

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ORDINANCE NO. 899

An Ordinance amending the Conditional Use and Design Review sections of the zoning code by providing an exemption for all single family residences from the Design Review requirements of the zoning code, and declaring an emergency.

(Underlined sections are new replacements; [bracketed] sections are deleted.)

Multnomah County Ordains as follows:

Section I. Findings.

(A) Single family residences were not anticipated or intended as uses subject to Design Review, hereafter referred to as DR, when the DR section of code was adopted or when single family dwellings were initially listed as conditional uses.

(B) DR is currently only applicable to those single family residences subject to a Conditional Use permit. Single family residences were not listed as a conditional use in the zoning code when Ordinance 151, adopting the Design Review Section of the zoning code was adopted in 1977, and thus not required.

(C) Single family dwellings first became listed as a conditional use in 1980, through Ordinance 236 in both the Exclusive Farm Use and Multiple Use Forest zone in response to the Land Conservation and Development Commissions declaration that the Multnomah County Comprehensive Plan was not in compliance with Statewide Planning Goals. The Statewide Planning Goals did not and do not mandate design review of single family residences, and no discussion or contemplation of implementing DR on single family residences took place prior to the adoption of Ordinance 236.

(D) The unintended consequence of Ordinance 236 resulted in the DR process being applied to single family residences, thus lengthening an already time consuming process for both the public and County by imposing duplicative review criteria provided elsewhere in the code.

1 (E) The result of the proposed ordinance amendment is that no single family residence
2 will be subject to DR, thereby allowing County resources to be utilized more efficiently and
3 effectively in matters of higher priority.

4 (F) On October 6, 1997 the Planning Commission held a public hearing and
5 recommended approval of the proposed ordinance amendment through Planning Commission
6 Resolution C3-97. All interested persons were given an opportunity to be heard at the
7 hearing.

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10 Section II. Amendment of the Design Review Section of Code.

11 Multnomah County Code Chapter 11.15 is amended to read as follows:
12

13 **Design Review**

14 **11.15.7817 Exceptions**

15 The provisions of MCC .7805 through .7865 shall not be applied to the following uses:

16 (A) Single family residences;

17 * * *

18 **11.15.7820 Application of Regulations**

19 The provisions of MCC .7805 through .7865 shall apply to all conditional and community
20 service uses, except a single family residence, in any district and to the following:

21 (A) A multiplex, garden apartment or apartment dwelling or structure;

22 (B) A boarding, lodging or rooming house;

23 (C) A hotel or motel;

24 (D) A business or professional office or clinic;

25 (E) A use listed in the BPO District;

26 (F) A use listed in any commercial district; and

27 (G) A use listed in any manufacturing district.
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1 Section III. Amendment of the Conditional Use Section of Code.

2 **Conditional Use 11.15.7110 General Provisions**

3 (A) Application for approval of a Conditional Use shall be made in the manner provided in
4 MCC .8205 through .8280.

5 (B) The Approval Authority shall hold a public hearing on each application for a Conditional
6 Use, modification thereof, time extension or reinstatement of a revoked permit.

7 (C) Except as provided in MCC .7330, the approval of a Conditional Use shall expire two
8 years from the date of issuance of the Board Order in the matter, or two years from the
9 final resolution of all appeals, unless:

10 (1) The project is completed as approved, or

11 (2) The Approval Authority establishes an expiration date in excess of the twoo year
12 period, or

13 (3) The Planning Director determines that substantial construction or development has
14 taken place. That determination shall be processed as follows:

15 (a) Application shall be made on appropriate forms and filed with the Director at least
16 30 days prior to the expiration date.

17 (b) The Director shall issue a written decision on the application within 20 days of
18 filing. That decision shall be based on the finding that:

19 (i) Final Design Review approval, if required, has been granted under MCC .7845
20 on the total project; and

21 (ii) At least ten percent of the dollar cost of the total project value has been
22 expended for construction or development authorized under a sanitation,
23 building or other development permit. Project value shall be as determined by
24 MCC .9025(A) or .9027(A).

25 * * *

26 **11.15.7125 Design Review**

27 Uses authorized under this section shall be subject to design review approval under MCC
28 .7805 through .7865.

1 11.15.7127 Design Review Exemption

2 Exempted from the Design Review criteria of MCC .7805 through .7870 (A), include:

3 (A) Single family residences:

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6 Section IV. Adoption.

7 This ordinance, being necessary for the health, safety, and general welfare of the
8 people of Multnomah County, an emergency is declared and the ordinance shall take effect
9 upon its execution by the County Chair, pursuant to section 5.50 of the Charter of Multnomah
10 County.

11
12 ADOPTED this 29th day of January, 1998, being the date of its first
13 reading before the Board of County Commissioners of Multnomah County.



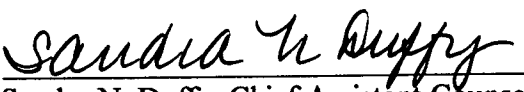
BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

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Beverly Stein, Chair

REVIEWED:

THOMAS SPONSLER, COUNTY COUNSEL
FOR MULTNOMAH COUNTY, OREGON

By 
Sandra N. Duffy, Chief Assistant Counsel

**DECISION OF THE
MULTNOMAH COUNTY PLANNING COMMISSION**

In the matter of amending the Multnomah County)
Zoning Ordinance Design Review (DR) and)
Conditional Use (CU) sections of the Multnomah)
County Zoning Ordinance to exempt single family)
residences from the DR process.)

**RESOLUTION
C 3-97**

WHEREAS, Amendments of the text of the Zoning Code may be initiated by request of the Planning Director (MCC 11.15.8405); and

WHEREAS, A public hearing shall be held by a majority of the entire Planning Commission on the proposed amendments to the Code; and

WHEREAS, The current Code requires DR approval of all uses approved through the CU permit process; and

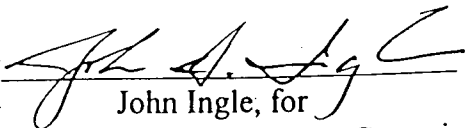
WHEREAS, It is the conclusion of the Planning Commission that single family residences were not anticipated or intended as uses subject to DR when the criteria were adopted or when single family residences were initially listed as conditional uses in the Commercial Forest Use and Exclusive Farm Use zone. DR is intended to apply to large scale projects including multi-family, commercial and industrial uses; and

WHEREAS, Design Review of single family residences unnecessarily lengthens an already time consuming process for both the public and County by imposing duplicative review criteria provided elsewhere in the code. Exempting single family residences DR would allow County resources to be utilized more efficiently and effectively in matters of higher priority; and

WHEREAS, The Planning Commission conducted a public hearing on October 6, 1997, to accept public testimony on the proposed amendments to the zoning code text; and

NOW, THEREFORE BE IT RESOLVED that the Planning Commission hereby recommends that the Board of County Commissioners amend the zoning code as indicated in the staff report.

Approved this 6th day of October, 1997

By 
John Ingle, for
Multnomah County Planning Commission



MULTNOMAH COUNTY

Department of Environmental Services
 Transportation and Land Use Planning Division
 2115 SE Morrison Street
 Portland, OR 97214 Phone: (503) 248-3043

C 3-97 Exhibit A

FINDINGS ASSOCIATED WITH AMENDING THE DESIGN REVIEW AND CONDITIONAL USE SECTIONS OF THE ZONING CODE TO EXEMPT SINGLE FAMILY RESIDENCES FROM THE DESIGN REVIEW PROCESS

Staff Report to the Planning Commission
 Hearing Date of October 6, 1997

I. INTRODUCTION

On July 1, 1996, Staff initially approached the Planning Commission with the issue of Design Review (DR) and its applicability to single family dwellings together with other proposed code revisions. At that time, the Planning Commission directed Staff to revise the proposal and come back with additional information.

On March 3, 1997, Staff again addressed the Planning Commission, this time specifically about the issue of DR and single family residences. The purpose of the March 3, 1997 meeting was to request that the Planning Commission direct Staff to prepare code revisions which include language to delete single family residences from the Design Review requirements now in the code. The Planning Commission requested Staff come up with a draft for review and expressed interest in how other sections of the code (eg. SEC and GEC) may provide duplicative criteria. This Staff Report is a response to that request.

II. BACKGROUND

- A. Design Review was established in 1977 through Ordinance 151. With the exception of one revision to the original code in 1984¹, the DR section has not been modified since inception. When created, the DR section provided a list of uses subject to the DR criteria (MCC .7820). The list included a multi-family dwelling or structure, boarding/lodging or rooming house, hotel or motel, business or professional office,

¹ Ordinance 441 adopted in 1984, added MCC 11.15.7870, an Expiration on Approval of 18 months.

uses in the BPO District, any use listed in any commercial district, any use listed in any manufacturing district, and all conditional or community service uses. The list did not include single family dwellings.

- B. Design Review currently is applicable to only those single family residences subject to a CU permit. The CU process is only applied to new single family residences in the CFU zone and some, but not all, new single family residences in the EFU zone. A single family residence was not listed as a CU in any zone before August, 1980, when it was listed in the EFU zone. Staff has found no record of consideration given to the application of DR to a single family residence, prior to ordinances adopting a single family residence as a CU in either the EFU or CFU district.

Design Review was not drafted or intended to apply to single family residences.

III. ISSUE AND RECOMMENDATION

- A. **Effectiveness Issue:** The Land Use Planning Section is actively participating in the County wide quality improvement program RESULTS (Reaching Excellent Service Using Leadership and Team Strategies). The program is a response to the need for better, more cost-effective service. The goal is to provide our customers with excellent service based on the limited resources available. For the Land Use Planning Section, this includes evaluating and amending the zoning code to streamline processes by eliminating unnecessary or ineffective processes that do not directly serve a land use purpose.

Below is a Staff analysis of the effectiveness of the Design Review process:

- (1) **Duplicative Process and Criteria:** Attached is a table outlining each of the design review criteria followed by similar or relative criteria from the CFU, GEC/HDP, and SEC sections of the zoning code. (Table 1)

Staff notes that both the GEC/HDP and SEC criteria were generally established between 1993 and 1994 and resulted in single family residences being subject to additional criteria beyond the CU and DR requirements, at that time. Both the GEC/HDP and SEC were developed in response to specific concerns including the effects of single family residential development.

The purpose of the GEC/HDP section(s) of code is specifically intended, in part, to control stormwater discharges, protect streams, and regulate land development actions including excavation and fills

The purpose of the SEC section of code is to protect, conserve, restore, and maintain **significant** natural and man-made features which are of public value, including amongst other things, wetlands, scenic views, wildlife habitat, and streams.

The CU process and criteria determines and dictates the location of a residence and the level of protection afforded farm and forest lands. The SEC permit process establishes criteria to protect significant streams, views, wildlife, and wetlands. The Variance process requires that a residence not adversely affect the appropriate development of adjoining property. The GEC/HDP process addresses grading and other soil disturbance issues.

Multnomah County has processed eight (8) Design Review applications for a single family residence since January, 1995. Of the eight residences, five (6) were located in the West Hills and two (2) in East County. The average size of the six dwellings approved in the West Hills was 3,329 sq. ft. while the dwelling in East County was 1,497 sq. ft.. Seven of the residences were located in a CFU zone and subject initially to a hearings process for CU approval followed by two separate administrative decisions for Grading and Erosion Control/Hillside Development and Design Review. All of the residences in the West Hills were additionally reviewed against the SEC criteria or its predecessor, Goal 5. More than half of the applications involved a variance to the setback requirement(s) of the CFU zone.

Based on the above, Staff concludes that the only possible planning issue remaining is the protection of non-significant natural or man made features.

(1) **Administration:** Design Review cases for single family dwellings place a burden on the limited Staff resources of the Land Use Planning Division. The trend being seen within the Planning Section is growth.

- Between 1995 and 1997 the number of applications received has increased by 20%.
- In the past Current Planners have typically carried a workload of approximately 10 cases. At present each Current Planner is managing approximately 22 cases.
- In 1996, approximately 1/3 of one full time employee was spent processing Design Review applications. Two thirds of that time were devoted to single family residences.

With limited resources, the amount of time spent processing DR of a single family residence does not appear justified by any written policy objective and is time that could be better used elsewhere.

B. **Recommendation:** Based upon the above analysis, Staff concludes that the current DR process and criteria as it applies to single family residences is generally duplicative and serves no identified purpose of relative importance when compared to other current planning priorities.

Therefore, Staff recommends the CU and DR section of code be amended to exempt single family dwellings from the Design Review process.

IV. PROPOSED CODE AMENDMENTS

Proposed amendments are shown within the following text of the Conditional Use and Design Review Section with new wording **bold and underlined**.

Conditional Use Section

* * *

11.15.7110 General Provisions

- (C) Except as provided in MCC .7330, the approval of a Conditional Use shall expire two years from the date of issuance of the Board Order in the matter, or two years from the final resolution of all appeals, unless:
- (3) The Planning Director determines that substantial construction or development has taken place. That determination shall be processed as follows:
- (b) The Director shall issue a written decision on the application within 20 days of filing. That decision shall be based on the finding that:
- (i) Final Design Review approval, **if required**, has been granted under MCC .7845 on the total project; and

* * *

11.15.7127 Design Review Exceptions

Exempted from the Design Review criteria of MCC .7805 through .7870 (A), include:

(A) Single family residences:

* * *

Design Review Section

* * *

11.15.7817 Exceptions

The provisions of MCC .7805 through .7865 shall not be applied to the the following uses:

(A) Single family residences,

*

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11.15.7280 Application of Regulations

The provisions of MCC .7805 through .7865 shall apply to all conditional and community service uses, **except those uses listed under MCC .7817,** in any district and to the following:

Table 1 - Design Review and Comparable Criteria; C 3-97

Design Review	CFU	GEC/HDP	SEC	Comment
.7850(A)(1)(a) - elements shall relate harmoniously to the natural environment.	<p>.2074(A)(1), (2) - has least impact on surrounding farm and forest uses, meets minimum yard and setback requirements.</p> <p>.2052 (6)-A condition of approval requires the owner of the <i>tract</i> to plant a sufficient number of trees on the <i>tract</i> to demonstrate that the <i>tract</i> is reasonably expected to meet Department of Forestry stocking requirements...</p> <p>.2074 (D) - Provide an all-weather surface of at least 20 feet in width for a private road and at least 12 feet in width for a driveway.</p>	<p>9.40.040(A)(2)(b) - Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practicable area at one time during construction.</p> <p>9.40.040(A)(2)(c)- Whenever feasible, natural vegetation shall be retained, protected, and supplemented.</p> <p>9.40.040(A)(1)(c)- Cuts and fills shall not endanger or disturb adjoining property.</p>	<p>.6420 (C) - A building, structure or use shall be located on a lot in a manner which will balance functional considerations and costs with the need to preserve and protect areas of environmental significance.</p> <p>.6420 (G) - The natural vegetation along rivers, lakes, wetland and streams shall be protected and enhanced to the maximum extent practicable to assure scenic quality and protection from erosion, and continuous riparian corridors.</p> <p>.6420 (J) - Areas of erosion or potential erosion shall be protected from loss by appropriate means. ...</p> <p>.6420 (L) The design, bulk, construction materials, color and lighting of buildings, structures and signs shall be compatible with the character and visual quality of areas of significant environmental concern.</p>	

Design Review	CFU	GEC/HDP	SEC	Comment
.7850(A)(1)(b)- elements should promote energy conservation and provide protection from adverse climactic conditions, noise, and air pollution.	<p>2052 (6)-A condition of approval requires the owner of the <i>tract</i> to plant a sufficient number of trees on the <i>tract</i> to demonstrate that the <i>tract</i> is reasonably expected to meet Department of Forestry stocking requirements...</p> <p>Use Compatibility Standards-</p> <p>.2053 (A) (1) - The use will not force a significant change in, or significantly increase the cost of, accepted forestry of farming practices on surrounding forest or agricultural lands.</p>	<p>9.40.040(A)(1)(c)- Cuts and fills shall not endanger or disturb adjoining property.</p> <p>9.40.040 (A)(1)(d) - The proposed drainage system shall have adequate capacity to bypass through the development the existing upstream flow from a storm of 10-year design frequency.</p> <p>9.40.040 (A)(2)- Erosion and sediment control devices shall be required where necessary to prevent polluting discharges from occurring. Control devices and measures which may be required include, but are not limited to: ...</p>	<p>.6420 (K) - The quality of the air, water, and land resources and ambient noise levels in areas classified SEC shall be preserved in the development and use of such areas.</p> <p>.6420 (A) - The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and a river, stream, lake, or floodwater storage area.</p> <p>.6420 (E) - The protection of the public safety and of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable.</p>	

Design Review	CFU	GEC/HDP	SEC	Comment
.7850(A)(1)(c) - elements shall effectively, efficiently and attractively serve its function. Elements shall be on a human scale, interrelated, and shall provide spatial variety and order.			<p>.6420 (L) The design, bulk, construction materials, color and lighting of buildings, structures and signs shall be compatible with the character and visual quality of areas of significant environmental concern.</p> <p>.6420 (A) - The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and a river, stream, lake, or floodwater storage area.</p> <p>.6420 (C) - A building, structure or use shall be located on a lot in a manner which will balance functional considerations and costs with the need to preserve and protect areas of environmental significance.</p>	

Design Review	CFU	GEC/HDP	SEC	Comment
<p>.7850 (A)(2) - elements shall provide a safe environment, while offering privacy and transitions from public to private spaces.</p>	<p>Use Compatibility Standards:</p> <p>.2053 (A)(2) - The use will not significantly increase fire hazard, or significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel;</p> <p>Access:</p> <p>.2068 - Any lot in this district shall abut a street, or shall have other access deemed by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles.</p> <p>.2074 (A)(5) - The risks associated with wildfire are minimized. Provisions for reducing such risk include: ...</p>	<p>Purposes</p> <p>.6700 - This subdistrict is intended to:</p> <p>(A) Protect human life;</p> <p>(B) Protect property and structures;</p> <p>(C) Minimize expenditures for rescue and relief efforts associated with earth movement failures;</p> <p>(D) Control erosion, production and transport of sediment;</p>	<p>.6420 (E) - The protection of the public safety and of public and private property, especially from vandalism and trespass, shall be provided to the maximum extent practicable.</p> <p>.6420 (A) - The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and a river, stream, lake, or floodwater storage area.</p>	

Design Review	CFU	GEC/HDP	SEC	Comment
<p>.7850 (A)(3) - Special Needs of Handicapped</p> <p>- Where appropriate, the design review plan shall provide for the special needs of handicapped persons, such as ramps for wheelchairs and braille signs.</p>				<p>It does not appear appropriate to require private single family residences to be required to construct ramps for wheelchairs, and braille signs.</p>

Design Review	CFU	GEC/HDP	SEC	Comment
<p>.7850(A)(4) - Preservation of Natural Landscape - The landscape and existing grade shall be preserved to the maximum practical degree, considering development constraints and suitability of the landscape or grade to serve their functions. Preserved trees and shrubs shall be protected during construction.</p>	<p>.2074 (A)(3) - The amount of forestland used to site the dwelling or other structure, access road, and service corridor is minimized.</p>	<p>.6730 (A)(2)(c) - Development Plans shall minimize cut or fill operations and ensure conformity with topography so as to create the least erosion potential and adequately accommodate the volume and velocity of surface runoff;</p> <p>.6730(A)(2)(b) - Stripping of vegetation, grading, or other soil disturbance shall be done in a manner which will minimize soil erosion, stabilize the soil as quickly as practicable, and expose the smallest practicable area at any one time during construction.</p>	<p>.6420 (A) - The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and a river, stream, lake, or floodwater storage area.</p> <p>.6426(B)(1) - Where a parcel contains any non-forested "cleared" areas, development shall only occur in these areas, except as necessary to provide access and to meet minimum clearance standards for fire safety.</p> <p>.6420 (C) - A building, structure or use shall be located on a lot in a manner which will balance functional considerations and costs with the need to preserve and protect areas of environmental significance.</p> <p>.6420 (L) The design, bulk, construction materials, color and lighting of buildings, structures and signs shall be compatible with the character and visual quality of areas of significant environmental concern.</p>	

Design Review	CFU	GEC/HDP	SEC	Comment
<p>.7850 (A)(5) - Pedestrian and Vehicular circulation and Parking - The location and number of points of access to the site, the interior circulation patterns, the separations between pedestrians and moving and parked vehicles, and the arrangement of parking areas in relation to buildings and structures, shall be designed to maximize safety and convenience and shall be harmonious with proposed and neighboring buildings and structures.</p>	<p>.2058 (D) - To allow for clustering of dwellings and potential sharing of access, a minimum yard requirement may be reduced to 30 feet if there is a dwelling on an adjacent lot within a distance of 100 feet of the new dwelling.</p> <p>.2068 - Access - Any lot in this district shall abut a street, or shall have other access deemed by the approval authority to be safe and convenient for pedestrians and for passengers and emergency vehicles.</p> <p>.2074 (A)(3) - The amount of forest land used to site the dwelling or other structure, access road, and service corridor is minimized.</p> <p>.2074 (D) - Lists design standards for roads and driveways.</p>			<p>Multnomah County Transportation allows only one point of access to rural dwellings per parcel.</p>

Design Review	CFU	GEC/HDP	SEC	Comment
.7850(A)(6) - Surface drainage systems shall be designed so as not to adversely affect neighboring properties or streets.	<p>.2074 (A)(1) - It has the least impact on nearby or adjoining forest or agricultural lands and satisfies the minimum yard and setback requirements of .2058 (C) through (G).</p> <p>.2074 (A)(2) - Adverse impacts on forest operations and accepted farming practices on the tract will be minimized.</p>	<p>.6730(A)(1)(c) - Cuts and fill shall not endanger or disturb adjoining property;</p> <p>.6730 (A)(1)(e) - Fills shall not encroach on natural watercourses or constructed channels unless measures are approved which will adequately handle the displaced streamflow for a storm of 10-year design frequency;</p> <p>.6730 (A)(1)(j) - All drainage provisions shall be designed to adequately carry existing and potential surface runoff to suitable drainageways such as storm drains, natural watercourses, drainage swales, or an approved drywell system.</p>	.6426 (D)(2) - All storm water generated by a development shall be collected and disposed of on-site into dry wells or by other best management practice methods which emphasize groundwater recharge and reduce peak stream flows.	

Design Review	CFU	GEC/HDP	SEC	Comment
.7850 (A)(7) - Buffering and Screening - Areas, structures and facilities for storage, machinery and equipment, services (mail, refuse, utility wires, and the like), loading and parking, and similar accessory areas and structures shall be designed, located, buffered or screened to minimize adverse impacts on the site and neighboring properties.	<p>.2074(A)(1), (2) - has least impact on surrounding farm and forest uses, meets minimum yard and setback requirements.</p> <p>.2052 (6)-A condition of approval requires the owner of the <i>tract</i> to plant a sufficient number of trees on the <i>tract</i> to demonstrate that the <i>tract</i> is reasonably expected to meet Department of Forestry stocking requirements...</p> <p>.2058 (D) - To allow for clustering of dwellings and potential sharing of access, a minimum yard requirement may be reduced to 30 feet if there is a dwelling on an adjacent lot within a distance of 100 feet of the new dwelling.</p>	.6730 (A)(2)(c)- Whenever feasible, natural vegetation shall be retained, protected, and supplemented;	<p>.6420 (A) - The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vegetation shall be provided between any use and a river, stream, lake, or floodwater storage area.</p> <p>.6426(B)(1) - Where a parcel contains any non-forested "cleared" areas, development shall only occur in these areas, except as necessary to provide access and to meet minimum clearance standards for fire safety.</p> <p>.6420 (C) - A building, structure, or use shall be located on a lot in a manner which will balance functional considerations and costs with the need to preserve and protect areas of environmental significance.</p> <p>.6424 (B) - Any portion of a proposed development* (including access roads, cleared areas and structures) that will be visible from an identified viewing area shall be <i>visually subordinate</i>.</p>	

Design Review	CFU	GEC/HDP	SEC	Comment
.7850 (A)(8) - Utilities- All utility installations above ground shall be located so as to minimize adverse impacts on the site and neighboring properties.	.2074(A)(1), (2) - has least impact on surrounding farm and forest uses, meets minimum yard and setback requirements.			