



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: August 26, 2015

Jurisdiction: Multnomah County

Local file no.: PC-2013-2795

DLCD file no.: 001-13

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 08/24/2015. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD less than 35 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR chapter 661, division 10).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE

File No.: 001-13 {19550}

Received: 8/24/2015

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption**. (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: Multnomah County

Local file no.: **PC-2013-2795**

Date of adoption: 8/20/2015

Date sent: 8/24/2015

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): ~6/19/2013

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

Local contact (name and title): Adam Barber, Interim Planning Director

Phone: 503-988-0168

E-mail: adam.t.barber@multco.us

Street address: 1600 SE 190th Ave

City: Portland

Zip: 97233-

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address): unincorporated Multnomah County

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

Proposal adds option for applicant to follow a set of clear and objective wildlife habitat plan mitigation standards when developing in a Significant Environmental Concern-Wildlife Habitat overaly. Additionally, establishes an option for declaring a Development Impact Area up to 1-acre for future development. Both options reduce process and project costs while ensuring adequate protection of wildlife habitat areas. Amends Multnomah County Code sections 33.45670, 34.4570,and 36.4560.

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts: No other agencies identified.

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

see attached information including Board Ordinance, Planning Commission Resolution and staff report

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON**

ORDINANCE NO. 1222

Amending MCC Chapters 33, 34 and 36 Relating to Criteria for Approval of SEC-H Permit – Wildlife Habitat

(Language ~~stricken~~ is deleted; underlined language is new.)

The Multnomah County Board of Commissioners Finds:

- a. Periodically, there is a need to amend County land use policies or regulations to address a change in law or circumstance; to implement elements of the Multnomah County Comprehensive Plan; or to make technical corrections for, among other things, clarification and consistency (commonly referred to as “housekeeping amendments”). Having identified such need, the Multnomah County Planning Commission recommended the adoption of this ordinance to the Board of County Commissioners. The Planning Commission made such recommendation through adoption of the resolution described below and pursuant to its authority in MCC 33.0140, 34.0140, 35.0140, 36.0140, 37.0710, and 38.0710 and in ORS 215.110.
- b. Planning Commission Resolution No. PC 2013-2795 relates to criteria for approval of SEC-H Permit - Wildlife. The Significant Environmental Concern for wildlife habitat regulations were adopted initially in the West Hills and Sauvie Island plan areas in 1994 and in the West of Sandy River plan area in 2002. Such regulations have continued to the present without substantial amendment. This ordinance amends such regulations by authorizing additional permit approval opportunities that are necessary to address constituent needs. In addition, with respect to such regulations, this ordinance establishes procedural efficiencies that will benefit both the County and its constituents by reducing permit processing time and cost while maintaining existing levels of resource protection.
- c. The Planning Commission held a public hearing on September 9, 2013, during which all interested persons were given the opportunity to appear and be heard. Notice of the Planning Commission’s hearing was published in the Oregonian newspaper and on the website of the Multnomah County Land Use Planning Program. Individual notice under ORS 215.503 (commonly referred to as “Ballot Measure 56 notice”) is not required because this ordinance will not: amend any element of the county’s comprehensive plan, enact a new comprehensive plan, change any base zoning classification, or limit or prohibit any land use previously allowed in any affected zone.
- d. The Planning Commission’s recommendation is sound and derives from the proper execution of its duties and authority.

Multnomah County Ordains as Follows:

PART I – RELATING TO CRITERIA FOR APPROVAL OF SEC-H PERMIT – WILDLIFE HABITAT

Section 1. MCC 33.4570 and 34.4570 are amended as follows:

33.4570 CRITERIA FOR APPROVAL OF SEC-H PERMIT – WILDLIFE HABITAT

34.4570 CRITERIA FOR APPROVAL OF SEC-H PERMIT – WILDLIFE HABITAT

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

(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.

(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.

(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.

(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:

(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.

(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. Existing fencing located in the front yard adjacent to a public road shall be consistent with MCC 33.4570(B)(6).

(d) For mitigation areas, all trees, shrubs and ground cover shall be native plants selected from the Metro Native Plant List. An applicant shall meet Mitigation Option 1 or 2, whichever results in more tree plantings; except that where the total developed area (including, buildings, pavement, roads, and land designated as a Development Impact Area) on a Lot of Record will be one acre or more, the applicant shall comply with Mitigation Option 2:

1. *Mitigation Option 1.* In this option, the mitigation requirement is calculated based on the number and size of trees that are removed from the development site. Trees that are removed from the development site shall be replaced as shown in the table below. Conifers shall be replaced with conifers. Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

Tree Replacement Table

<u>Size of tree to be removed (inches in diameter)</u>	<u>Number of trees and shrubs to be planted</u>
<u>6 to 12</u>	<u>2 trees and 3 shrubs</u>
<u>13 to 18</u>	<u>3 trees and 6 shrubs</u>
<u>19 to 24</u>	<u>5 trees and 12 shrubs</u>
<u>25 to 30</u>	<u>7 trees and 18 shrubs</u>
<u>over 30</u>	<u>10 trees and 30 shrubs</u>

2. *Mitigation Option 2.* In this option, the mitigation requirement is calculated based on the size of the disturbance area associated with the development. Native trees and shrubs are required to be planted at a rate of five (5) trees and twenty-five (25) shrubs per every 500 square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by 500, and then multiplying that result times five trees and 25 shrubs, and rounding all fractions to the nearest whole number of trees and shrubs; for example, if there will be 330 square feet of disturbance area, then 330 divided by 500 equals .66, and .66 times five equals 3.3, so three trees must be planted, and .66 times 25 equals 16.5, so 17 shrubs must be planted). Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

(e) *Location of mitigation area.* All vegetation shall be planted within the mitigation area located on the same Lot of Record as the development and shall be located within the SEC-h

overlay or in an area contiguous to the SEC-h overlay; provided, however, that if the vegetation is planted outside of the SEC-h overlay then the applicant shall preserve the contiguous area by executing a deed restriction, such as a restrictive covenant. (Note: an off-site mitigation option is provided in a streamlined discretionary review process). The mitigation area shall first be located within any existing non-forested cleared areas contiguous to forested areas, second within any degraded stream riparian areas and last in forested areas or adjacent to landscaped yards.

(f) Prior to development, all work areas shall be flagged, fenced, or otherwise marked to reduce potential damage to habitat outside of the work area. The work area shall remain marked through all phases of development.

(g) Trees shall not be used as anchors for stabilizing construction equipment.

(h) Native soils disturbed during development shall be conserved on the property.

(i) An erosion and sediment control plan shall be prepared in compliance with the Grading and Erosion Control standards set forth in MCC 29.330 through MCC 29.348;

(j) **Plant size.** Replacement trees shall be at least one-half inch in caliper, measured at 6 inches above the ground level for field grown trees or above the soil line for container grown trees (the one-half inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round), unless they are oak or madrone which may be one gallon size. Shrubs shall be in at least a 1-gallon container or the equivalent in ball and burlap and shall be at least 12 inches in height.

(k) **Plant spacing.** Trees shall be planted between 8 and 12 feet on-center and shrubs shall be planted between 4 and 5 feet on center, or clustered in single species groups of no more than four (4) plants, with each cluster planted between 8 and 10 feet on center. When planting near existing trees, the drip line of the existing tree shall be the starting point for plant spacing measurements.

(l) **Plant diversity.** Shrubs shall consist of at least two (2) different species. If 10 trees or more are planted, then no more than 50% of the trees may be of the same genus.

(m) **Nuisance plants.** Any nuisance plants listed in (B)(7) above shall be removed within the mitigation area prior to planting.

(n) **Planting Schedule.** The planting date shall occur within one year following the approval of the application.

(o) **Monitoring and reporting.** Monitoring of the mitigation site is the ongoing responsibility of the property owner. Plants that die shall be replaced in kind so that a minimum of 80% of the trees and shrubs planted shall remain alive on the fifth anniversary of the date that the mitigation planting is completed.

(6) For Protected Aggregate and Mineral (PAM) resources within a PAM subdistrict, 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.

(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 MCC 33.4570 and the following:

(1) The maximum size for a DIA shall be no greater than one acre, excluding from this total the area of the minimum necessary accessway required for fire safety purposes.

(2) Any required mitigation for the DIA site under an approved wildlife conservation plan shall be completed within one year of the final approval of the application.

(3) The DIA shall contain an existing habitable dwelling or approved dwelling site.

(4) No more than one DIA is permitted per Lot of Record.

(5) The DIA can be any shape, but shall be contiguous and shall fit within a circle with a maximum diameter of 400 feet.

(6) For new dwellings that will be located on a Lot of Record that does not currently contain a dwelling, the DIA should be located within 200 feet of a public road or in the case of properties without road frontage, as close as practicable (accounting for required setbacks and fire safety zones) to the entry point of the vehicular access serving the property.

(7) No part of a DIA may be located in an SEC-s sub-district, mapped wetland, or flood hazard zone.

(8) All development within the DIA is subject to all development criteria in effect for the underlying zone and overlay zones at the time of development. Approval of a DIA does not preclude the applicant's responsibility to obtain all other required approvals.

(9) Once a DIA is approved and all pre-development conditions of approval are met, development within the DIA may commence at anytime thereafter provided the applicable approval criteria of MCC 33.4570 are the same as the criteria under which the DIA was originally approved. This provision does not waive the approval timeframe and/or expiration of any other permit approvals.

Section 2. MCC 36.4560 is amended as follows:

36.4560 CRITERIA FOR APPROVAL OF SEC-H PERMIT – WILDLIFE HABITAT

(B) Wildlife Conservation Plan. An applicant shall propose a wildlife conservation plan if one or two situations exist.

(3) Unless the wildlife conservation plan demonstrates satisfaction of the criteria in subsection (B)(5) of this section, 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.

(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.

(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.

(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:

(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.

(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. Existing fencing located in the front yard adjacent to a public road shall be consistent with MCC 34.4570(B)(6).

(d) For mitigation areas, all trees, shrubs and ground cover shall be native plants selected from the Metro Native Plant List. An applicant shall meet Mitigation Option 1 or 2, whichever results in more tree plantings; except that where the total developed area (including, buildings, pavement, roads, and land designated as a Development Impact Area) on a Lot of Record will be one acre or more, the applicant shall comply with Mitigation Option 2:

1. Mitigation Option 1. In this option, the mitigation requirement is calculated based on the number and size of trees that are removed from the development site. Trees that are removed from the development site shall be replaced as shown in the table below. Conifers shall be replaced with conifers. Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

Tree Replacement Table

<u>Size of tree to be removed (inches in diameter)</u>	<u>Number of trees and shrubs to be planted</u>
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<u>25 to 30</u>	<u>7 trees and 18 shrubs</u>
<u>over 30</u>	<u>10 trees and 30 shrubs</u>

2. Mitigation Option 2. In this option, the mitigation requirement is calculated based on the size of the disturbance area associated with the development. Native trees and shrubs are required to be planted at a rate of five (5) trees and twenty-five (25) shrubs per every 500 square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by 500, and then multiplying that result times five trees and 25 shrubs, and rounding all fractions to the nearest whole number of trees and shrubs; for example, if there will be 330 square feet of disturbance area, then 330 divided by 500 equals .66, and .66 times five equals 3.3, so three trees must be planted, and .66 times 25 equals 16.5, so 17 shrubs must be planted). Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

(e) Location of mitigation area. All vegetation shall be planted within the mitigation area located on the same Lot of Record as the development and shall be located within the SEC-h overlay or in an area contiguous to the SEC-h overlay; provided, however, that if the vegetation is planted outside of the SEC-h overlay then the applicant shall preserve the contiguous area by executing a deed restriction, such as a restrictive covenant. (Note: an off-site mitigation option is provided in a streamlined discretionary review process). The mitigation area shall first be located within any existing non-forested cleared areas contiguous to forested areas, second within any degraded stream riparian areas and last in forested areas or adjacent to landscaped yards.

(f) Prior to development, all work areas shall be flagged, fenced, or otherwise marked to reduce potential damage to habitat outside of the work area. The work area shall remain marked through all phases of development.

(g) Trees shall not be used as anchors for stabilizing construction equipment.

(h) Native soils disturbed during development shall be conserved on the property.

(i) An erosion and sediment control plan shall be prepared in compliance with the Grading and Erosion Control standards set forth in MCC 29.330 through MCC 29.348;

(j) **Plant size.** Replacement trees shall be at least one-half inch in caliper, measured at 6 inches above the ground level for field grown trees or above the soil line for container grown trees (the one-half inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round), unless they are oak or madrone which may be one gallon size. Shrubs shall be in at least a 1-gallon container or the equivalent in ball and burlap and shall be at least 12 inches in height.

(k) **Plant spacing.** Trees shall be planted between 8 and 12 feet on-center and shrubs shall be planted between 4 and 5 feet on center, or clustered in single species groups of no more than four (4) plants, with each cluster planted between 8 and 10 feet on center. When planting near existing trees, the drip line of the existing tree shall be the starting point for plant spacing measurements.

(l) **Plant diversity.** Shrubs shall consist of at least two (2) different species. If 10 trees or more are planted, then no more than 50% of the trees may be of the same genus.

(m) **Nuisance plants.** Any nuisance plants listed in (B)(7) above shall be removed within the mitigation area prior to planting.

(n) **Planting Schedule.** The planting date shall occur within one year following the approval of the application.

(o) **Monitoring and reporting.** Monitoring of the mitigation site is the ongoing responsibility of the property owner. Plants that die shall be replaced in kind so that a minimum of 80% of the trees and shrubs planted shall remain alive on the fifth anniversary of the date that the mitigation planting is completed.

(6) For Protected Aggregate and Mineral (PAM) resources within a PAM subdistrict, 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.

(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 MCC 33.4570 and the following:

(1) The maximum size for a DIA shall be no greater than one acre, excluding from this total the area of the minimum necessary accessway required for fire safety purposes.

(2) Any required mitigation for the DIA site under an approved wildlife conservation plan shall be completed within one year of the final approval of the application.

(3) The DIA shall contain an existing habitable dwelling or approved dwelling site.

(4) No more than one DIA is permitted per Lot of Record.

(5) The DIA can be any shape, but shall be contiguous and shall fit within a circle with a maximum diameter of 400 feet.

(6) For new dwellings that will be located on a Lot of Record that does not currently contain a dwelling, the DIA should be located within 200 feet of a public road or in the case of properties without road frontage, as close as practicable (accounting for required setbacks and fire safety zones) to the entry point of the vehicular access serving the property.

(7) No part of a DIA may be located in an SEC-s sub-district, mapped wetland, or flood hazard zone.

(8) All development within the DIA is subject to all development criteria in effect for the underlying zone and overlay zones at the time of development. Approval of a DIA does not preclude the applicant's responsibility to obtain all other required approvals.

(9) Once a DIA is approved and all pre-development conditions of approval are met, development within the DIA may commence at anytime thereafter provided the applicable approval criteria of MCC 34.4570 are the same as the criteria under which the DIA was originally approved. This provision does not waive the approval timeframe and/or expiration of any other permit approvals.

FIRST READING: _____ August 6, 2015

SECOND READING AND ADOPTION: _____ August 20, 2015



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Deborah Kafoury

Deborah Kafoury, Chair

REVIEWED:
JENNY M. MADKOUR, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By *Jed Tomkins*
Jed Tomkins, Assistant County Attorney

SUBMITTED BY: Kim E. Peoples, Director, Department of Community Services

BEFORE THE PLANNING COMMISSION
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. PC 2013-2795

Recommend to the Board of Commissioners the adoption of an ordinance amending the Significant Environmental Concern provisions for MCC Chapters 33, 34 and 36 to provide an option for prescriptive standards for wildlife conservation plans and standards for the creation of optional development impact areas in the Significant Environmental Concern for Wildlife Habitat zone district.

The Planning Commission Finds:

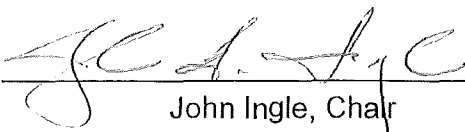
- a. The Planning Commission is authorized by Multnomah County Code Chapter 37.0710 and by ORS 215.110 to recommend to the Board of County Commissioners the adoption of Ordinances to amend County's Comprehensive Plan and land use regulations.
- b. The Significant Environmental Concern for wildlife habitat regulations were adopted initially in 1994 in the West Hills and Sauvie Island plan areas, and in 2002 in the West of Sandy River plan area. The code remains substantially the same today. The proposed amendments seek to provide additional options and improve the permit processing time for property owners while reducing costs to the County and its customers.
- c. The proposed amendments are intended to maintain existing protection measures for conflicting uses and provide additional optional mitigation measures.
- d. No regulations are being proposed that further restrict the use of property and no mailed notices to individual property owners are required ("Ballot Measure 56 notice"). Notice of the Planning Commission hearing was published in the Oregonian newspaper and on the Land Use Planning Program internet pages. The Planning Commission held a public hearing on September 9, 2013 where all interested persons were given an opportunity to appear and be heard.
- e. The proposed ordinance language should be amended to replace the term native soil with topsoil, which is in more common usage.

The Planning Commission resolves:

The proposed Ordinance amending MCC Chapter 33, 34 and 36 is hereby recommended for adoption by the Board of County Commissioners.

ADOPTED this 9th day of September, 2013.

PLANNING COMMISSION
FOR MULTNOMAH COUNTY, OREGON



John Ingle, Chair



MULTNOMAH COUNTY
LAND USE AND TRANSPORTATION PROGRAM
1600 SE 190TH Avenue Portland, OR 97233
PH: 503-988-3043 FAX: 503-988-3389
<http://web.multco.us/land-use-planning>

**STAFF REPORT TO THE PLANNING COMMISSION
FOR THE
PUBLIC HEARING ON SEPTEMBER 9, 2013**

**PRESCRIPTIVE STANDARDS FOR WILDLIFE CONSERVATION PLANS,
STANDARDS FOR THE CREATION OF DEVELOPMENT IMPACT AREAS**

CASE FILE: PC-2013-2795

PART I. INTRODUCTION

This staff report follows the Planning Commission work sessions in May and June that introduced a proposal to amend the county's Significant Environmental Concern for Wildlife Habitat (SEC-h) regulations to 1) provide optional prescriptive Wildlife Conservation Plan (WCP) standards and 2) provide a new option for a landowner to designate a Development Impact Area on the property.

The prescriptive Wildlife Conservation Plan standards provide a more specific set of best management practices that an applicant can elect to follow during preparation of a Wildlife Conservation Plan. This conservation plan outlines how impacts to wildlife habitat will be mitigated. The goal of the proposed prescriptive standards is that it will take less time and reduce the need for the applicant to retain professional assistance by following these prescriptive standards when preparing an application.

The proposed Development Impact Area provisions provide the ability for a landowner to contemplate where future development might occur and to designate a compact area on the property for future uses. The main benefit of these provisions is a consolidated land use review process.

Part II of this staff report provides the history and objectives of the existing Significant Environmental Concern for Wildlife Habitat code. Part III defines the problem and proposed solution related to the prescriptive Wildlife Conservation Plan standards. Similarly, Part IV of this staff report discusses the reasoning behind the proposed Development Impact Area option. Part V provides the specific text amendments for the Planning Commission's consideration.

It should be made clear that the enclosed text amendments provide additional options for the applicant to elect, if desired. No provision being proposed is either mandatory or more restrictive than existing Significant Environmental Concern for Wildlife Habitat provisions.

PART II. SEC-h BACKGROUND

The purposes of the Significant Environmental Concern Wildlife Habitat overlay are to protect, conserve, enhance, restore and maintain significant natural habitat. The current SEC-h review requires an applicant either demonstrate that the basic development standards of sub (B) can be met or that a Wildlife Conservation Plan proposing alternative conservation meets or exceeds the development standards.

Currently, the SEC-h basic standards require development to be located within 200 feet of a public road and require access serving the development to be clustered near other driveways on adjacent properties. These standards are meant to lessen the overall intrusion into wildlife habitat by utilizing existing cleared areas and clustering development near points of vehicular access. When considering further amendments to regulations intended to protect habitat, we should consider the impacts analysis contained in the County's adopted rural area plan to assess how any amendments address identified impacts.

According to the West Hills Reconciliation Report (Rev. May 1996) (Attachment D), "...the best way to preserve sensitive species in their natural habitat is to preserve large, contiguous areas of the entire ecosystem in which these species reside." The report further states, "Wildlife are guided in their choice of locale and movement by natural features which may allow or hinder their movement (watercourses, terrain, type of vegetation) and built features which hinder them (roads, residences, fences, agricultural operations). Given the large population of the Portland Metropolitan Area, the latter set of constraints is far more important in the patterns of wildlife habitation and migration."

Given the context of the Reconciliation Report it is important to consider balancing the needs of residential owners with the need to minimize impacts to wildlife habitat in the West Hills. The Reconciliation Report discusses the importance of minimizing edge effects, which are defined as, "...the deleterious effects of increased edge to area ratios due to human activity on plant and animal communities..." Other adverse environmental impacts from development that are identified in the Reconciliation Report include:

Direct Loss of Habitat – removal of native vegetative cover, water quality reduced and human intrusion increases.

Fragmentation – Fragmentation results in breaking up forested habitat areas, such that there is insufficient area with diversified structure to accommodate a wide range of animal species.

Native Vegetation Removal – Native Vegetation includes forest canopy, understory in forested areas, brush and dead/fallen trees. Removal of native vegetation causes diminished fish & wildlife habitat.

Application of Herbicides – Unrestricted use of herbicides can destroy habitat diversity necessary for survival of wildlife species. Herbicides also kill plants which contribute to overall structural diversity, and may provide species-specific cover and food for wildlife.

Soil Excavation – Removes vegetation, increases erosion and sedimentation to streams & wetlands.

Topsoil Removal – Removal makes it impossible for native vegetation to be reestablished, and thus eliminates most wildlife habitat.

Human Intrusion – Associated with residential development and along access roads. This “impact” ranges from shooting wildlife, to vandalism, to off-road recreational driving, to frightening animals by human presence.

Pet Impacts – Prey on small & large animals including shrews, woodpeckers, black-tailed deer, elk, and other sized carnivores.

Increased Impervious Surface Area – Removal of native vegetative cover and ground disturbance increases & concentrates surface water runoff. Additional runoff can cause erosion and stream-bank de-stabilization and decreases water quality.

Use of Insecticides and Poisons – Insects are part of the wildlife food chain, the loss of insects, per se, contributes to a loss in habitat value. Many insecticides directly harm small animals and birds.

Application of Fertilizers – Over-use of fertilizer increases nutrient loading in streams and decreases water quality. Fertilizers & irrigation allow non-native vegetation species to thrive, to the detriment of native plant species which provide superior wildlife habitat.

Additionally, the county’s SEC program includes the following regulatory measures (West Hills Reconciliation Report - Attachment D):

- *Multnomah County shall adopt zoning ordinance provisions which limit additional clearing of forested areas in association with non-forestry related development.*
- *Multnomah County shall adopt zoning ordinance provisions which promote clustering or rural residential and rural service development adjacent to existing public roads and existing residential and service development.*
- *Multnomah County shall adopt zoning ordinance provisions which prohibit the planting or maintaining of nuisance and non-native invasive plant species as part of a proposed development.*

PART III. OPTIONAL PRESCRIPTIVE STANDARDS FOR A WILDLIFE CONSERVATION PLAN

The Wildlife Conservation Plan option is provided in current code because it is recognized that some sites have physical characteristics prohibiting the proposal from meeting the basic development standards (topography, etc.), and because sometimes an alternative mitigation approach simply makes more sense and will better achieve the SEC-h objectives. Therefore, a Wildlife Conservation Plan is currently required when a proposed development cannot or will not meet the development standards detailed in subsection B.

Our experience has been that the existing Wildlife Conservation Plan standards generally work well for most applicants. However, the existing mitigation standards are not specific regarding the size, spacing and type of the required revegetation (trees vs. shrubs, for example). Occasionally, an applicant has retained services by a professional, such as a biologist, to provide these specifics which slows down application preparation and involves additional cost to the applicant.

Staff is proposing the optional prescriptive Wildlife Conservation Plan standards in a new subsection 5 of MCC .4570 (C) which can be thought of as specific mitigation best management practices largely borrowed from Metro model code.

Findings are still required under the MCC .4570 (C) (1 or 2) when an applicant proposes a WCP regardless of whether the applicant applies under the existing general wildlife plan standards in subsection (C)(3) or the proposed prescriptive standards in (C)(5). This means that a Wildlife Conservation Plan will continue to be an option only when the applicant cannot meet the development standards of Section (B) because of physical characteristics unique to the property or because the applicant can meet the development standards of Section (B) but demonstrates the alternative conservation measures exceed the development standards and will result in the proposed development having a less detrimental impact on forested wildlife.

PART IV. OPTIONAL DEVELOPMENT IMPACT AREA

Currently, a SEC-h permit review is required every time a structure not qualifying for an exception is proposed in the SEC-h zoning overlay. The most common exceptions involve additions to dwellings less than 400 square feet.

Staff recognize that the influence of a building in a wildlife conservation area extends beyond the footprint of that building and we believe there should be a mechanism to review and authorize a compact “development impact area” around a use. Staff is proposing standards that would allow for consolidating development into a single development envelope. This concept allows for review of SEC-h standards for multiple structures within a single Development Impact Area (DIA).

The proposed SEC-h amendments include an option for clustering development within a one acre (maximum) cleared area. The one acre area can act to consolidate the impact of accessory structures with the impact area of an existing dwelling. The one acre area option can reduce the overall amount of edge effect by combining the edge created by locating multiple structures in the same area as opposed to multiple locations on a property each with its own edge effect, including the driveway access connecting them. The concept of one acre for development comports with the existing standard for a WCP that requires newly cleared areas to not exceed one acre.

Another advantage to allowing a designated development area is the property owner can go through one single review for multiple phases of their residential development instead of having each phase reviewed separately. For instance, a property owner could gain approval of a cleared area around a residence, proceed with their planned residential addition shortly after the approval, and then construct a shop building or detached garage within the designated area a number of years down the road without having to go through the discretionary Type II SEC-h land use review process again. The property owner would only need to go through a building permit review for a new structure within an approved DIA. If other required reviews have an expiration date, the applicant will still need to comply with the stipulated expirations under those separate reviews. This stipulation is added as a criterion in the proposed DIA standards.

At the previous Planning Commission work session of June 3, 2013, the commission discussed the concept of the 450-foot diameter circle that any DIA (one acre max) would need to fit within. Some Commission members expressed concern that a 450-foot diameter circle may be too large and a desire

was voiced for visual representations of what smaller diameter constraints might look like in comparison with the 450-foot diameter option. Attachment I contains a comparison showing examples of a one-acre DIA within circles of 450-feet, 400-feet, 350-feet, and 300-feet. The hypothetical development scenario centers on a 40-acre, undeveloped parcel and is located in an area near other residential developments that differ considerably in size and extent. This setting offers a convenient way to visually compare a proposed one-acre DIA within different circle sizes in the vicinity of actual residential developments. In this hypothetical scenario it is assumed that access to the property is via easement over the property to the west. The subject parcel is heavily wooded but does contain an area that may be suitable for mitigation in the northeast quadrant.

After contemplating options, staff recommends using a 400-foot maximum diameter circle. The concern is between balancing the need to be flexible while adhering to a relatively compact development minimizing edge effects. The balancing act must allow for the placement of a dwelling, accessory building(s), drain-field, and replacement drain-field repair area within one acre while considering the fact that no two properties are alike and will have localized variables such as slope, soil type, existing vegetation and so on to consider. Upon analyzing the circle diameters in Attachment I staff concluded that a circle diameter of 300-feet does accommodate much flexibility in terms of the possible shape of the DIA. A 300-foot circle is not much bigger than an acre itself (area = 1.6 acres). On the other hand, the 450-foot diameter circle appears to be too generous and there is a risk of creating too much of an edge effect. In the mid range are the 350-foot and 400-foot diameter circles. In reviewing the options, staff believe that a 350-foot diameter circle may still be a bit limiting and that the 400-foot diameter appears to strike the most reasonable balance between maintaining a compact DIA with minimal edge effect and allowing for the flexibility that is needed to develop a home site.

PART V. PROPOSED NEW CODE PROVISIONS

Proposed New Code Language (Chapter 33):

(Language ~~stricken~~ is deleted; underlined language is new.)

§ 33.4567 SEC-H CLEAR AND OBJECTIVE STANDARDS.

At the time of submittal, the applicant shall provide the application materials listed in MCC 33.4520(A) and 33.4570(A). The application shall be reviewed through the Type I procedure and may not be authorized unless the standards in 33.4570(B)(1) through (4)(a)-(c) and (B)(5) through (7) are met. For development that fails to meet all of the criteria listed above, a separate land use application pursuant to MCC 33.4570 may be submitted.

§ 33.4570 CRITERIA FOR APPROVAL OF SEC-H PERMIT -WILDLIFE HABITAT

(A) In addition to the information required by MCC 33.4520 (A), an application for development in an area designated SEC-h shall include an area map showing all properties which are adjacent to or entirely or partially within 200 feet of the proposed development, with the following information, when such information can be gathered without trespass:

(1) Location of all existing forested areas (including areas cleared pursuant to an approved forest management plan) and non-forested "cleared" areas;

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

(2) Location of existing and proposed structures;

(3) Location and width of existing and proposed public roads, private access roads, driveways, and service corridors on the subject parcel and within 200 feet of the subject parcel's boundaries on all adjacent parcels;

(4) Existing and proposed type and location of all fencing on the subject property and on adjacent properties and on properties entirely or partially within 200 feet of the subject property.

(B) Development standards:

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

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

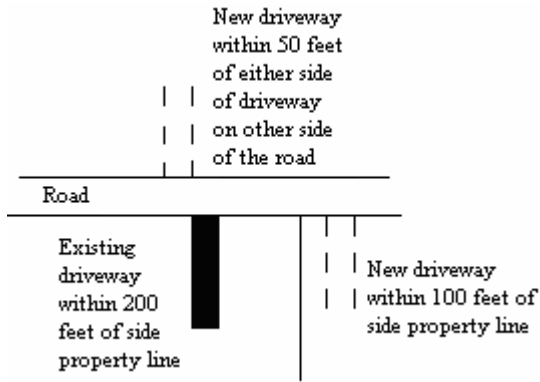
(3) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.

(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.

(c) Diagram showing the standards in (a) and (b) above.



For illustrative purposes only.

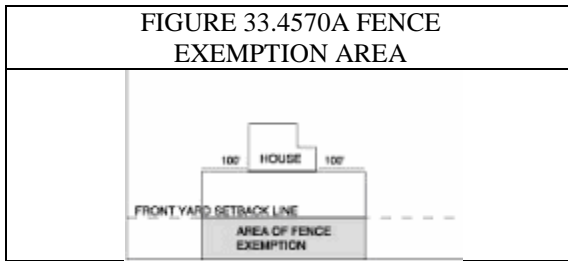
(d) The standards in this subsection (4) may be modified upon a determination by the County Road Official that the new access road/driveway approach would result in an unsafe traffic situation using the standards in the Multnomah County “Design and Construction Manual,” adopted June 20, 2000, (or all updated versions of the manual). Standards to be used by the Road Official from the County manual include Table 2.3.2, Table 2.4.1, and additional referenced sight distance and minimum access spacing standards in the publication A Policy on Geometric Design of Highways and Streets by the American Association of State Highway and Transportation Officials (AASHTO) and the Traffic Engineering Handbook by the Institute of Transportation Engineers (ITE).

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

(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:

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



(f) Fencing standards do not apply where needed for security of utility facilities.

(7) The following nuisance plants shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property:

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

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

(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 Section (B) because of physical characteristics unique to the property. The applicant must show that the wildlife conservation plan results in the minimum departure from the standards required in order to allow the use; or

(2) The applicant can meet the development standards of Section (B), but demonstrates that the alternative conservation measures exceed the standards of Section (B) and will result in the proposed development having a less detrimental impact on forested wildlife habitat than the standards in Section (B).

(3) Unless the wildlife conservation plan demonstrates satisfaction of the criteria in subsection (C)(5) of this section, 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.
- (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.
- (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.

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

- (a) Each tree removed to construct the proposed development shall be replaced on a one to one ratio with a six foot tall native tree.
- (b) For each 100 square feet of new building area, the property owner shall plant, one, 3-4 foot tall native tree or three native tree seedlings. The trees shall be planted to improve wildlife habitat first within non-forested cleared areas contiguous to forested areas, second within any degraded stream riparian areas before being placed in forested areas or adjacent to landscaped yards.
- (c) Existing fencing located in the front yard adjacent to a public road shall be consistent with MCC 33.4570(B)(6).
- (d) For non-forested "cleared" areas that require nuisance plant removal pursuant to MCC 33.4570(B)(7), the property owner shall set a specific date for the work to be completed and the area replanted with native vegetation. The time frame must be within two years from the date of the permit.

(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:

(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.

(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. Existing fencing located in the front yard adjacent to a public road shall be consistent with MCC 33.4570(B)(6).

(d) For mitigation areas, all trees, shrubs and ground cover shall be native plants selected from the Metro Native Plant List. An applicant shall meet Mitigation Option 1 or 2, whichever results in more tree plantings; except that where the total developed area (including, buildings, pavement, roads, and land designated as a Development Impact Area) on a Lot of Record will be one acre or more, the applicant shall comply with Mitigation Option 2:

1. Mitigation Option 1. In this option, the mitigation requirement is calculated based on the number and size of trees that are removed from the development site. Trees that are removed from the development site shall be replaced as shown in the table below. Conifers shall be replaced with conifers. Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

Tree Replacement Table

<u>Size of tree to be removed (inches in diameter)</u>	<u>Number of trees and shrubs to be planted</u>
<u>6 to 12</u>	<u>2 trees and 3 shrubs</u>
<u>13 to 18</u>	<u>3 trees and 6 shrubs</u>
<u>19 to 24</u>	<u>5 trees and 12 shrubs</u>
<u>25 to 30</u>	<u>7 trees and 18 shrubs</u>
<u>over 30</u>	<u>10 trees and 30 shrubs</u>

2. Mitigation Option 2. In this option, the mitigation requirement is calculated based on the size of the disturbance area associated with the development. Native trees and shrubs are required to be planted at a rate of five (5) trees and twenty-five (25) shrubs per every 500 square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by 500, and then multiplying that result times five trees and 25 shrubs, and rounding all fractions to the nearest whole number of trees and shrubs; for example, if there will be 330 square feet of disturbance area, then 330 divided by 500 equals .66, and .66 times five equals 3.3, so three trees must be planted, and .66 times 25 equals 16.5, so 17 shrubs must be planted). Bare ground shall be planted or seeded with native grasses

or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

(e) **Location of mitigation area.** All vegetation shall be planted within the mitigation area located on the same Lot of Record as the development and shall be located within the SEC-h overlay or in an area contiguous to the SEC-h overlay; provided, however, that if the vegetation is planted outside of the SEC-h overlay then the applicant shall preserve the contiguous area by executing a deed restriction, such as a restrictive covenant. (Note: an off-site mitigation option is provided in a streamlined discretionary review process). The mitigation area shall first be located within any existing non-forested cleared areas contiguous to forested areas, second within any degraded stream riparian areas and last in forested areas or adjacent to landscaped yards.

(f) Prior to development, all work areas shall be flagged, fenced, or otherwise marked to reduce potential damage to habitat outside of the work area. The work area shall remain marked through all phases of development.

(g) Trees shall not be used as anchors for stabilizing construction equipment.

(h) Native soils disturbed during development shall be conserved on the property.

(i) An erosion and sediment control plan shall be prepared in compliance with the Grading and Erosion Control standards set forth in MCC 29.330 through MCC 29.348;

(j) **Plant size.** Replacement trees shall be at least one-half inch in caliper, measured at 6 inches above the ground level for field grown trees or above the soil line for container grown trees (the one-half inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round), unless they are oak or madrone which may be one gallon size. Shrubs shall be in at least a 1-gallon container or the equivalent in ball and burlap and shall be at least 12 inches in height.

(k) **Plant spacing.** Trees shall be planted between 8 and 12 feet on-center and shrubs shall be planted between 4 and 5 feet on center, or clustered in single species groups of no more than four (4) plants, with each cluster planted between 8 and 10 feet on center. When planting near existing trees, the drip line of the existing tree shall be the starting point for plant spacing measurements.

(l) **Plant diversity.** Shrubs shall consist of at least two (2) different species. If 10 trees or more are planted, then no more than 50% of the trees may be of the same genus.

(m) **Nuisance plants.** Any nuisance plants listed in (B)(7) above shall be removed within the mitigation area prior to planting.

(n) **Planting Schedule.** The planting date shall occur within one year following the approval of the application.

(o) **Monitoring and reporting.** Monitoring of the mitigation site is the ongoing responsibility of the property owner. Plants that die shall be replaced in kind so that a

minimum of 80% of the trees and shrubs planted shall remain alive on the fifth anniversary of the date that the mitigation planting is completed.

(56) For Protected Aggregate and Mineral (PAM) resources within a PAM subdistrict, 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.

(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 MCC 33.4570 and the following:

(1) The maximum size for a DIA shall be no greater than one acre, excluding from this total the area of the minimum necessary accessway required for fire safety purposes.

(2) Any required mitigation for the DIA site under an approved wildlife conservation plan shall be completed within one year of the final approval of the application.

(3) The DIA shall contain an existing habitable dwelling or approved dwelling site.

(4) No more than one DIA is permitted per Lot of Record.

(5) The DIA can be any shape, but shall be contiguous and shall fit within a circle with a maximum diameter of 400 feet.

(6) For new dwellings that will be located on a Lot of Record that does not currently contain a dwelling, the DIA should be located within 200 feet of a public road or in the case of properties without road frontage, as close as practicable (accounting for required setbacks and fire safety zones) to the entry point of the vehicular access serving the property.

(7) No part of a DIA may be located in an SEC-s sub-district, mapped wetland, or flood hazard zone.

(8) All development within the DIA is subject to all development criteria in effect for the underlying zone and overlay zones at the time of development. Approval of a DIA does not preclude the applicant's responsibility to obtain all other required approvals.

(9) Once a DIA is approved and all pre-development conditions of approval are met, development within the DIA may commence at anytime thereafter provided the applicable approval criteria of MCC 33.4570 are the same as the criteria under which the DIA was originally approved. This provision does not waive the approval timeframe and/or expiration of any other permit approvals.

Proposed New Code Language (Chapter 34):

(Language ~~stricken~~ is deleted; underlined language is new.)

§ 34.4567 SEC-H CLEAR AND OBJECTIVE STANDARDS.

At the time of submittal, the applicant shall provide the application materials listed in MCC 34.4520(A) and 34.4570(A). The application shall be reviewed through the Type I procedure and may not be authorized unless the standards in 34.4570(B)(1) through (4)(a)-(c) and (B)(5) through (7) are met. For development that fails to meet all of the criteria listed above, a separate land use application pursuant to MCC 34.4570 may be submitted.

§ 34.4570 CRITERIA FOR APPROVAL OF SEC-H PERMIT -WILDLIFE HABITAT

(A) In addition to the information required by MCC 34.4520 (A), an application for development in an area designated SEC-h shall include an area map showing all properties which are adjacent to or entirely or partially within 200 feet of the proposed development, with the following information, when such information can be gathered without trespass:

(1) Location of all existing forested areas (including areas cleared pursuant to an approved forest management plan) and non-forested "cleared" areas;

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

(2) Location of existing and proposed structures;

(3) Location and width of existing and proposed public roads, private access roads, driveways, and service corridors on the subject parcel and within 200 feet of the subject parcel's boundaries on all adjacent parcels;

(4) Existing and proposed type and location of all fencing on the subject property and on adjacent properties and on properties entirely or partially within 200 feet of the subject property.

(B) Development standards:

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

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

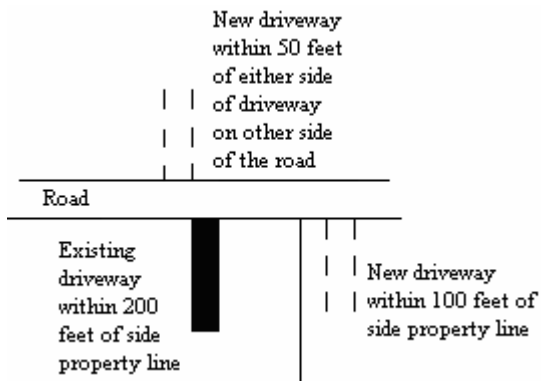
(3) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.

(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.

(c) Diagram showing the standards in (a) and (b) above.



For illustrative purposes only.

(d) The standards in this subsection (4) may be modified upon a determination by the County Road Official that the new access road/driveway approach would result in an unsafe traffic situation using the standards in the Multnomah County “Design and Construction Manual,” adopted June 20, 2000, (or all updated versions of the manual). Standards to be used by the Road Official from the County manual include Table 2.3.2, Table 2.4.1, and additional referenced sight distance and minimum access spacing standards in the publication A Policy on Geometric Design of Highways and Streets by the American Association of State Highway and Transportation Officials (AASHTO) and the Traffic Engineering Handbook by the Institute of Transportation Engineers (ITE).

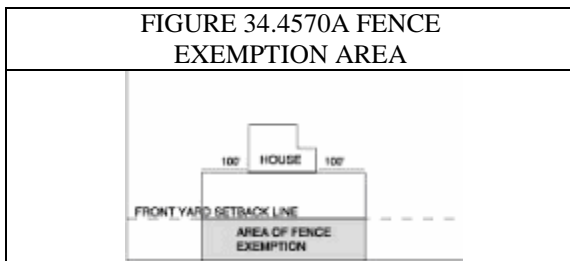
1. The modification shall be the minimum necessary to allow safe access onto the public road.
2. The County Road Official shall provide written findings supporting the modification.

(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:

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

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



- (f) Fencing standards do not apply where needed for security of utility facilities.

(7) The following nuisance plants shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property:

Scientific Name	Common Name
<i>Chelidonium majus</i>	Lesser celandine
<i>Cirsium arvense</i>	Canada Thistle
<i>Cirsium vulgare</i>	Common Thistle
<i>Clematis ligusticifolia</i>	Western Clematis
<i>Clematis vitalba</i>	Traveler's Joy
<i>Conium maculatum</i>	Poison hemlock
<i>Convolvulus arvensis</i>	Field Morning-glory
<i>Convolvulus nyctagineus</i>	Night-blooming Morning-glory
<i>Convolvulus seppium</i>	Lady's nightcap
<i>Cortaderia selloana</i>	Pampas grass
<i>Crataegus sp. except C. douglasii</i>	hawthorn, except native species
<i>Cytisus scoparius</i>	Scotch broom
<i>Daucus carota</i>	Queen Ann's Lace
<i>Elodea densa</i>	South American Water-weed

Scientific Name	Common Name
<i>Equisetum arvense</i>	Common Horsetail
<i>Equisetum telemateia</i>	Giant Horsetail
<i>Erodium cicutarium</i>	Crane's Bill
<i>Geranium roberianum</i>	Robert Geranium
<i>Hedera helix</i>	English Ivy
<i>Hypericum perforatum</i>	St. John's Wort
<i>Ilex aquafolium</i>	English Holly
<i>Laburnum watereri</i>	Golden Chain Tree
<i>Lemna minor</i>	Duckweed, Water Lentil
<i>Loentodon autumnalis</i>	Fall Dandelion
<i>Lythrum salicaria</i>	Purple Loosestrife
<i>Myriophyllum spicatum</i>	Eurasian Watermilfoil
<i>Phalaris arundinacea</i>	Reed Canary grass
<i>Poa annua</i>	Annual Bluegrass
<i>Polygonum coccineum</i>	Swamp Smartweed
<i>Polygonum convolvulus</i>	Climbing Binaweed
<i>Polygonum sachalinense</i>	Giant Knotweed
<i>Prunus laurocerasus</i>	English, Portugese Laurel
<i>Rhus diversiloba</i>	Poison Oak
<i>Rubus discolor</i>	Himalayan Blackberry
<i>Rubus laciniatus</i>	Evergreen Blackberry
<i>Senecio jacobaea</i>	Tansy Ragwort
<i>Solanum dulcamara</i>	Blue Bindweed
<i>Solanum nigrum</i>	Garden Nightshade
<i>Solanum sarrachoides</i>	Hairy Nightshade
<i>Taraxacum officinale</i>	Common Dandelion
<i>Ultricularia vuigaris</i>	Common Bladderwort
<i>Utica dioica</i>	Stinging Nettle
<i>Vinca major</i>	Periwinkle (large leaf)

Scientific Name	Common Name
<i>Vinca minor</i>	Periwinkle (small leaf)
<i>Xanthium spinosum</i>	Spiny Cocklebur
<i>various genera</i>	Bamboo sp.

(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 Section (B) because of physical characteristics unique to the property. The applicant must show that the wildlife conservation plan results in the minimum departure from the standards required in order to allow the use; or

(2) The applicant can meet the development standards of Section (B), but demonstrates that the alternative conservation measures exceed the standards of Section (B) and will result in the proposed development having a less detrimental impact on forested wildlife habitat than the standards in Section (B).

(3) Unless the wildlife conservation plan demonstrates satisfaction of the criteria in subsection (C)(5) of this section, 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.

(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.

(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.

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

(a) Each tree removed to construct the proposed development shall be replaced on a one to one ratio with a six foot tall native tree.

(b) For each 100 square feet of new building area, the property owner shall plant, one, 3-4 foot tall native tree or three native tree seedlings. The trees shall be planted to improve wildlife habitat first within non-forested cleared areas contiguous to forested areas, second

within any degraded stream riparian areas before being placed in forested areas or adjacent to landscaped yards.

(c) Existing fencing located in the front yard adjacent to a public road shall be consistent with MCC 34.4570(B)(6).

(d) For non-forested “cleared” areas that require nuisance plant removal pursuant to MCC 34.4570(B)(7), the property owner shall set a specific date for the work to be completed and the area replanted with native vegetation. The time frame must be within two years from the date of the permit.

(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:

(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.

(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. Existing fencing located in the front yard adjacent to a public road shall be consistent with MCC 34.4570(B)(6).

(d) For mitigation areas, all trees, shrubs and ground cover shall be native plants selected from the Metro Native Plant List. An applicant shall meet Mitigation Option 1 or 2, whichever results in more tree plantings; except that where the total developed area (including, buildings, pavement, roads, and land designated as a Development Impact Area) on a Lot of Record will be one acre or more, the applicant shall comply with Mitigation Option 2:

1. Mitigation Option 1. In this option, the mitigation requirement is calculated based on the number and size of trees that are removed from the development site. Trees that are removed from the development site shall be replaced as shown in the table below. Conifers shall be replaced with conifers. Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

Tree Replacement Table

<u>Size of tree to be removed (inches in diameter)</u>	<u>Number of trees and shrubs to be planted</u>
<u>6 to 12</u>	<u>2 trees and 3 shrubs</u>
<u>13 to 18</u>	<u>3 trees and 6 shrubs</u>
<u>19 to 24</u>	<u>5 trees and 12 shrubs</u>

<u>25 to 30</u>	<u>7 trees and 18 shrubs</u>
<u>over 30</u>	<u>10 trees and 30 shrubs</u>

2. Mitigation Option 2. In this option, the mitigation requirement is calculated based on the size of the disturbance area associated with the development. Native trees and shrubs are required to be planted at a rate of five (5) trees and twenty-five (25) shrubs per every 500 square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by 500, and then multiplying that result times five trees and 25 shrubs, and rounding all fractions to the nearest whole number of trees and shrubs; for example, if there will be 330 square feet of disturbance area, then 330 divided by 500 equals .66, and .66 times five equals 3.3, so three trees must be planted, and .66 times 25 equals 16.5, so 17 shrubs must be planted). Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

(e) Location of mitigation area. All vegetation shall be planted within the mitigation area located on the same Lot of Record as the development and shall be located within the SEC-h overlay or in an area contiguous to the SEC-h overlay; provided, however, that if the vegetation is planted outside of the SEC-h overlay then the applicant shall preserve the contiguous area by executing a deed restriction, such as a restrictive covenant. (Note: an off-site mitigation option is provided in a streamlined discretionary review process). The mitigation area shall first be located within any existing non-forested cleared areas contiguous to forested areas, second within any degraded stream riparian areas and last in forested areas or adjacent to landscaped yards.

(f) Prior to development, all work areas shall be flagged, fenced, or otherwise marked to reduce potential damage to habitat outside of the work area. The work area shall remain marked through all phases of development.

(g) Trees shall not be used as anchors for stabilizing construction equipment.

(h) Native soils disturbed during development shall be conserved on the property.

(i) An erosion and sediment control plan shall be prepared in compliance with the Grading and Erosion Control standards set forth in MCC 29.330 through MCC 29.348;

(j) Plant size. Replacement trees shall be at least one-half inch in caliper, measured at 6 inches above the ground level for field grown trees or above the soil line for container grown trees (the one-half inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round), unless they are oak or madrone which may be one gallon size. Shrubs shall be in at least a 1-gallon container or the equivalent in ball and burlap and shall be at least 12 inches in height.

(k) Plant spacing. Trees shall be planted between 8 and 12 feet on-center and shrubs shall be planted between 4 and 5 feet on center, or clustered in single species groups of no more than four (4) plants, with each cluster planted between 8 and 10 feet on center. When planting near existing trees, the drip line of the existing tree shall be the starting point for plant spacing measurements.

(l) **Plant diversity.** Shrubs shall consist of at least two (2) different species. If 10 trees or more are planted, then no more than 50% of the trees may be of the same genus.

(m) **Nuisance plants.** Any nuisance plants listed in (B)(7) above shall be removed within the mitigation area prior to planting.

(n) **Planting Schedule.** The planting date shall occur within one year following the approval of the application.

(o) **Monitoring and reporting.** Monitoring of the mitigation site is the ongoing responsibility of the property owner. Plants that die shall be replaced in kind so that a minimum of 80% of the trees and shrubs planted shall remain alive on the fifth anniversary of the date that the mitigation planting is completed.

(56) For Protected Aggregate and Mineral (PAM) resources within a PAM subdistrict, 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.

(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 MCC 33.4570 and the following:

(1) The maximum size for a DIA shall be no greater than one acre, excluding from this total the area of the minimum necessary accessway required for fire safety purposes.

(2) Any required mitigation for the DIA site under an approved wildlife conservation plan shall be completed within one year of the final approval of the application.

(3) The DIA shall contain an existing habitable dwelling or approved dwelling site.

(4) No more than one DIA is permitted per Lot of Record.

(5) The DIA can be any shape, but shall be contiguous and shall fit within a circle with a maximum diameter of 400 feet.

(6) For new dwellings that will be located on a Lot of Record that does not currently contain a dwelling, the DIA should be located within 200 feet of a public road or in the case of properties without road frontage, as close as practicable (accounting for required setbacks and fire safety zones) to the entry point of the vehicular access serving the property.

(7) No part of a DIA may be located in an SEC-s sub-district, mapped wetland, or flood hazard zone.

(8) All development within the DIA is subject to all development criteria in effect for the underlying zone and overlay zones at the time of development. Approval of a DIA does not preclude the applicant's responsibility to obtain all other required approvals.

(9) Once a DIA is approved and all pre-development conditions of approval are met, development within the DIA may commence at anytime thereafter provided the applicable approval criteria of MCC 34.4570 are the same as the criteria under which the DIA was originally approved. This provision does not waive the approval timeframe and/or expiration of any other permit approvals.

Proposed New Code Language (Chapter 36):

(Language ~~stricken~~ is deleted; underlined language is new.)

§ 36.4567 SEC-H CLEAR AND OBJECTIVE STANDARDS.

At the time of submittal the applicant shall provide the application materials listed in MCC 36.4540(A) and (D). The application shall be reviewed through the Type I procedure and may not be authorized unless the following are met:

(A) The proposed development meets the standards listed in 36.4560(A)(1) through (5):

(B) The proposed development shall meet the applicable storm water and grading and erosion control requirements of MCC Chapter 29. Ground disturbance within 100 feet of a watercourse as defined by MCC 29.351 shall be limited to the period between May 1st and September 15th. Revegetation and soil stabilization must be accomplished no later than October 15th.

(C) New and replacement exterior lighting fixtures shall be of the "cut off" or fully shielded type so that no light is emitted above the horizontal plane. The location and illumination area of lighting needed for security of utility facilities shall not be limited by this provision.

(D) The nuisance plants in 36.4550, Table 1, in addition to the nuisance plants defined in 36.4510 shall not be used as landscape plantings within the SEC-h Overlay Zone:

For development that fails to meet all of the standards listed above, a separate land use application pursuant to MCC 36.4560 may be submitted.

§ 36.4560 CRITERIA FOR APPROVAL OF SEC-H PERMIT -WILDLIFE HABITAT.

Development within areas designated SEC-h shall comply with the provisions of this section. An application shall not be approved unless it contains the information in 36.4540(A) and (D).

(A) Development standards:

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

(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.

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

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

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

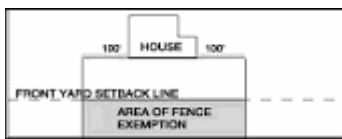


FIGURE 36.4570A FENCE
EXEMPTION AREA

- (f) Fencing standards do not apply where needed for security of utility facilities.
- (5) The nuisance plants listed in Table 1 shall not be planted as landscaping and shall be controlled within cleared areas of the subject property.
- (B) 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 Section (A) because of physical characteristics unique to the property. The applicant must show that the wildlife conservation plan results in the minimum departure from the standards required in order to allow the use; or
 - (2) The applicant can meet the development standards of Section (A), but demonstrates that the alternative conservation measures exceed the standards of Section (A) and will result in the proposed development having a less detrimental impact on forested wildlife habitat than the standards in Section (A).
 - (3) Unless the wildlife conservation plan demonstrates satisfaction of the criteria in subsection (B)(5) of this section, 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.

(c) That no fencing will be built outside of areas cleared for the site development except for existing cleared areas used for agricultural purposes.

(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.

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

(a) Each tree removed to construct the proposed development shall be replaced on a one to one ratio with a six foot tall native tree.

(b) For each 100 square feet of new building area, the property owner shall plant, one, 3-4 foot tall native tree or three native tree seedlings. The trees shall be planted to improve wildlife habitat first within non-forested cleared areas contiguous to forested areas, second within any degraded stream riparian areas before being placed in forested areas or adjacent to landscaped yards.

(c) Existing fencing located in the front yard adjacent to a public road shall be consistent with MCC 36.4560(A)(4).

(d) For non-forested "cleared" areas that require nuisance plant removal pursuant to MCC 36.4560(A)(5), the property owner shall set a specific date for the work to be completed and the area replanted with native vegetation. The time frame must be within two years from the date of the permit.

(5) Unless the wildlife conservation plan demonstrates satisfaction of the criteria in subsection (B)(3) of this section, 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.

(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. Existing fencing located in the front yard adjacent to a public road shall be consistent with MCC 36.4560(B)(4).

(d) For mitigation areas, all trees, shrubs and ground cover shall be native plants selected from the Metro Native Plant List. An applicant shall meet Mitigation Option 1 or 2, whichever results in more tree plantings; except that where the total developed area

(including, buildings, pavement, roads, and land designated as a Development Impact Area) on a Lot of Record will be one acre or more, the applicant shall comply with Mitigation Option 2:

1. Mitigation Option 1. In this option, the mitigation requirement is calculated based on the number and size of trees that are removed from the development site. Trees that are removed from the development site shall be replaced as shown in the table below. Conifers shall be replaced with conifers. Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

Tree Replacement Table

<u>Size of tree to be removed (inches in diameter)</u>	<u>Number of trees and shrubs to be planted</u>
<u>6 to 12</u>	<u>2 trees and 3 shrubs</u>
<u>13 to 18</u>	<u>3 trees and 6 shrubs</u>
<u>19 to 24</u>	<u>5 trees and 12 shrubs</u>
<u>25 to 30</u>	<u>7 trees and 18 shrubs</u>
<u>over 30</u>	<u>10 trees and 30 shrubs</u>

2. Mitigation Option 2. In this option, the mitigation requirement is calculated based on the size of the disturbance area associated with the development. Native trees and shrubs are required to be planted at a rate of five (5) trees and twenty-five (25) shrubs per every 500 square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by 500, and then multiplying that result times five trees and 25 shrubs, and rounding all fractions to the nearest whole number of trees and shrubs; for example, if there will be 330 square feet of disturbance area, then 330 divided by 500 equals .66, and .66 times five equals 3.3, so three trees must be planted, and .66 times 25 equals 16.5, so 17 shrubs must be planted). Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

(e) Location of mitigation area. All vegetation shall be planted within the mitigation area located on the same Lot of Record as the development and shall be located within the SEC-h overlay or in an area contiguous to the SEC-h overlay; provided, however, that if the vegetation is planted outside of the SEC-h overlay then the applicant shall preserve the contiguous area by executing a deed restriction, such as a restrictive covenant. (Note: an off-site mitigation option is provided in a streamlined discretionary review process). The mitigation area shall first be located within any existing non-forested cleared areas contiguous to forested areas, second within any degraded stream riparian areas and last in forested areas or adjacent to landscaped yards.

(f) Prior to development, all work areas shall be flagged, fenced, or otherwise marked to reduce potential damage to habitat outside of the work area. The work area shall remain marked through all phases of development.

(g) Trees shall not be used as anchors for stabilizing construction equipment.

(h) Native soils disturbed during development shall be conserved on the property.

(i) An erosion and sediment control plan shall be prepared in compliance with the Grading and Erosion Control standards set forth in MCC 29.350 through MCC 29.365;

(j) **Plant size.** Replacement trees shall be at least one-half inch in caliper, measured at 6 inches above the ground level for field grown trees or above the soil line for container grown trees (the one-half inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round), unless they are oak or madrone which may be one gallon size. Shrubs shall be in at least a 1-gallon container or the equivalent in ball and burlap and shall be at least 12 inches in height.

(k) **Plant spacing.** Trees shall be planted between 8 and 12 feet on-center and shrubs shall be planted between 4 and 5 feet on center, or clustered in single species groups of no more than four (4) plants, with each cluster planted between 8 and 10 feet on center. When planting near existing trees, the drip line of the existing tree shall be the starting point for plant spacing measurements.

(l) **Plant diversity.** Shrubs shall consist of at least two (2) different species. If 10 trees or more are planted, then no more than 50% of the trees may be of the same genus.

(m) **Nuisance plants.** Any nuisance plants listed in Table 1 above shall be removed within the mitigation area prior to planting.

(n) **Planting Schedule.** The planting date shall occur within one year following the approval of the application.

(o) **Monitoring and reporting.** Monitoring of the mitigation site is the ongoing responsibility of the property owner. Plants that die shall be replaced in kind so that a minimum of 80% of the trees and shrubs planted shall remain alive on the fifth anniversary of the date that the mitigation planting is completed.

(56) For Protected Aggregate and Mineral (PAM) resources within a PAM subdistrict, 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.

(C) 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 MCC 36.4560 and the following:

(1) The maximum size for a DIA shall be no greater than one acre, excluding from this total the area of the minimum necessary accessway required for fire safety purposes.

- (2) Any required mitigation for the DIA site under an approved wildlife conservation plan shall be provided within one year of the final approval of the application.
- (3) The DIA shall contain an existing habitable dwelling or approved dwelling site.
- (4) No more than one DIA is permitted per Lot of Record.
- (5) The DIA can be any shape, but shall be contiguous and shall fit within a circle with a maximum diameter of 400 feet.
- (6) For new dwellings that will be located on a Lot of Record that does not currently contain a dwelling, the DIA should be located within 200 feet of a public road or in the case of properties without road frontage, as close as practicable (accounting for required setbacks and fire safety zones) to the entry point of the vehicular access serving the property.
- (7) No part of a DIA may be located in an SEC-s sub-district, mapped wetland, or flood hazard zone.
- (8) All development within the DIA is subject to all development criteria in effect for the underlying zone and overlay zones at the time of development. Approval of a DIA does not preclude the applicant's responsibility to obtain all other required approvals.
- (9) Once a DIA is approved and all pre-development conditions of approval are met, development within the DIA may commence at anytime thereafter provided the applicable approval criteria of MCC 36.4560 are the same as the criteria under which the DIA was originally approved. This provision does not waive the approval timeframe and/or expiration of any other permit approvals.

PART VI. ATTACHMENTS

Attachment A: Select SEC-h permits from 2007 through June 2010.

Attachment B: Development scenario example where SEC-h development standards that don't require a WCP could result in additional impacts.

Attachment C: Example of a landlocked property that cannot meet SEC-h development standards and would be required to do a WCP.

Attachment D: Pages V-23 – V-27 and VI-23 – VI- 26 of the 1996 West Hills Reconciliation Report.

Attachment E: MCC 33.4570, Criteria for SEC-h permit.

Attachment F: Example of Forest Practices setbacks and Fire Safety Zones spread over multiple sites on one property.

Attachment G: Example of Forest Practices setbacks and Fire Safety Zones centered on a single DIA on one property.

Attachment H: Metro [Title 13] Model Code.

Attachment I: Comparison of circle diameters.

I-1: Undeveloped Parcel

I-2: 450-Foot Diameter Circle

I-3: 400-Foot Diameter Circle

I-4: 350-Foot Diameter Circle

I-5: 300-Foot Diameter Circle