

NOTICE OF DECISION

Case File: T2-2019-12406

Permit: Significant Environmental Concern

Applicant(s): Geno Salimena **Owner(s):** Judy Flynn and John Chen

Location: 14320 NW McNamee Rd
Tax Lot 1400, Section 29, Township 2 North, Range 1 West, W.M.
Alternate Account #R649701820 Property ID #R236776

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

Overlays: Significant Environmental Concern – wildlife habitat (SEC-h), Streams (SEC-s), Scenic Views (SEC-v), and Geologic Hazards (GH)

Proposal Summary: The applicant requests approval for two alterations to the existing single-family dwelling including a covered deck and a covered patio. The applicant also requests to replace an existing walkway and retroactive approval for a greenhouse. The proposed development requires a Significant Environmental Review Concern Permit for Wildlife Habitat and Scenic Views.

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 Friday, March 13, 2020 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, contact Aldo Rodriguez, Staff Planner at 503-988-4159 or at aldo.rodriguez@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: 
Aldo Rodriguez, Assistant Planner

For: Carol Johnson, AICP
Planning Director

Date: Friday, February 28, 2020

Applicable Approval Criteria: Multnomah County Code (MCC):

General Provisions: MCC 39.1515 Code Compliance and Applications, MCC 39.2000 Definitions, MCC 39.3005 Lot of Record – Generally, MCC 39.3030 Lot of Record - Commercial Forest Use – 2, MCC 39.6850 Dark Sky Lighting Standards.

Commercial Forest Use: MCC 39.4070(D) Allowed Uses - Alteration of Habitable Dwelling, MCC 39.4105 Building Height Requirements, MCC 39.4110 Forest Practice Setbacks and Fire Safety Zones, MCC 39.4115 Development Standards for Dwellings and Structures.

Significant Environmental Concern: MCC 39.5650 Significant Scenic View (SEC-V), and MCC 39.5860 SEC-h.

Geologic Hazards: MCC 39.5080 Exemptions.

Copies of the referenced Multnomah County Code sections are available by contacting our office at (503) 988-3043 or by visiting our website at <https://multco.us/landuse/zoning-codes/> under the link: **Chapter 38 - 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. 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.

1. Permit Expiration – This land use permit shall expire as follows:

- a. Within four (4) years of the date of the final decision when construction has not commenced.
 - i. For the purposes of 1.a, commencement of construction shall mean actual construction of the foundation or frame of the approved structure.
 - ii. For purposes of Condition 1.a, notification of commencement of construction will be given to Multnomah County Land Use Planning Division a minimum of seven (7) days prior to date of commencement. Work may commence once notice is completed.
- b. When the building has not been completed within four years of the date of commencement of construction.
 - i. For the purposes of Condition 1.b, completion of the structure shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval. [MCC 39.1185(C)]

Note: The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 39.1195, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.

2. Prior to land use sign-off for building plan check, the property owners or their representative shall:
 - a. Record pages 1 - 4 and Exhibit B.10 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. Prior to land use sign-off for building plan check, the property owners or their representative shall:
 - a. Ensure that the specified materials in Exhibits A.22, A.23, A.24, and A.25 for the SEC-v have been included or added to the construction plans. Building plans shall include the location and details on the proposed exterior lighting and exterior materials and the approved earth tone colors for the roof and deck.
 4. As an on-going condition, the property owner shall:
 - a. Remove and keep removed all nuisance plants listed in MCC 39.5580 Table 1 from the cleared areas of the subject property. The nuisance plants in Table 1 shall not be planted on the subject property [MCC 39.5860(B)(7)]
 - b. Maintain the existing screening vegetation on site except for the portion modified south of the dwelling containing the greenhouse and garden area. Maintenance of the newly planted area will be required (Exhibit B.10). If any of the screening vegetation shown on this plan is damaged or dies, the vegetation shall be replaced within the next planting season of its removal with the same type and be at least 5' – 6' in height when planted. [MCC 39.5650]
 - c. No fencing shall be built on the subject property without first obtaining a SEC-h permit to modify the wildlife conservation plan. [MCC 39.5860(C)(3)]
- (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.**
- 5.
 6. **Staff:** No fencing is proposed. A condition of approval has been included requiring non be built without further SEC review.
 - a.
 7. Before May 30, 2020 the property owner shall:
 - a. Shall plant approximately 300 native trees and shrubs as indicated in Exhibit B.12 and as identified in Exhibit B.10.
 8. Establish and maintain the primary fire safety zone of 30 feet in all directions around the dwelling and greenhouse. Trees within the primary fire safety zone shall be spaced with greater than 15 feet between crowns. The Trees shall 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. [MCC 39.4110 (D)].

Note: Once this decision is final, application for building permits may be made with the City of Portland. When ready to have building plans signed off by Land Use Planning, the property owners or their representative 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 at multco.us/transportation-planning/webform/right-way-appointment-request/, or at 503-988-3582 to schedule 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 Aldo Rodriguez, Assistant Planner, at 503-988-4159 or aldo.rodriguez@multco.us, for an appointment for review of the conditions of approval and to stamp and sign the building plan sets. Please ensure that any items required under, “At the time of land use sign-off for building plan check...” are ready for land use planning review. Land Use Planning must sign off on the plans and authorize the building plan check and permit before you can go to the Building Department. At the time of this review, Land Use Planning will collect additional fees.

Findings of Fact

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

1.0 PROJECT DESCRIPTION:

Staff: The applicant requests approval for two alterations to the existing single-family dwelling including: a covered deck and a covered patio. The applicant also requests to replace an existing walkway with a new 260 sq. ft. walkway and retroactive approval for a greenhouse. The proposed development requires a Significant Environmental Review Concern Permit for Wildlife Habitat and Scenic Views.

2.0 PROPERTY DESCRIPTION:

Staff: The subject property is located in rural unincorporated Multnomah County in the West Hills Rural Area. The property is located in the Commercial Forest Use – 2 (CFU-2) zone. The subject property contains a single-family dwelling, an accessory building (detached garage), and an accessory structure (greenhouse).

The subject property has areas that are designated with Significant Environmental Concern for wildlife habitat (SEC-h), scenic views (SEC-v), streams (SEC-s) and Geological Hazards (GH) overlays. The SEC-s overlay located in the far Northwest portion of the property will not be encroached into; hence, the proposed development does not require review under the SEC-s standards listed in MCC 39.5750

3.0 GENERAL PROVISIONS:

3.1 MCC 39.1515 Code Compliance and Applications

Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit for any property that is not in full compliance with all applicable provisions of the Multnomah County Zoning Code and/or any permit approvals previously issued by the County.

Staff: The subject property contains a two-story detached garage constructed in 2001. The applicant was required to file a covenant prohibiting the use of the structure for residential purposes as per Land Use case no. SEC 0-23. A recorded copy of the required covenant was not provided; hence, the applicant filed the revised ‘Covenant to Prohibit Residential Use of Accessory Structure’ included as Exhibit A.16. Compliance staff conducted a site visit of the subject property and verified that the garage is not currently used for residential purposes.

The property contains a 108 +/- sq. ft. greenhouse that the applicant constructed without land use review. This structure will be reviewed as part of this application, which will bring the structure into compliance with Multnomah County Code.

SEC 0-23 required in Condition No. 13 that “The applicant/Property owner shall retain the existing vegetation outside of the proposed development area (as shown on the submitted application materials) in order to maintain the screening of the subject property.” Beginning around 2006 – 2008, the property owner at the time removed tree cover to the south of the dwelling to create a lawn/garden area (Exhibit B.8). Then recently in 2017 a forest practice occurred removing trees to the north (Exhibit B.9). However, this forest practice was mitigated by replanting the trees in 2018 with the assistance of the Multnomah County Soil and Water Conservation District. The removal of tree cover to create a lawn and garden area south of the dwelling required a Significant Environmental Concern permit to modify the developed area of the property.

Staff is not aware of any other compliance issues on the subject property.

3.2 MCC 39.3005 Lot of Record - Generally

(A) An area of land is a “Lot of Record” if it meets the standards in Subsection (B) of this Section and meets the standards set forth in this Part for the Zoning District in which the area of land is located.

(B) A Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, either satisfied all applicable zoning laws and satisfied all applicable land division laws, or complies with the criteria for the creation of new lots or parcels described in MCC 39.9700. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

Staff: In land use case SEC 0-23, the County found that the subject property was a Lot of Record (Exhibit B.2). As there have been no changes to the configuration of the subject property since that time (Exhibit A.7), the current configuration remains a Lot of Record.
Criteria met.

3.3 MCC 39.3030 Lot of Record – CFU-2

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

- (1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or**
- (2) A group of contiguous parcels or lots:**
 - (a) Which were held under the same ownership on February 20, 1990; and**
 - (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.**

Staff: As stated in section 3.1 above, in land use case SEC 0-23 the County found that the current configuration of the subject is a Lot of Record and is not aggregated with adjacent properties (Exhibit B.2). As shown in the (Exhibit A.7) there has been no changes to the

configuration of subject property since the previous land use decision. Therefore, the current configuration remains a Lot of Record. *Criteria met.*

3.4 MCC 39.6850 Dark Sky Lighting Standards

(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: Per the applicant's narrative, the exterior lighting is shielded and directed downwards. The proposed new lighting utilizes sconces (Progress Lighting P563000-143-30K) and flush mounted lights (Kuzco EC19408) (Exhibit A.18). A condition of approval is included to ensure that these requirements are satisfied. *Criteria met through a condition of approval.*

4.0 COMMERCIAL FOREST USE ZONE:

4.1 MCC 39.4070 Allowed Uses

(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.

MCC 39.2000 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**

(T) Accessory Structures

Staff: In 2000, SEC 0-23 authorized an addition for the existing single-family dwelling (Exhibit B.2). The decision found the single-family dwelling was lawfully established in 1992. The applicant provided current images (Exhibit A.2) demonstrating that the existing single-family dwelling meets the definition of a ‘habitable dwelling’ per MCC 39.2000. The current proposal includes two alterations to the single-family dwelling that includes a covered porch and a covered deck.

The applicant also proposes retroactive approval for an approximately 9’ x 12’ greenhouse. The greenhouse does not contain any plumbing, mechanical, or electrical improvements and has an open floor plan. It is located 91 feet from the existing single family dwelling. The subject property has an existing detached garage that has a building footprint of 1,108 square feet. No other detached accessory buildings exist on the site (Exhibit A.19). With the addition of the greenhouse, the property will have 1,216 sq. ft. of ground coverage which is less than the allowed 2,500 sq. ft. as listed in MCC 39.4070(T).

4.2 MCC 39.4110 Forest Practices Setbacks and Fire Safety Zones

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

Use	Forest Practices Setbacks			Fire Safety Zones
	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks	Fire Safety Zone Requirements (FSZ)
Addition to an existing structure	Nonconforming setback(s) of less than 30 ft. to property lines that existed as of May 21, 2011 may be maintained	30	30	Primary is required, except that if there was a nonconforming Forest Practice setback of less than 30 feet to property lines as of May 21, 2011, Primary is required to the full extent of the nonconforming

				g Forest Practice setback as it existed on August 26, 2006.
Accessory Structures within 100 ft. of the dwelling	N/A	30	30	Primary required

Staff: The proposal includes the addition of a new covered porch and replacement deck for the existing single-family dwelling. As this type of development is considered an addition to an existing structure, Table 1 above requires a 30 ft. forest practice setback from all property lines and a primary fire safety zone. Per the submitted topographical information (Exhibit A.20), the proposed project area is not in an area with slopes in excess of 10%. Therefore, an extension of the primary fire safety zone is not required.

The proposal also includes a greenhouse located within 100 ft. of the existing single-family dwelling. Per Table 1 above, a 30 ft. forest practice setback from all property lines and a primary fire safety zone are required. Based on the submitted topographical information (Exhibit A.20), this structure is not sited in an area with slopes in excess of 10%. Therefore, an extension of the primary safety zone is not required.

A condition of approval is included to ensure that the property owner establishes and maintains the required primary safety zone and forest practice setbacks as outlined in Table 1 above.

Criteria met through a condition of approval.

4.3 (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: The proposal does not require any adjustment, or variance to the Forest Practices Setbacks. Per Table 1, a Secondary Fire Safety Zone is not required for the proposed

development. County Transportation has not indicated that the right-of-way width is insufficient (Exhibit A.14). *Criteria Met.*

4.4 (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 farther down the slope from a dwelling or structure as follows:

Staff: The proposed improvements are located on slopes that are less than 10 % slope; hence, an extension of the 30 ft. primary fire safety zone is not required (Exhibit A.20). A condition of approval is included to ensure the establishment and maintenance of the required primary fire safety zone around the dwelling and greenhouse. *Criteria met through a condition of approval.*

6.0 GEOLOGIC HAZARDS:

6.1 MCC 39.5075 Permits Required

Unless exempt under this code or authorized pursuant to a Large Fill permit, no development, or ground disturbing activity shall occur:

- (1) on land located in hazard areas as identified on the Geologic Hazards Overlay map, or
- (2) where the disturbed area or the land on which the development will occur has average slopes of 25 percent or more, except pursuant to a Geological Hazards permit (GH)

Staff: The subject property does have areas with slopes 25% or more so the proposed development must demonstrate that it meets the exemption listed in MCC 39.5080 or obtain a Geologic Hazards permit. The applicant provided topographic information (Exhibit A.5 and A.20) to demonstrate that the project qualifies for an exemption from the Geological Hazards permit as listed in MCC 39.5080(N). Staff discusses the exemption criteria for (N) in sections 6.2 – 6.4 below.

6.2 MCC 39.5080 Exemptions

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

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

(1) Natural and finished slopes will be less than 25 percent; and,

(2) The disturbed or filled area is 20,000 square feet or less; and,

(3) The volume of soil or earth materials to be stored is 50 cubic yards or less; and,

Staff: The topographic information submitted by the applicant shows that finished slopes for the development area will be between 4 - 9 percent (Exhibit A.20). The total disturbed area will be approximately 474 square feet and the volume of soil to be stored is 0.97 cubic yards (Exhibit A.5). *Criteria met.*

6.3 (4) Rainwater runoff is diverted, either during or after construction, from an area smaller than 10,000 square feet; and,

(5) Impervious surfaces, if any, of less than 10,000 square feet are to be created; and,

(6) No drainageway is to be blocked or have its stormwater carrying capacities or characteristics modified; and,

Staff: Per the Applicant's narrative and worksheet, the total combined footprint of newly created impervious surfaces are less than 500 square feet and rainwater is diverted to an area smaller than 10,000 square feet (Exhibit A.18). Per the submitted site plan and available topographical maps, the subject property does not contain any drainageway(s) (Exhibit A.19). *Criteria met.*

6.4 (7) The use will occur outside the Tualatin River and Balch Creek drainage basins.

Staff: Per County drainage maps, the subject property is within the Lower Columbia Water Shed. This basin is outside the Tualatin River and Balch Creek drainage basins. *Criteria met.*

7.0 SIGNIFICANT ENVIRONMENTAL CONCERN:

7.1 MCC 39.5650 Criteria For Approval of SEC-V Permit – Significant Scenic Views

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

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

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

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

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

Staff: The applicant has supplied the information required by MCC 39.5520 (Exhibits A.17). In addition, the applicant provided the information listed in (1) – (4) and that information is included as (Exhibit A. 3), (Exhibit A.17) and (Exhibit A.18).

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

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

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

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

Staff: The subject property is visible from the Virginia Lakes, Sauvie Island Wildlife Refuge, Willamette River, and the Multnomah Channel view sheds per county maps. Condition No. 13 of SEC 0-23 required the existing trees be maintained on the property. The applicant has not requested that this condition of approval be modified. The north portion of trees were removed in 2017 (Exhibit B.9), but these trees were replanted in 2018. Once the area south of the development area is replanted (Exhibit B.10) and maintenance of the existing vegetation on the property north of the developed area is maintained, the vegetation will provide screening for the dwelling, the proposed additions and accessory greenhouse in the future. A condition of approval has been included requiring that this vegetation will remain to provide screening for the proposed alterations (Exhibit A.19). Per the applicant's narrative, the deck replacement will utilize wooden materials. The roof addition uses posts and beams wrapped in western red cedar and stained with a clear finish. The roofing material consists of dark charcoal composition asphalt to match the existing roof (Exhibit A.18). The proposed exterior light fixtures have a matte black painted finish, are shielded, and directed downward (Exhibit A.18).

The greenhouse consist of vinyl windows that match the dwelling, translucent corrugated panels, and salvage fir and cedar wood (Exhibit A.18). A condition of approval is included to ensure these criteria will be met and that the property owner continues to maintain vegetation and use appropriate materials. *Criteria met through conditions of approval.*

7.3 (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: Condition No. 13 of SEC 0-23 required the existing trees be maintained on the property. The applicant has not requested that this condition of approval be modified. The area shown in Exhibit B.10 must be replanted. The use of the replanted area and existing vegetation on the property north of the developed area will provide screening for the dwelling, the proposed additions and accessory greenhouse. A condition has been included requiring that the existing screening vegetation north of the dwelling be maintained.

- 7.4 **(5) Proposed developments or land use shall be aligned, designed and sited to fit the natural topography and to take advantage of vegetation and land form screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics.**
- (6) Limiting structure height to remain below the surrounding forest canopy level.**
- (7) Siting and/or design so that the silhouette of buildings and other structures Remains below the skyline of bluffs or ridges as seen from identified viewing areas. This may require modifying the building or structure height and design as well as location on the property, except:**
- (a) New communications facilities (transmission lines, antennae, dishes, etc.), may protrude above a skyline visible from an identified viewing area upon demonstration that:**

Staff: The proposed site for the greenhouse and the alterations to the single-family dwelling take advantage of screening vegetation (Exhibit A.19). The existing single-family dwelling does not protrude above a ridge or the surrounding forest canopy as evidenced by Exhibit A.19. The greenhouse is approximately 9' 2" and located behind the dwelling, which blocks the greenhouse from view. *Criteria met.*

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

Staff: This application does not propose any mining activities. *Therefore, this criterion is not applicable.*

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

see the development, and the linear distance the development could be seen along identified viewing corridors.

Staff: A condition of approval requires that the applicant maintain and ensure survival of the existing screening vegetation and replant the area south of the dwelling shown in Exhibit B.10.

7.7 MCC 39.5860 Criteria For Approval Of SEC-H Permit – Wildlife Habitat

(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:

Staff: The applicant provided the required application information as (Exhibits A.4) and (Exhibits A.18.)

7.8 (B) Development standards:

(1) Where a parcel contains any nonforested "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 development occurring to the dwelling is limited to existing cleared areas as shown in Exhibit A.19. The location of the greenhouse is in an area that had trees removed and a lawn developed without obtaining the necessary SEC approval. *Criterion met for the dwelling addition, but not for the unauthorized accessory building or lawn. A wildlife conservation plan will need to be approved pursuant to (C) below.*

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

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

Staff: The proposed development is located more than 200 feet from NW McNamee Road (Exhibit A.19). As detailed in the applicants' narrative (Exhibit A.4), the existing driveway is 590 feet in length. *Therefore, these criteria are not met.*

7.10 (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: As shown on the site plan included as (Exhibit A.19), the existing driveway access is located within 100 feet of the side property line of the adjacent property to the East. *Criteria met.*

7.11 (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.

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

Staff: The adjacent property to the west contains structures within 200 feet of the common side property line. As shown in Exhibit A.19, the development is within 300 feet of the side property line. Per the submitted application materials, the subject property does not contain fencing within the required setback area and no fencing is proposed as part of this application. *Criteria is met.*

7.12 (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: A condition of approval requires that no nuisance plants from MCC 39.5580 Table 1 shall be planted on the subject property and that any nuisance plant shall be removed and kept removed from cleared areas on the subject property. *This criterion is met through a condition of approval.*

7.13 (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 indicated they are unable to meet the development standards of (B) due to the house being constructed with older/different zoning standards. The proposal is a small

addition to the existing single-family dwelling, authorization of a greenhouse and garden area. The Wildlife Conservation Plan must meet (C)(1) above and the standards below. The proposed wildlife conservation plan is discussed in section 7.14 – 7.16 below.

7.14 (3) Unless the wildlife conservation plan demonstrates satisfaction of the criteria in subsection (C)(5), the wildlife conservation plan must demonstrate the following:

(a) That measures are included in order to reduce impacts to forested areas to the minimum necessary to serve the proposed development by restricting the amount of clearance and length/width of cleared areas and disturbing the least amount of forest canopy cover.

(b) That any newly cleared area associated with the development is not greater than one acre, excluding from this total the area of the minimum necessary accessway required for fire safety purposes.

Staff: As discussed above under code compliance (MCC 39.1515) there has been unauthorized land clearing starting after 2006 and a recent forest practice in an area required to be maintained by SEC 0-23, Condition No. 13. Staff measured the newly cleared areas of the property and finds that the area is slightly more than 8,092.91 square feet (Exhibit B.11) for the garden/lawn area. The applicant has indicated that he plans to replant 300 trees to compensate for the cleared area (Exhibit B.12). A condition of approval has been required to replant 300 trees in the planting areas shown on Exhibit B.10.

(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. A condition of approval has been included requiring none be built without further SEC review.

(d) That revegetation of existing cleared areas on the property at a 2:1 ratio with newly cleared areas occurs if such cleared areas exist on the property.

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

Staff: The riparian area adjacent to the stream at the northern portion of the property is currently treed and revegetation is not needed in this area. As discussed above under (b), 8,092.91 sq. ft. of vegetation was removed expanding the development area for the home site. At a 2:1 ratio, the area needed for revegetation is 16,185.82 sq. ft. The applicant has indicated that he plans to plant native vegetation in the areas shown in Exhibit B.10. The areas to be replanted are equal or may exceed the 2:1 standard. A condition of approval has been included requiring this vegetation be planted by May 30, 2020. *Criteria met.*

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

Staff: The applicant chose to address the criteria for (C)(3) as discussed in section 7.14 above.

- 7.16 (5) Unless the wildlife conservation plan demonstrates satisfaction of the criteria in subsection (C)(3) of this section, the wildlife conservation plan must demonstrate the following:**

Staff: The applicant chose to address the criteria for (C)(3) as discussed in section 7.14 above.

- 7.17 (6) For Protected Aggregate and Mineral (PAM) resources within a PAM Overlay, the applicant shall submit a Wildlife Conservation Plan which must comply only with measures identified in the Goal 5 protection program that has been adopted by Multnomah County for the site as part of the program to achieve the goal.**

Staff: Per County maps, the subject property is not within the protected aggregate and mineral resource overlay. *Therefore, this criterion is not applicable.*

- 7.18 (D) Optional Development Impact Area (DIA). For the purpose of clustering home sites together with related development within the SEC-h overlay, an applicant may choose to designate an area around the home site for future related development and site clearing. For the purposes of establishing the appropriate mitigation for development within the DIA, existing vegetation within the DIA is presumed to be ultimately removed or cleared in the course of any future development within the DIA. Establishment of a DIA is subject to all of the applicable provisions in this section and the following:**

Staff: The applicant did not propose an optional development impact area. *Therefore, this criterion is not applicable.*

8.0 CONCLUSION:

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Significant Environmental Concern Permit to establish the identified alterations to the existing single-family dwelling, replace an existing walkway, and retroactive approval for a greenhouse and lawn/garden area in the Commercial Forest Use -2 zone. This approval is subject to the conditions of approval established in this report.

9.0 EXHIBITS:

- 'A' Applicant's Exhibits
- 'B' Staff Exhibits
- 'C' Procedural Exhibits

Exhibits with a “*” after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T2-2019-12406 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	8.28.2019
A.2	8	Narrative	8.28.2019
A.3	8	SEC Worksheet - Views	8.28.2019
A.4	9	Significant Environmental Concern (SEC) Worksheet – Wildlife Habitat	8.28.2019
A.5	7	Geologic Hazards Permit (GH) Worksheet	8.28.2019
A.6	2	Copy of SEC 0-23 pg. 33	8.28.2019
A.7	1	Deed of Conveyance recorded May 14, 2003 as instrument number #2003-110531	8.28.2019
A.8	1	Deed of Conveyance recoded November 13, 1993 as instrument number #99190061	8.28.2019
A.9	2	Copy of SEC 0-23 pg. 10	8.28.2019
A.10	4	Proposed lighting details	8.28.2019
A.11	2	Proposed Color Schemes	8.28.2019
A.12	5	Fire Service Agency Review Form	8.28.2019
A.13	3	Septic Review Certificate Review Form	8.28.2019
A.14	6	Transportation Planning Review Form	8.28.2019
A.15	6	General Drawings: - Plot Plan - Existing and Proposed Plot Plan - Magnified existing and Proposed Plot Plan - Foundation Plan - Elevation Drawings -SEC 0-23 Approval Plan	8.28.2019
A.16	3	Covenant restricting Residential Use of Accessory Structure	1.29.2020
A.17	10	Updated General Drawings: - Accessory Structure Building Elevations - Plot Plan - Plot Plan with Contours - Demolition Plan - Single Family Dwelling Elevations - Single Family Dwelling Proposed Floor Plan - Existing Garage/Studio Elevations - Single Family Dwelling and Existing Garage/Studio Elevations	1.29.2020

		- Single Family Dwelling and Existing Garage/Studio Elevations second angle - Deck Elevation Sections - Rake, Eave, Ridge and Stair Detail	
A.18	5	Revised Narrative	1.29.2020
A.19	1	Revised General Drawings: - Revised Plot Plan	1.29.2020
A.20	1	Revised Plot Plan with Contours	1.29.2020
A.21	1	Revised Plot Plan with Impervious Surface Data	1.29.2020
A.22	1	SFD Elevations Exterior Remodel Part 1	1.29.2020
A.23	1	SFD Elevations Exterior Remodel Part 2	1.29.2020
A.24	1	SFD Elevation Porch Addition Part 1	1.29.2020
A.25	1	SFD Elevation Porch Addition Part 2	1.29.2020
'B'	#	Staff Exhibits	Date
B.1	1	Dept. of Assessment & Taxation Property Information for	8.28.2019
B.2	1	SEC 0-23 for NSFD	1.28.2020
B.3	13	Associated Property Permit information	1.28.2020
B.4	37	Copy of the decision for land use case no. SEC 0-23	1.28.2020
B.5	1	SEC 0-23 Site Plan	2/14/2020
B.6	1	2017 Forest Practice Notification Area	2/14/2020
B.7	1	2006 Aerial Image of Development Area	2.14.2020
B.8	1	2008 Aerial Image of Development Area	2.14.2020
B.9	1	2018 Aerial Image of Development Area	2.14.2020
B.10	1	Planting Areas	2.14.2020
B.11	1	Square footage of Cleared Area	2.14.2020
B.12	1	Property owner email – Planting Area	2.24.2020
B.13	6	Copy of Geological Hazards Permit	2.19.2020
'C'	#	Administration & Procedures	Date
C.1	1	Complete Letter (Day 1)	10.17.2019
C.2	5	Opportunity to Comment	11.07.2019
C.3	19	Administrative Decision	2.28.2020