

1                   BEFORE THE BOARD OF COUNTY COMMISSIONERS  
2                   FOR MULTNOMAH COUNTY, OREGON  
3                   ORDINANCE NO.   832    
4

5           An Ordinance amending the Significant Environmental Concern (SEC) section of the Zoning  
6 Code to protect significant wildlife habitat, scenic views, and streams in the West Hills and Howard  
7 Canyon areas, in fulfillment of the Periodic Review Work Program tasks for Statewide Planning Goal 5  
8 resources in the West Hills and Howard Canyon areas.

9  
10           Multnomah County Ordains as follows:  
11

12 Section I. Findings.

13           (A) On September 22, 1994, the Multnomah County Board of Commissioners adopted  
14 Ordinance #797, which adopted the "West Hills Reconciliation Report" as part of the Multnomah  
15 County Comprehensive Framework Plan.  
16

17           (B) The "West Hills Reconciliation Report" includes significance determinations, ESEE analy-  
18 ses, protection programs, and other requirements for implementing Goal 5 of the Oregon Statewide  
19 Planning Program specified in ORS 660-16 Division 33 in regards to significant scenic views, streams,  
20 and wildlife habitat in the West Hills rural area.  
21

22           (C) On September 22, 1994, the Multnomah County Board of Commissioners adopted  
23 Ordinance #798, which adopted the "Howard Canyon Reconciliation Report" as part of the Multnomah  
24 County Comprehensive Framework Plan.  
25

26           (D) The "Howard Canyon Reconciliation Report" includes significance determinations, ESEE

1 analyses, protection programs, and other requirements for implementing Goal 5 of the Oregon  
2 Statewide Planning Program specified in ORS 660-16 Division 33 in regards to three significant  
3 streams, Big Creek, Knierem Creek, and Howard Canyon Creek in the East of Sandy River rural area.  
4

5 (E) On October 18, 1994, the Multnomah County Board of Commissioners adopted Ordinance  
6 #801, which amended Section 11.15.6100 et. seq. of the Multnomah County Zoning Ordinance, estab-  
7 lishing the Significant Environmental Concern (SEC) zoning overlay district, by adding the SEC-v  
8 (scenic views) SEC-h (wildlife habitat) and SEC-s (streams) zoning overlay districts, implementing the  
9 "West Hills Reconciliation Report" and the "Howard Canyon Reconciliation Report".  
10

11 (F) On October 21, 1994, these ordinances were transmitted to the Oregon Department of Land  
12 Conservation and Development for their consideration in fulfilling the requirements of Periodic  
13 Review.  
14

15 (G) On February 7, 1995, the Director of the Oregon Department of Land Conservation and  
16 Development issued a report citing specific deficiencies in Multnomah County's submitted ordinances.  
17

18 (H) On February 28, 1995, the Director of the Oregon Department of Land Conservation and  
19 Development issued a supplemental report which, after considering Multnomah County's responses to  
20 the issues raised in the February 7, 1995 report, maintained that the County's ordinances were deficient  
21 in meeting the requirements of Periodic Review.  
22

23 (I) Therefore, Multnomah County must amend the Section 11.15.6400 et. seq. of the  
24 Multnomah County Zoning Code in order to remedy deficiencies noted by the Oregon Department of  
25 Land Conservation and Development.  
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Section II. Amendment of Zoning Code.

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

(Underlined sections are new or replacements; ~~strike-out~~ sections are deleted.

**11.15.6400 Purposes**

The purposes of the Significant Environmental Concern subdistrict are to protect, conserve, enhance, restore, and maintain significant natural and man-made features which are of public value, including among other things, river corridors, streams, lakes and islands, domestic water supply watersheds, flood water storage areas, natural shorelines and unique vegetation, wetlands, wildlife and fish habitat, significant geological features, tourist attractions, archaeological features and sites, and scenic views and vistas, and to establish criteria, standards, and procedures for the development, change of use, or alteration of such features or of the lands adjacent thereto.

*[Amended 1990, Ord. 643 § 2]*

**11.15.6402 Area Affected**

Except as otherwise provided in MCC .6404 or MCC .6406, this subsection shall apply to those lands designated SEC on the Multnomah County Zoning Map.

**11.15.6404 Uses – SEC Permit Required**

1 (A) All uses permitted under the provisions of the underlying district are permitted on lands desig-  
2 nated SEC; provided, however, that the location and design of any use, or change or alteration of a  
3 use, except as provided in MCC .6406, shall be subject to an SEC permit.

4 *[Amended 1994, Ord. 801 § 3]*

5  
6 (B) Any excavation or any removal of materials of archaeological, historical, prehistorical or anthro-  
7 pological nature shall be conducted under the conditions of an SEC permit, regardless of the zoning  
8 designation of the site. *[Amended 1994, Ord. 801 § 3]*

9  
10 (C) Activities proposed for lands designated as scenic waterways under the Oregon Scenic  
11 Waterways System shall be subject to an SEC permit in addition to approval from the Oregon Parks  
12 and Recreation Department.

13 *[Amended 1994, Ord. 801 § 3]*

14 *[Added 1990, Ord. 643 § 2]*

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19 **11.15.6406 Exceptions**

20  
21 An SEC permit shall not be required for the following:

22  
23 (A) Farm use, as defined in ORS 215.203(2)(a), including buildings and structures accessory thereto  
24 on "converted wetlands" as defined by ORS 541.695(9) or on upland areas;

25 *[Amended 1990, Ord. 643 § 2]*

1 (B) Except as provided in MCC .6420(C), the propagation of timber or the cutting of timber for pub-  
2 lic safety or personal use or the cutting of timber in accordance with the State Forest Practices Act;  
3 *[Amended 1990, Ord. 643 § 2]*  
4

5 (C) Customary dredging and channel maintenance and the removal or filling, or both, for the mainte-  
6 nance or reconstruction of structures such as dikes, levees, groins, riprap, drainage ditch, irrigation  
7 ditches and tile drain systems as allowed by ORS 196.905(6); *[Amended 1990, Ord. 643 §*  
8 *2]*  
9

10 (D) The placing, by a public agency, of signs, markers, aids, etc., to serve the public;  
11

12 (E) Activities to protect, conserve, enhance, and maintain public recreational, scenic, historical, and  
13 natural uses on public lands;  
14

15 (F) The expansion of capacity, or the replacement, of existing communication or energy distribution  
16 and transmission systems, except substations; *[Renumbered 1994, Ord. 801 § 3]*  
17

18 (G) The maintenance and repair of existing flood control facilities; and  
19 *[Renumbered 1994, Ord. 801 § 3]*  
20

21 (H) Uses legally existing on November 17, 1994; provided, however, that any change, expansion, or  
22 alteration of such use (except for changes to a structure which, 1) for the SEC, SEC-w, and SEC-v  
23 overlays do not require any modification to the exterior of the structure, and 2) for the the SEC-h  
24 and SEC-s overlays require the addition of less than 400 square feet of ground coverage to the  
25 structure) shall require an SEC permit as provided herein; *[Amended and*  
26 *Renumbered 1994, Ord. 801 § 3]*

1  
2 *[Added 1990, Ord. 643 § 2; Amended and Renumbered 1994, Ord. 801 § 3]*  
3

4 **11.15.6408 Application for SEC Permit**  
5

6 An application for an SEC permit for a use or for the change or alteration of an existing use on land des-  
7 ignated SEC, shall address the applicable criteria for approval, under MCC .6420 through .6428, and  
8 shall be filed as follows:

9 *[Amended 1994, Ord. 801 § 3]*  
10

11 (A) For a Permitted Use, an Accessory Use, or a Use Under Prescribed Conditions, in the manner  
12 provided in MCC .8210(B); and  
13

14 (B) For a Conditional Use as specified either in the underlying district or in MCC .7105 through  
15 .7640, or for a Community Service Use as specified in MCC .7005 through .7030, or for a change  
16 of zone classification or for any other action as specified in MCC .8205, the SEC permit application  
17 shall be combined with the required application for the proposed action and filed in the manner pro-  
18 vided in MCC .8210 and .8215.  
19

20 (C) An application for an SEC permit shall include the following:  
21

22 (1) A written description of the proposed development and how it complies with the applicable  
23 approval criteria of MeeCC .6420 through .6428.  
24

25 (2) A map of the property showing:  
26

- 1 (a) Boundaries, dimensions, and size of the subject parcel;  
2  
3 (b) Location and size of existing and proposed structures;  
4  
5 (c) Contour lines and topographic features such as ravines or ridges;  
6  
7 (d) Proposed fill, grading, site contouring or other landform changes;  
8  
9 (e) Location and predominant species of existing vegetation on the parcel, areas where vege-  
10 tation will be removed, and location and species of vegetation to be planted, including  
11 landscaped areas;  
12  
13  
14  
15 (f) Location and width of existing and proposed roads, driveways, and service corridors.

16 *[Added 1994, Ord. 801 § 3]*  
17

18 **11.15.6409 Applicable Approval Criteria**  
19

- 20 (A) The approval criteria in MCC .6420 shall apply to those areas designated SEC on the  
21 Multnomah County zoning maps.  
22  
23 (B) The approval criteria that apply to uses in areas designated SEC-w, SEC-v, SEC-h and SEC-s  
24 on Multnomah County zoning maps shall be based on the type of protected resources on the proper-  
25 ty, as indicated by the subscript letter in the zoning designation, as follows:  
26

1	zoning	approval	
2	designation	criteria	
3			
4	SEC-w (wetlands)	MCC .6422	
5	SEC-v (scenic views)	MCC .6424	
6	SEC-h (wildlife habitat)		MCC .6426
7	SEC-s (streams)		MCC .6428
8			

9 (C) An application for a use on a property containing more than one protected resource shall  
10 address the approval criteria for all of the designated resources on the property. In the case of con-  
11 flicting criteria, approval shall be based on the ability of the proposed development to comply as  
12 nearly as possible with the criteria for all designated resources that would be affected.

14 (D) For Goal 5 resources designated "2A" of "3A", a proposed development must comply with  
15 the approval criteria in order to be approved.

17 (E) For Goal 5 resources designated "3C", the approval criteria shall be used to determine the  
18 most appropriate location, size and scope of the proposed development, in order to make the devel-  
19 opment compatible with the purposes of this section, but shall not be used to prohibit a use or be  
20 used to require removal or relocation of existing physical improvements to the property.

21 *[Added 1994, Ord. 801 § 3]*

26 **11.15.6410 SEC Permit – Required Findings**

1  
2 A decision on an application for an SEC permit shall be based upon findings of consistency with the  
3 purposes of the SEC district and with the applicable criteria for approval specified in MCC .6420  
4 through .6428. *[Amended 1994, Ord. 801 § 3]*  
5

6 **11.15.6412 Decision by Planning Director**  
7

8 (A) A decision on an SEC permit application for a Permitted Use or a Use Under Prescribed  
9 Conditions shall be made by the Planning Director.  
10

11 (B) The Director may approve the proposal or approve it with such modifications and conditions as  
12 may be consistent with the Comprehensive Plan and necessary to assure compatibility with applica-  
13 ble criteria of MCC .6420 through .6428.  
14

*[Amended 1994, Ord. 801 § 3]*  
15

16 (C) Within thirty business days following receipt of a completed application for an SEC permit, the  
17 Planning Director shall file the decision with the Director of Environmental Services and shall mail  
18 a copy of the decision to the applicant and to other persons who request the same. *[Amended*  
19 *1994, Ord. 801 § 3]*  
20

21 (D) A decision by the Planning Director on an SEC permit application shall include written condi-  
22 tions, if any, and findings and conclusions. The conditions, findings, and conclusions shall specifi-  
23 cally address the relationships between the proposal and the applicable criteria in MCC .6420  
24 through .6428.  
25

*[Amended 1994, Ord. 801 § 3]*  
26

1 **11.15.6414 Decision by a Hearings Officer**

2  
3 (A) A decision on an SEC permit application for a Conditional Use as specified either in the under-  
4 lying district or in MCC .7105 through .7640, or for a Community Service use as specified in MCC  
5 .7005 through .7030, shall be made by the Hearings Officer in conjunction with the decision on the  
6 use proposal associated therewith.

7  
8 (B) Action by the Hearings Officer on an SEC permit application shall be taken pursuant to MCC  
9 .8205 through .8250.

10  
11 (C) The findings and conclusions made by the Hearings Officer and the conditions or modifications  
12 of approval, if any, shall specifically address the relationships between the proposal and the applica-  
13 ble criteria in MCC .6420 through .6428. *[Amended 1994, Ord. 801 § 3]*

14  
15 **11.15.6416 Appeals**

16  
17 (A) A decision by the Planning Director on an application for an SEC permit may be appealed to the  
18 Hearings Officer in the manner provided in MCC .8290 and .8295.

19  
20 (B) A decision by the Hearings Officer on an application for an SEC permit may be appealed to the  
21 Board of County Commissioners in the manner provided in MCC .8255.

22  
23 **11.15.6418 Scope of Conditions**

24  
25 (A) Conditions of approval of an SEC permit, if any, shall be designed to bring the application into  
26 conformance with the applicable criteria of MCC .6420 through .6428 and any other requirements

1 specified in the Goal 5 protection program for the affected resource. Said conditions may relate to  
2 the locations, design, and maintenance of existing and proposed improvements, including but not  
3 limited to buildings, structures and use areas, parking, pedestrian and vehicular circulation and  
4 access, natural vegetation and landscaped areas, fencing, screening and buffering, excavations, cuts  
5 and fills, signs, graphics, and lighting, timing of construction and related activities. *[ Amended*  
6 *1994, Ord. 801 § 3]*

- 7
- 8 (B) Approval of an SEC permit shall be deemed to authorize associated public utilities, including  
9 energy and communication facilities.

10

11 **11.15.6420 Criteria for Approval of SEC Permit**

12

13 The SEC designation shall apply to those significant natural resources, natural areas, wilderness areas,  
14 cultural areas, and wild and scenic waterways that are designated SEC on Multnomah County sectional  
15 zoning maps. Any proposed activity or use requiring an SEC permit shall be subject to the following:

16 *[Amended 1994, Ord. 801 § 3]*

- 17
- 18 (A) The maximum possible landscaped area, scenic and aesthetic enhancement, open space or vege-  
19 tation shall be provided between any use and a river, stream, lake, or floodwater storage area.

- 20
- 21 (B) Agricultural land and forest land shall be preserved and maintained for farm and forest use.

- 22
- 23 ~~(C) The harvesting of timber on lands designated SEC shall be conducted in a manner which will~~  
24 ~~insure that natural, scenic, and watershed qualities will be maintained to the greatest extent practi-~~  
25 ~~eable or will be restored within a brief period of time.~~

1 (~~D~~C) A building, structure, or use shall be located on a lot in a manner which will balance functional  
2 considerations and costs with the need to preserve and protect areas of environmental significance.

3  
4 (~~E~~D) Recreational needs shall be satisfied by public and private means in a manner consistent with the  
5 carrying capacity of the land and with minimum conflict with areas of environmental significance.

6  
7 (~~F~~E) The protection of the public safety and of public and private property, especially from vandalism  
8 and trespass, shall be provided to the maximum extent practicable.

9  
10 (~~G~~E) Significant fish and wildlife habitats shall be protected.

11  
12 (~~H~~G) The natural vegetation along rivers, lakes, wetlands and streams shall be protected and enhanced  
13 to the maximum extent practicable to assure scenic quality and protection from erosion, and contin-  
14 uous riparian corridors.

15 *[Amended 1990, Ord. 643 § 2]*

16  
17 (~~H~~I) Archaeological areas shall be preserved for their historic, scientific, and cultural value and pro-  
18 tected from vandalism or unauthorized entry. *[Renumbered 1990, Ord. 643 § 2]*

19  
20 (~~I~~J) Areas of annual flooding, floodplains, water areas, and wetlands shall be retained in their natural  
21 state to the maximum possible extent to preserve water quality and protect water retention, over-  
22 flow, and natural functions.

23 *[Renumbered 1990, Ord. 643 § 2; Renumbered 1994, Ord. 801 § 3]*

24  
25  
26 (~~K~~J) Areas of erosion or potential erosion shall be protected from loss by appropriate means.

1 Appropriate means shall be based on current Best Management Practices and may include restric-  
2 tion on timing of soil disturbing activities. [Amended and Renumbered 1994, Ord. 801 § 3]  
3

4 (~~LK~~) The quality of the air, water, and land resources and ambient noise levels in areas classified SEC  
5 shall be preserved in the development and use of such areas.

6 [Renumbered 1994, Ord. 801 § 3]  
7

8 (~~ML~~)The design, bulk, construction materials, color and lighting of buildings, structures and signs shall  
9 be compatible with the character and visual quality of areas of significant environmental concern.

10 [Renumbered 1994, Ord. 801 § 3]  
11

12 (~~NM~~)An area generally recognized as fragile or endangered plant habitat or which is valued for specific  
13 vegetative features, or which has an identified need for protection of the natural vegetation, shall be  
14 retained in a natural state to the maximum extent possible.

15 [Renumbered 1994, Ord. 801 § 3]  
16

17 (~~ON~~) The applicable policies of the Comprehensive Plan shall be satisfied.

18 [Amended and Renumbered 1994, Ord. 801 § 3 ]  
19

20 **11.15.6422 Criteria for Approval of SEC-w Permit - Significant Wetlands**  
21

22 *Significant wetlands* consist of those areas designated as *Significant* on aerial photographs of a scale of  
23 1"=200' made a part of the supporting documentation of the Comprehensive Framework Plan. Any pro-  
24 posed activity or use requiring an SEC permit which would impact those wetlands shall be subject to the  
25 following:  
26

1 (A) In addition to other SEC Permit submittal requirements, the application shall also include:

2  
3 (1) A site plan drawn to scale showing the wetland boundary as determined by a documented field  
4 survey, the location of all existing and proposed watercourses, drainageways, stormwater facili-  
5 ties, utility installations, and topography of the site at a contour interval of no greater than five  
6 feet;

7 *[Amended 1994, Ord. 801 § 3]*

8  
9 (2) A description and map of the wetland area that will be affected by the proposed activity. This  
10 documentation must also include a map of the entire wetland, an assessment of the wetland's  
11 functional characteristics and water sources, and a description of the vegetation types and fish  
12 and wildlife habitat;

13  
14 (3) A description and map of soil types in the proposed development area and the locations and  
15 specifications for all proposed draining, filling, grading, dredging, and vegetation removal,  
16 including the amounts and methods;

17  
18 (4) A study of any flood hazard, erosion hazard, or other natural hazards in the proposed develop-  
19 ment area and any proposed protective measures to reduce such hazards;

20  
21 (5) Detailed Mitigation Plans as described in subsection (D), if required;

22  
23 (6) Description of how the proposal meets the approval criteria listed in subsection (B) below.

24  
25 (B) The applicant shall demonstrate that the proposal:

*[Amended 1994, Ord. 801 §*

26 *3]*

1  
2 (1) Is water-dependent or requires access to the wetland as a central element of its basic design  
3 function, or is not water dependent but has no practicable alternative as described in subsection  
4 (C) below;

5  
6 (2) Will have as few adverse impacts as is practical to the wetland's functional characteristics and its  
7 existing contour, vegetation, fish and wildlife resources, shoreline anchoring, flood storage,  
8 general hydrological conditions, and visual amenities. This impact determination shall also  
9 consider specific site information contained in the adopted wetlands inventory and the econom-  
10 ic, social, environmental, and energy (ESEE) analysis made part of the supporting documenta-  
11 tion of the comprehensive plan;

12  
13  
14  
15 (3) Will not cause significant degradation of groundwater or surface-water quality;

16  
17 (4) Will provide a buffer area of not less than 50 feet between the wetland boundary and upland  
18 activities for those portions of regulated activities that need not be conducted in the wetland;

19  
20 (5) Will provide offsetting replacement wetlands for any loss of existing wetland areas. This  
21 Mitigation Plan shall meet the standards of subsection (D).

22  
23 (C) A finding of no practicable alternative is to be made only after demonstration by the applicant  
24 that:

25  
26 (1) The basic purpose of the project cannot reasonably be accomplished using one or more other

1 practicable alternative sites in Multnomah County that would avoid or result in less adverse  
2 impact on a wetland. An *alternative site* is to be considered *practicable* if it is available for  
3 purchase and the proposed activity can be conducted on that site after taking into consideration  
4 costs, existing technology, infrastructure, and logistics in achieving the overall project purpos-  
5 es;

6  
7 (2) The basic purpose of the project cannot be accomplished by a reduction in the size, scope, con-  
8 figuration, or density of the project as proposed, or by changing the design of the project in a  
9 way that would avoid or result in fewer adverse effects on the wetland; and

10  
11 (3) In cases where the applicant has rejected alternatives to the project as proposed due to con-  
12 straints, a reasonable attempt has been made to remove or accommodate such constraints.

13  
14 (4) This section is only applicable for wetland resources designated "3-C".

15 *[Added 1994, Ord. 801 § 3]*

16  
17 (D) A Mitigation Plan and monitoring program may be approved upon submission of the following:

18  
19  
20  
21 (1) A site plan and written documentation which contains the applicable information for the replace-  
22 ment wetland as required by MCC .6372 and .6376 (A);

23  
24 (2) A description of the applicant's coordination efforts to date with the requirements of other local,  
25 State, and Federal agencies;

1 (3) A Mitigation Plan which demonstrates retention of the resource values addressed in MCC .6376  
2 (B)(2);

3  
4 (4) Documentation that replacement wetlands were considered and rejected according to the follow-  
5 ing order of locational preferences:

6  
7 (a) On the site of the impacted wetland, with the same kind of resource;

8  
9 (b) Off-site, with the same kind of resource;

10  
11 (c) On-site, with a different kind of resource;

12  
13 (d) Off-site, with a different kind of resource.  
14

15 *[Added 1990, Ord. 643 § 2]*

16  
17 **11.15.6424 Criteria for Approval of SEC-v Permit Significant Scenic Views**

18  
19 *Significant scenic resources* consist of those areas designated SEC-v on Multnomah County sectional  
20 zoning maps.

21  
22 *Identified Viewing Areas* are public areas that provide important views of a significant scenic resource,  
23 and include both sites and linear corridors. Identified Viewing Areas ~~include~~ are:

24  
25 Bybee-Howell House

26 Virginia Lakes

1 Sauvie Island Wildlife Refuge

2 Kelley Point Park

3 Smith and Bybee Lakes

4 Highway 30

5 The Multnomah Channel

6 The Willamette River

7 Public roads on Sauvie Island

8  
9 *Visually subordinate* means development does not noticeably contrast with the surrounding landscape,  
10 as viewed from an identified viewing area. Development that is visually subordinate may be visible, but  
11 is not visually dominant in relation to its surroundings.

12  
13 (A) In addition to the information required by MCC .6408(C), an application for development in an  
14 area designated SEC-v shall include:

15  
16 (1) Details on the height, shape, colors, outdoor lighting, and exterior building materials of any pro-  
17 posed structure;

18  
19 (2) Elevation drawings showing the appearance of proposed structures when built and surrounding  
20 final ground grades;

21  
22 (3) A list of identified viewing areas from which the proposed use would be visible; and

23  
24 (4) A written description and drawings demonstrating how the proposed development will be *visu-*  
25 *ally subordinate* as required by (B) below, including information on the type, height and loca-  
26 tion of any vegetation or other materials which will be used to screen the development from the

1 view of identified viewing areas.

2  
3 (B) Any portion of a proposed development (including access roads, cleared areas and structures)  
4 that will be visible from an identified viewing area shall be *visually subordinate*. Guidelines which  
5 may be used to attain visual subordination, and which shall be considered in making the determina-  
6 tion of visual subordination include:

7  
8 (1) Siting on portions of the property where topography and existing vegetation will screen the  
9 development from the view of identified viewing areas.

10  
11 (2) Use of nonreflective or low reflective building materials and dark natural or earthtone colors.

12  
13 (3) No exterior lighting, or lighting that is directed downward and sited, hooded and shielded so that  
14 it is not highly visible from identified viewing areas. Shielding and hooding materials should  
15 be composed of nonreflective, opaque materials.

16  
17 (4) Use of screening vegetation or earth berms to block and/or disrupt views of the development.  
18 Priority should be given to retaining existing vegetation over other screening methods. Trees  
19 planted for screening purposes should be coniferous to provide winter screening. The applicant  
20 is responsible for the proper maintenance and survival of any vegetation used for screening.

21  
22 (5) ~~Siting in a manner so that grading, cuts or fill are minimized and accomplished in a manner so~~  
23 ~~that the topography after completion of the development will blend with the surrounding land-~~  
24 ~~scape. Proposed developments or land use shall be aligned, designed and sited to fit the natu-~~  
25 ~~ral topography and to take advantage of vegetation and land form screening, and to minimize~~  
26 ~~visible grading or other modifications of landforms, vegetation cover, and natural characteris-~~

1           tics.

2  
3           (6) Limiting structure height to remain below the surrounding forest canopy level.

4  
5           (7) Siting and/or design so that the silhouette of buildings and other structures remains below the  
6           skyline of bluffs or ridges as seen from identified viewing areas. This may require modifying  
7           the building or structure height and design as well as location on the property, except:

8  
9           (a)    New communications facilities (transmission lines, antennae, dishes, etc.), may protrude  
10           above a skyline visible from an identified viewing area upon demonstration that:

11  
12           (i)     The new facility could not be located in an existing transmission corridor or built  
13           upon an existing facility;

14  
15           (ii)    The facility is necessary for public service; and

16           (iii)   The break in the skyline is the minimum necessary to provide the service.

17  
18           (C)   Mining of a protected aggregate and mineral resource within a PAM subdistrict shall be done in  
19           accordance with any standards for mining identified in the protection program approved during the  
20           Goal 5 process. The SEC Application for Significant Scenic Views must comply only with mea-  
21           asures to protect scenic views identified in the Goal 5 protection program that has been designated  
22           for the site.

23  
24  
25           (D)   The approval authority may impose conditions of approval on an SEC-v permit in accordance  
26           with MCC .6418, in order to make the development visually subordinate. The extent and type of

1 conditions shall be proportionate to the potential adverse visual impact of the development as seen  
2 from identified viewing areas, taking into consideration the size of the development area that will  
3 be visible, the distance from the development to identified viewing areas, the number of identified  
4 viewing areas that could see the development, and the linear distance the development could be  
5 seen along identified viewing corridors.

6 *[Added 1994, Ord. 801 § 3]*

7  
8 **11.15.6426 Criteria for Approval of SEC-h Permit Wildlife Habitat**

9  
10 (A) In addition to the information required by MCC .6408(C), an application for development in an  
11 area designated SEC-h shall include an area map showing all properties which are adjacent to or  
12 entirely or partially within 200 feet of the proposed development, with the following information,  
13 when such information can be gathered without trespass:

14  
15 ~~(1) Location of primary, secondary, and impacted wildlife habitat areas as per the adopted reference~~  
16 ~~map within the Multnomah County Comprehensive Plan;~~

17  
18 ~~(2)~~ Location of all existing forested areas (including areas cleared pursuant to an approved  
19 forest management plan) and non-forested "cleared" areas;

20  
21 For the purposes of this section, a forested area is defined as a an area that has at least 75%  
22 crown closure, or 80 square feet of basal area per acre, of trees 11 inches DBH and larger,, or an  
23 area which is being reforested pursuant to Forest Practice Rules of the Oregon Department of  
24 Forestry. A non-forested "cleared" area is defined as an area which does not meet the descrip-  
25 tion of a forested area and which is not being reforested pursuant to a forest management plan.  
26

1 (32) Location of existing and proposed structures;

2  
3 (43) Location and width of existing and proposed public roads, private access roads, drive-  
4 ways, and service corridors on the subject parcel and within 200 feet of the subject parcel's  
5 boundaries on all adjacent parcels;

6  
7 (54) Existing and pProposed type and location of all fencing on the subject property and on  
8 adjacent properties and on properties entirely or partially within 200 feet of the subject proper-  
9 ty.

10  
11 (B) ~~Approval shall be based on the ability of the proposal to meet the following~~ Development  
12 Standards:

13  
14 (1) ~~Where a parcel to be developed contains any combination of primary, secondary, and impacted~~  
15 ~~wildlife habitat~~ non-forested "cleared" areas, development activities shall be limited to the less  
16 ~~valuable of the wildlife habitat shall only occur in these areas~~, except as necessary to provide  
17 access and to meet minimum clearance standards for fire safety.

18  
19 (2) ~~The proposed development shall be located so as to maintain existing forested areas which are~~  
20 ~~broadly contiguous with forested areas or areas being reforested on adjacent properties.~~

21  
22 (32) ~~The proposed development shall satisfy either (a) or (b) below:~~ Development shall occur  
23 within 200 feet of a public road capable of providing reasonable practical access to the devel-  
24 opable portion of the site.

25  
26 (a) ~~Development location and fencing standards:~~

1  
2 (i) ~~The development shall be within 200 feet of any public road abutting the site~~

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

6  
7 (4) (iii) The access road/driveway shall be located within 100 feet of the property bound-  
8 ary if adjacent property has an access road or driveway within 200 feet of the property  
9 boundary

10  
11 (5) (iv) The development shall be within 300 feet of the property boundary if adjacent  
12 property has structures and developed areas within 200 feet of the property boundary.

13  
14 (6) (v) Fencing within a required setback from a public road shall ~~be designed so as to~~  
15 ~~allow the passage of wildlife.~~ Such fencing shall meet the following criteria:

16  
17 (a) ~~(A)~~ Fences shall have a maximum height of 42 inches and a minimum 17 inch gap  
18 between the ground and the bottom of the fence.

19  
20 (b) ~~(B) Fences may be constructed of rail, barbed, or barbed wire~~ Wood and wire fences  
21 are permitted. The bottom strand of a wire fence shall be barbless. Fences may  
22 be electrified, except as prohibited by County Code.

23  
24 (c) Cyclone, woven wire, and chain link fences are prohibited.

25  
26 (d) ~~(C) Solid fencing which acts as a visual barrier to wildlife is not permitted~~ Fences

1                    with a ratio of solids to voids greater than 2:1 are prohibited.

2  
3            (e) ~~(D)~~ Fencing standards do not apply in an area on the property bounded by a line  
4                    along the public road serving the development, two lines each drawn perpendicu-  
5                    lar to the principal structure from a point 100 feet from the end of the structure on  
6                    a line perpendicular to and meeting with the public road serving the develop-  
7                    ment, and the front yard setback line parallel to the public road serving the devel-  
8                    opment. That portion of the required setback along a public road which can be  
9                    described as an area bounded by:

10  
11                    (1)    ~~the public road,~~

12  
13                    (2)    ~~a line connecting two points extending one hundred (100) feet from each~~  
14                    ~~end of the building line of the principal residence or structure.~~

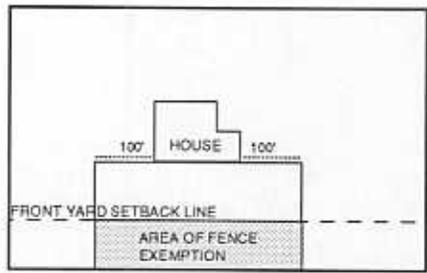
15  
16                    (3)    ~~a line connecting the public road and one of the two outer points~~  
17                    ~~described in (2) above which is perpendicular to the public road, and~~

18  
19                    (4)    ~~a line connecting the public road and the other of the two outer points~~  
20                    ~~described in (2) above which is perpendicular to the public road:~~

21  
22                    ~~shall not be subject to these fencing requirements.~~

23  
24                    FIGURE .6400A FENCE

25                    EXEMPTION AREA



(b) ~~Wildlife Conservation Plan~~

~~The applicant shall submit a Wildlife Conservation Plan which shall demonstrate that the proposed development has either:~~

- ~~(i) Fully mitigated any adverse impacts to wildlife habitat on the site, or~~
- ~~(ii) Provided for wildlife enhancement measures which compensate for the loss of any wildlife habitat values on the site.~~

(47) The following nuisance plants shall not be included within landscape plans planted on the subject property and shall be removed and kept removed from cleared areas of the subject property:

Scientific Name	Common Name
Chelidonium majus	Lesser celandine
Cirsium arvense	Canada Thistle
Cirsium vulgare	Common Thistle
Clematis ligusticifolia	Western Clematis
Clematis vitalba	Traveler's Joy

\

1	<i>Conium maculatum</i>	Poison hemlock
2	<i>Convolvulus arvensis</i>	Field Morning-glory
3	<i>Convolvulus nyctagineus</i>	Night-blooming Morning-glory
4	<i>Convolvulus seppium</i>	Lady's nightcap
5	<i>Cortaderia selloana</i>	Pampas grass
6	<i>Crataegus</i> sp. except <i>C.</i>	hawthorn,
7	<i>douglasii</i>	except native species
8	<i>Cytisus scoparius</i>	Scotch broom
9	<i>Daucus carota</i>	Queen Ann's Lace
10	<i>Elodea densa</i>	South American Waterweed
11	<i>Equisetum arvense</i>	Common Horsetail
12	<i>Equisetum telemateia</i>	Giant Horsetail
13	<i>Erodium cicutarium</i>	Crane's Bill
14	<i>Geranium roberianum</i>	Robert Geranium
15	<i>Hedera helix</i>	English Ivy
16	<i>Hypericum perforatum</i>	St. John's Wort
17	<i>Ilex aquafolium</i>	English Holly
18	<i>Laburnum watereri</i>	Golden Chain Tree
19	<i>Lemna minor</i>	Duckweed, Water Lentil
20	<i>Loentodon autumnalis</i>	Fall Dandelion
21	<i>Lythrum salicaria</i>	Purple Loosestrife
22	<i>Myriophyllum spicatum</i>	Eurasian Watermilfoil
23	<i>Phalaris arundinacea</i>	Reed Canary grass
24	<i>Poa annua</i>	Annual Bluegrass
25	<i>Polygonum coccineum</i>	Swamp Smartweed
26	<i>Polygonum convolvulus</i>	Climbing Binaweed

1	Polygonum sachalinense	Giant Knotweed
2	Prunus laurocerasus	English, Portugese Laurel
3	Rhus diversiloba	Poison Oak
4	Rubusdiscolor	Himalayan Blackberry
5	Rubus laciniatus	Evergreen Blackberry
6	Senecio jacobaea	Tansy Ragwort
7	Solanum dulcamara	Blue Bindweed
8	Solanum nigrum	Garden Nightshade
9	Solanum sarrachoides	Hairy Nightshade
10	Taraxacum officinale	Common Dandelion
11	Utricularia vulgaris	Common Bladderwort
12	Urtica dioica	Stinging Nettle
13	Vinca major	Periwinkle (large leaf)
14	Vinca minor	Periwinkle (small leaf)
15	Xanthium spinosum	Spiny Cocklebur
16	various genera	Bamboo sp.

17 *[Added 1994, Ord. 801 § 3]*

18  
19 (C) Wildlife Conservation Plan. An applicant shall propose a wildlife conservation plan if one of  
20 two situations exist.

21  
22 (1) The applicant cannot meet the development standards of Section (B) because of physical char-  
23 acteristics unique to the property. The applicant must show that the wildlife conservation plan  
24 results in the minimum departure from the standards required in order to allow the use; or

25  
26 (2) The applicant can meet the development standards of Section (B), but demonstrates that the

1 alternative conservation measures exceed the standards of Section B and will result in the pro-  
2 posed development having a less detrimental impact on forested wildlife habitat than the stan-  
3 dards in Section B.

4  
5 (3) The wildlife conservation plan must demonstrate the following:

6  
7 (a) That measures are included in order to reduce impacts to forested areas to the minimum  
8 necessary to serve the proposed development by restricting the amount of clearance and  
9 length/width of cleared areas and disturbing the least amount of forest canopy cover.

10  
11 (b) That any newly cleared area associated with the development is not greater than one  
12 acre, excluding from this total the area of the minimum necessary accessway required for  
13 fire safety purposes.

14  
15 (c) That no fencing will be built and existing fencing will be removed outside of areas  
16 cleared for the site development except for existing cleared areas used for agricultural pur-  
17 poses.

18  
19 (d) That revegetation of existing cleared areas on the property at a 2:1 ratio with newly  
20 cleared areas occurs if such cleared areas exist on the property.

21  
22 (e) That revegetation and enhancement of disturbed stream riparian areas occurs along  
23 drainages and streams located on the property occurs.

24  
25 (4) For Protected Aggregate and Mineral (PAM) resources within a PAM subdistrict, the applicant  
26 shall submit a Wildlife Conservation Plan which must comply only with measures identified in

1           the Goal 5 protection program that has been adopted by Multnomah County for the site as part  
2           of the program to achieve the goal.

3  
4   **11.15.6428       Criteria for Approval of SEC-s Permit Streams**

5  
6    *Protected Streams* consist of those streams which have been found through a Goal 5 ESEE analysis to  
7    be either "2-A", "3-A", or "3-C", are identified as protected in the Comprehensive Framework Plan,  
8    and are designated SEC-s on the Multnomah County Sectional Zoning Maps.

9  
10   *Development* – Any act requiring a permit stipulated by Multnomah County Ordinances as a prerequi-  
11   site to the use or improvement of any land, including a building, land use, occupancy, sewer connection  
12   or other similar permit, and any associated grading or vegetative modifications.

13  
14   *Stream Conservation Area* – An area extending 300' upslope from and perpendicular to the centerline  
15   of a protected stream. Any development proposed within a Stream Conservation Area shall be required  
16   to demonstrate that the development satisfies the standards of MCC 11.15.6428(A) through (D).

17  
18   (A) Except for the following exempt uses, no development shall be allowed within a Stream  
19   Conservation Area unless approved by the Approval Authority pursuant to the provisions of MCC  
20   11.15.6428(B) through (D).

21  
22       (1) Forest practices conducted under the Forest Practices Act

23  
24       (2) Planting of native vegetation

25  
26       (3) Agricultural uses, ~~except structures~~

1  
2 (4) Maintenance, but not expansion, of existing developments  
3

4 (5) Right-of-way widening for existing rights-of-way when additional right-of-way is necessary to  
5 ensure continuous width  
6

7 (6) Single utility poles necessary to provide service to the local area  
8

9 (B) In addition to other SEC Permit submittal requirements, any application to develop in a Stream  
10 Conservation Area shall also include:  
11

12 (1) A site plan drawn to scale showing the Stream Conservation Area boundary, the location of all  
13 existing and proposed structures, roads, watercourses, drainageways, stormwater facilities, utili-  
14 ty installations, and topography of the site at a contour interval equivalent to the best available  
15 U.S. Geological Survey 7.5' or 15' topographic information;  
16

17 (2) A detailed description and map of the Stream Conservation Area including that portion to be  
18 affected by the proposed activity. This documentation must also include a map of the entire  
19 Stream Conservation Area, an assessment of the Stream Conservation Area's functional charac-  
20 teristics and water sources, and a description of the vegetation types and fish and wildlife habi-  
21 tat;  
22

23 (3) A description and map of soil types in the proposed development area and the locations and  
24 specifications for all proposed draining, filling, grading, dredging, and vegetation removal,  
25 including the amounts and methods;  
26

1 (4) A study of any flood hazard, erosion hazard, and/ or other natural hazards in the proposed devel-  
2 opment area and any proposed protective measures to reduce such hazards as required by (F)(5)  
3 below;

4  
5 (5) A detailed Mitigation Plan as described in subsection (C)(3), if required; and

6  
7 (6) A description of how the proposal meets the approval criteria listed in subsection (C) below.

8  
9 (C) For stream resources designated "3-C" the applicant shall demonstrate that the proposal:

10  
11 ~~(1) Has no practicable alternative as described in subsection (D) below;~~

12  
13 ~~(2) Will have no impacts on the Stream Conservation Area's functional characteristics and its exist-~~  
14 ~~ing contour, vegetation, fish and wildlife resources, shoreline anchoring, flood storage, general~~  
15 ~~hydrological conditions, and visual amenities. This impact determination shall also consider~~  
16 ~~specific site information contained in the adopted Stream Conservation Areas inventory and the~~  
17 ~~economic, social, environmental, and energy (ESEE) analysis made part of the supporting docu-~~  
18 ~~mentation of the comprehensive plan; and~~

19  
20 ~~(3) Will not cause measurable degradation of groundwater or surface water quality; or~~

21  
22 (42) Will provide offsetting replacement Stream Conservation Area for any loss of existing  
23 Stream Conservation Areas and will significantly enhance the fish and wildlife resources, shore-  
24 line anchoring, flood storage, water quality and visual amenities characteristic of the stream in  
25 its pre-development state functional characteristics of the stream, as documented in a Mitigation  
26 Plan. This Mitigation Plan shall meet the standards of subsection (E) below. A Mitigation Plan

1 and monitoring program may be approved upon submission of the following:

2  
3 (a) A site plan and written documentation which contains the applicable information for the Stream  
4 Conservation Area as required by MCC .6428(B);

5  
6 (b) A description of the applicant's coordination efforts to date with the requirements of other local,  
7 State, and Federal agencies;

8  
9 (c) A Mitigation Plan which demonstrates retention and enhancement of the resource values  
10 addressed in MCC .6428 (C)(1);

11  
12 (d) An annual monitoring plan for a period of five years which insures an 80 percent annual survival  
13 rate of any required plantings.

14  
15 ~~(5) This section is only applicable for stream resources designated "3-C".~~

16  
17 ~~(D) A finding of no practicable alternative is to be made by the Approval Authority only after~~  
18 ~~demonstration by the applicant that:~~

19  
20 ~~(1) For uses listed by the underlying zone as Primary Uses and Uses Under Prescribed Conditions or~~  
21 ~~utilities and facilities necessary to serve Conditional Uses outside of the Stream Conservation~~  
22 ~~Area, there is no alternative site on the Lot of Record (as defined by the underlying zoning dis-~~  
23 ~~trict) for the development outside of the Stream Conservation Area, or~~

24  
25 ~~(2) For uses listed by the underlying zone as Conditional Uses, there is neither an alternative site on~~  
26 ~~the Lot of Record for the development outside of the Stream Conservation Area, nor can the~~

1 ~~basic purpose of the project reasonably be accomplished using one or more other practicable~~  
2 ~~alternative sites in Multnomah County that would avoid or result in less adverse impact on a~~  
3 ~~Stream Conservation Area. An alternative site is to be considered practicable if it is the subject~~  
4 ~~of a listing agreement or advertised for sale and the proposed activity can be conducted on that~~  
5 ~~site after taking into consideration costs, existing technology, infrastructure, and logistics in~~  
6 ~~achieving the overall project purposes.~~

7  
8 ~~(E) A Mitigation Plan and monitoring program may be approved by the Hearings Officer upon sub-~~  
9 ~~mission of the following:~~

10  
11 ~~(1) A site plan and written documentation which contains the applicable information for the replace-~~  
12 ~~ment Stream Conservation Area as required by MCC .6428(B);~~

13  
14 ~~(2) A description of the applicant's coordination efforts to date with the requirements of other local,~~  
15 ~~State, and Federal agencies;~~

16  
17 ~~(3) A Mitigation Plan which demonstrates retention of the resource values addressed in MCC .6428~~  
18 ~~(C)(2);~~

19  
20 ~~(4) Documentation that replacement Stream Conservation Areas were considered and rejected~~  
21 ~~according to the following order of locational preferences:~~

22  
23 ~~(a) On the site of the impacted Stream Conservation Area, with the same kind of resource;~~

24  
25  
26 ~~(b) Off site, with the same kind of resource;~~

1  
2       (e) ~~On site, with a different kind of resource;~~

3  
4       (d) ~~Off site, with a different kind of resource.~~

5  
6       ~~(5) A five year annual monitoring plan which insures an 80 percent annual survival rate of any~~  
7       ~~required plantings.~~

8  
9       (FE) Design Specifications

10  
11       The following design specifications shall be incorporated, as appropriate, into any developments  
12       within a Stream Conservation Area:

13  
14       (1) A bridge or arched culvert which does not disturb the bed or banks of the stream and are of the  
15       minimum width necessary to allow passage of peak winter flows shall be utilized for any cross-  
16       ing of a protected streams.

17  
18       (2) All storm water generated by a development shall be collected and disposed of on-site into dry  
19       wells or by other best management practice methods which emphasize groundwater recharge  
20       and reduce peak stream flows.

21  
22       (3) Any exterior lighting associated with a proposed development shall be placed, shaded or  
23       screened to avoid shining directly into a Stream Conservation Area

24  
25       (4) Any trees over 6" in caliper that are removed as a result of any development shall be replaced by  
26       any combination of native species whose combined caliper is equivalent to that of the trees

1 removed.

2  
3 (5) Satisfaction of the erosion control standards standards of MCC .6730.

4  
5 (6) Soil disturbing activities within a Stream Conservation Area shall be limited to the period  
6 between June 15 and September 15. Revegetation/soil stabilization must be accomplished no  
7 later than October 15. Best Management Practices related to erosion control shall be required  
8 within a Stream Conservation Area.

9  
10 (7) Demonstration of compliance with all applicable state and federal permit requirements.

11 *[Added 1994, Ord. 801 § 3]*

12  
13 (E) For Protected Aggregate and Mineral (PAM) resources within a PAM subdistrict, the Mitigation  
14 Plan must comply only with measures identified in the Goal 5 protection program that has been  
15 designated for the site.

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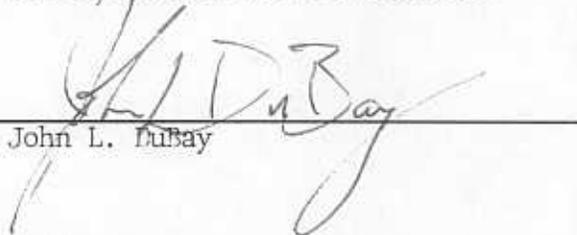
ADOPTED THIS 7<sup>th</sup> day of September, 1995, being the date of its second reading before the Board of County Commissioners of Multnomah County.



By   
Beverly Stein  
Multnomah County Chair

REVIEWED:

JOHN DUBAY, CHIEF ASSISTANT COUNTY COUNSEL  
for MULTNOMAH COUNTY, OREGON

By   
John L. DuBay