID: R342547) which currently has an accessory building established without permits that does not meet the required setbacks and is proposed to be removed after the proposed replacement accessory building is built on Tax lot 600.

Both parcels have relatively shallow slope area, with two to six percent slope, in the area that has been cleared. To the east in the forested area of the two parcel the slope drops-off steeply at about 30 percent (Exhibit A.22).

A single family dwelling was established on the subject property through Use Under Prescribed Conditions Case PRE 4-88 (Exhibit B.3) for a dwelling on property zoned Multiple Use Forest – 19 (MUF-19) and a Building Permit issued on April 21, 1988. The dwelling that burned was directly adjacent to the top of the steep sloped area. The proposed dwelling will be located further to the east and is proposed in the shallowed sloped area (less than 10 percent) for at least 30 feet to the east before the property becomes steeply sloped.

County Assessment listed improvements on the property in 2017 as \$487,510 for the property with the dwelling that was later destroyed by fire (Exhibit B1). There were no other improvements (buildings) on that property. The proposal is to replace the dwelling that was destroyed by fire (Exhibit A.1).

3. LOT OF RECORD VERIFICATION

3.1. Lot of Record – Generally [MCC 39.3005]

- (A) An area of land is a “Lot of Record” if it meets the standards in Subsection (B) of this Section and meets the standards set forth in this Part for the Zoning District in which the area of land is located.**
- (B) A Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, either satisfied all applicable zoning laws and satisfied all applicable land division laws, or complies with the criteria for the creation of new lots or parcels described in MCC 39.9700. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.**
 - (a) “Satisfied all applicable zoning laws” shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.**
 - (b) “Satisfied all applicable land division laws” shall mean the parcel or lot was created:**
 - 1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or**
 - 2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or**
 - 3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in recordable form prior to October 19, 1978; or**
 - 4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and**
 - 5. “Satisfied all applicable land division laws” shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land**

division code. (See Date of Creation and Existence for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU and CFU districts.)

Staff: In the 1988 Multnomah County Land Use Review Case, Use Under Prescribed Conditions PRE 4-88 (Exhibit B.3) approved a dwelling on the property zoned Multiple Use Forest – 19 (MUF-19). Staff included a Lot of Record finding in that decision which stated that the parcel (Tax Lot 600) was a Lot of Record. Tax Lot 600 has not changed in size or configuration since that decision was issued.

3.2. CFU Zone Lot of Record [MCC39.3010]

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

- (1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or**
- (2) A group of contiguous parcels or lots:**
 - (a) Which were held under the same ownership on February 20, 1990; and**
 - (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 a minimum of 19 acres in area using 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. See Examples 1 and 2 in this subsection.**
 - 2. There shall be an exception to the 19 acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record. See Example 3 in this subsection.**
 - 3. Three examples of how parcels and lots shall be aggregated are shown in MCC 39.3070 Figure 1 with the solid thick line outlining individual Lots of Record.**
 - 4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g. MUA-20, RR, RC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or**
- (3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.**

Staff: The ownership tract includes two parcels (Exhibits B.1 and B.2). The 20.32 acre, northern parcel of the tract, Tax Lot 600 (R342629) is the one that had the dwelling and is proposed for replacement dwelling and the replacement accessory building. The second parcel of the tract is the 8.68 acre, southern parcel, Tax Lot 100 (R342547).

Both properties were in the same ownership tract on February 20, 1990, thus with Tax Lot 100 being less than 19 acres, the two parcels are required to be aggregated, with the both parcels owned by the same person as one Lot of Record. The aggregation requires that the two parcels

remain under the same ownership as one Lot of Record. A condition will require that the two parcels remain under the same ownership. If sold the properties will need to be sold together remaining aggregated under the same ownership. *The ownership tract is one Lot of Record and a condition will require they remain aggregated.*

3. COMMERCIAL FOREST USE ZONE

3.1. Allowed Uses [MCC 39.4070]

(D) Alteration, maintenance, replacement or restoration of an existing lawfully established habitable dwelling as defined in MCC 39.2000 and located within 100-feet from an existing dwelling.

- (1) In the case of a replacement dwelling, the existing dwelling shall be removed, demolished or converted to an allowable nonresidential use within three months of the completion or occupancy of the replacement dwelling.**
- (2) Restoration or replacement due to fire, other casualty or natural disaster shall commence within one year from the occurrence of the fire, casualty or natural disaster.**

3.2 Forest Practices Setbacks and Fire Safety Zones [MCC 39.4110]

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

Use		Forest Practice Setbacks		Fire Safety Zones
Description of use and location	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)
At least a portion of the replaced or restored dwelling is within 100 ft. of existing dwelling	N/A	30	30	Primary required;
				Maintenance of vegetation in the Secondary is required to the extent possible
Accessory structures within 100 ft. of the dwelling	N/A	30	30	Primary required

Staff: The proposed dwelling location is within 100 feet of the fire destroyed dwelling location thus the Forest Practices Setback 30 feet. *This standard is met by the proposal.*

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

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

(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: There is no need to reduce the setback or the required fire safety zones. There is no need to increase the setback for right-of-way width parcel for the proposed dwelling about the right-of-way more than 1000 feet from the proposed dwelling location. *These standards are not applicable.*

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

(1) Primary Fire Safety Zone.

- (a) A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure. Trees within this safety zone shall be spaced with greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height.
- (b) On lands with 10 percent or greater slope the primary fire safety zone shall be extended farther down the slope from a dwelling or structure as follows:

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

Staff: The slope around the dwelling has a less than 10 percent drop for the first 30 feet (Exhibit A.22). Thus the required primary fire safety zone extends a minimum of 30 feet on the property in all directions around a dwelling shown on Exhibit A.22. The proposed plans show the dwelling will meet the minimum 30 feet of distance to the property line to establish the primary fire safety zone within that area. The primary fire safety zone must be established and maintained surrounding the accessory building as well. A condition will require the establishment and maintenance of a primary fire safety zone. *This standard is met through implementing condition of approval.*

(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 MCC 39.4155.

Staff: Establishment and maintenance of vegetation in the Secondary Fire Safety Zone is required to the extent possible on the property extending a minimum of 100 feet in all directions around the primary safety zone. There is no requirement to establish a Secondary Fire Safety Zone off the property. A condition will require the establishment and maintenance of a Secondary Fire Safety Zone surrounding the dwelling. *This standard is met through implementing condition of approval.*

(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: Providing the fire safety zones will not contradict a forest management plan. *This standard is met.*

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

Staff: The establishment of Primary Fire Safety Zones and Secondary Fire Safety Zones. A condition will require the establishment and maintenance of the fire safety zone on the property. *This standard is met through implementing condition of approval.*

(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).

A condition will require the maintenance of the Primary Fire Safety Zones and Secondary Fire Safety Zones. A condition will require the maintenance of the fire safety zone on the property. *This standard is met through implementing condition of approval.*

3.3. Development Standards for Dwellings and Structures [MCC 39.4115]

All dwellings and structures shall comply with the approval criteria in (B) through (D) below except as provided in (A). All exterior lighting shall comply with MCC 39.6850:

3.3.1. (A) For the uses listed in this subsection, the applicable development standards are limited as follows:

(2) Replacement or restoration of a dwelling.

* * *

(c) Replacement or restoration of a dwelling that is not located within the footprint of the original dwelling but it is located where at least a portion of the replacement dwelling is within 100 feet of the original dwelling: Shall meet the development standards of MCC 39.4115(C).

(3) Accessory buildings.

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

Staff: Both the proposed replacement dwelling will be located within 100 feet of the dwelling that was destroyed by fire. The proposed accessory building will be located within 100 feet of the dwelling. These standards are met.

(C) The dwelling or structure shall:

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

* * *

(3) Have a fire retardant roof; and

(4) Have a spark arrester on each chimney.

Staff: The applicant states that these standards do not apply, however, they do except for the clauses on manufactured homes excluded from above. A condition will require proposed dwelling and accessory building meet these standards. *This standard is met through implementing condition of approval.*

4. SIGNIFICANT ENVIRONMENTAL CONCERN FOR WILD LIFE HABITAT

Criteria for Approval of SEC-h Permit -Wildlife Habitat [39.5860]

4.1. (A) In addition to the information required by MCC 39.5520(A), an application for development in an area designated SEC-h shall include an area map showing all properties which are adjacent to or entirely or partially within 200 feet of the proposed development, with the following information, when such information can be gathered without trespass:

- (1) Location of all existing forested areas (including areas cleared pursuant to an approved forest management plan) and non-forested "cleared" areas;**
For the purposes of this section, a forested area is defined as an area that has at least 75 percent crown closure, or 80 square feet of basal area per acre, of trees 11 inches DBH and larger, or an area which is being reforested pursuant to Forest Practice Rules of the Department of Forestry. A non-forested "cleared" area is defined as an area which does not meet the description of a forested area and which is not being reforested pursuant to a forest management plan.
- (2) Location of existing and proposed structures;**
- (3) Location and width of existing and proposed public roads, private access roads, driveways, and service corridors on the subject parcel and within 200 feet of the subject parcel's boundaries on all adjacent parcels;**
- (4) Existing and proposed type and location of all fencing on the subject property and on adjacent properties and on properties entirely or partially within 200 feet of the subject property.**

Staff: The proposed dwelling location has been moved out of the forested area to a historically cleared area. The proposed accessory building is also located in the cleared area. The proposed plans (Exhibit A.22) show the information needed for the SEC-h review.

4.2. (B) Development standards:

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

Staff: The proposed dwelling location has been moved out of the forested area to a historically cleared area. The proposed accessory building is also located in the cleared area. *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: The subject property is located more than 200 feet from the road. Due to the existing site conditions, it is not feasible to locate the dwelling within 200 of the road because it must be replaced on the same parcel of the original dwelling which is more than 200 feet from the road. The accessory building needs to be within 100 of the proposed dwelling. *This standard is not met, thus a wildlife conservation plan is required.*

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

Staff: The driveway exceeds the 500 foot standard, thus the standard is not met. *This standard is not met, thus a wildlife conservation plan is required.*

- (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).**
- 1. The modification shall be the minimum necessary to allow safe access onto the public road.**
 - 2. The County Road Official shall provide written findings supporting the modification.**

Staff: The driveway does not meet these standards. *This standard is not met, thus a wildlife conservation plan is required.*

- (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 development meets this standard by being less than 200 feet from the property line. *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. (See Figure 4 below.)
 - (f) Fencing standards do not apply where needed for security of utility facilities.

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

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

Staff: The application states no nuisance plants will be planted. A condition will require this standard be met by the property owner. *This standard will be met through implementing conditions.*

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

- (1) The applicant cannot meet the development standards of subsection (B) because of physical characteristics unique to the property. The applicant must show that the wildlife conservation plan results in the minimum departure from the standards required in order to allow the use; or
- (2) The applicant can meet the development standards of subsection (B), but demonstrates that the alternative conservation measures exceed the standards of subsection (B) and will result in the proposed development having a less detrimental impact on forested wildlife habitat than the standards in subsection (B).

Staff: The applicant cannot meet the development standards of subsection (B) because of the subject property is land-locked, not abutting a road and is more than 200 feet from the road. The dwelling must be replaced on the parcel which the destroyed dwelling was located. The dwelling that burned and is proposed to be replaced was located on this land-locked parcel. The accessory building needs to be within 100 feet of the proposed dwelling. The application must show that the wildlife conservation plan results in the minimum departure from the standards required in order to allow the use.

- (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 dwelling site has been moved back out of the forested area into a more shallow sloped cleared area reducing any impacts to the forested area. By moving the dwelling, the primary fire safety zone is reduced to 30 feet surrounding the dwelling, thus eliminating the need to remove several trees (Exhibit A.20). The accessory building is further back from the forested area. No clearing is needed. *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 proposed dwelling location has been moved out of the forested area to a historically cleared area. The proposed accessory building is also located in the cleared area. *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. No fencing exists on the property outside cleared areas. *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: There are no newly cleared areas. *This standard is not applicable.*

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

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

5. Conclusion: *Based on the findings and other information provided above, the applicant has carried the burden necessary for the Significant Environmental Concern for Wildlife Habitat to establish a replacement dwelling and an accessory building in the CFU zone. This approval is subject to the conditions of approval established in this report.*

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Significant Environmental Concern for Wildlife Habitat to establish a replacement dwelling and an accessory building in the CFU zone. This approval is subject to the conditions of approval established in this report.

6. Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

All exhibits are available for review at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Application Form	1/30/19
A.2	20	Narrative with site plans attached	1/30/19
A.3	10	SEC-h Worksheet	1/30/19
A.4	6	Photos of existing barn and trees to be removed	1/30/19
A.5	9	Septic Review Certification and Authorization Notice for Re-Connection to Existing System	1/30/19
A.6	1	Transportation	1/30/19
A.7	16	Packet of deeds	1/30/19
A.8	13	Fire Incident Report	1/30/19
A.9	25	Storm Drainage Design and Calculations with attached Storm Water Certification (stamped and signed) by Ray L Moore, PE	1/30/19
A.10	1	South Elevation drawings of the proposed dwelling oversized	1/30/19
A.11	1	Floorplan for first floor of the proposed dwelling oversized	1/30/19
A.12	1	Floorplan for second floor of the proposed dwelling oversized	1/30/19
A.13	1	North Elevation drawings of the proposed dwelling oversized	1/30/19
A.14	3	Fire Service Review	2/05/19
A.15	2	Addendum the Narrative responding to incompleteness letter	4/11/19
A.16	19	Revised Narrative	4/11/19
A.17	2	Transportation Planning Review	4/11/19
A.18	18	Revised Storm Drainage Design and Calculations with attached Storm Water Certification (stamped and signed) by Ray L Moore, PE	4/11/19
A.19	1	Elevation Drawing for proposed barn	4/11/19
A.20	1	Property and Area Map	4/11/19
A.21	1	Existing Topography Map	4/11/19
A.22	1	Revised Proposed Site Plans	4/11/19
'B'	#	Staff Exhibits	Date
B.1	4	Multnomah County Assessment Information	NA
B.2	2	Multnomah County Assessment Maps	NA
B.3	4	1988 PRE 4-88 approval for single family dwelling.	NA