

**STAFF REPORT FOR THE PLANNING COMMISSION WORK SESSION
JUNE 3, 2019**

**OPTIONS FOR TYPE I REVIEWS FOR CERTAIN PROJECTS IN THE SIGNIFICANT
ENVIRONMENTAL CONCERN FOR SCENIC VIEWS (SEC-v) OVERLAY
(PC-2019-11927)**

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SECTION 1.0 INTRODUCTION

Item number B4 of the 2019 Planning Commission Work Program is an efficiency project that directs staff and the Planning Commission to consider creating a Type I application process for certain projects that are required to be reviewed for compliance with Significant Environmental Concern for Scenic Views (SEC-v) standards.

The SEC-v overlay covers much of the eastern slope of the West Hills (Tualatin Mountains) in west Multnomah County. The overlay requires that new development and exterior changes to existing structures be reviewed for compliance with the SEC-v standards found in MCC 39.5650. Currently all SEC-v permits are reviewed through the Type II application permit process.

Type II reviews involve the exercise of some interpretation and discretion in evaluating approval criteria and the process can take several months from start to finish because Type II applications involve more process than Type I applications including the requirement for a pre-filing meeting prior to submittal, followed by a mandatory public notice and associated comment period. Once the decision is issued, there is an additional 14-day appeal period before the application becomes final. Moreover, Type II applications are processed in the same order they are received, which means even a relatively straight-forward application for minor exterior changes to a dwelling may have to wait in the queue for a lengthy period if there are a number of more complex Type II cases that are already being processed ahead of it. Because all Type II applications have mandatory timelines associated with them, there is little opportunity to move easier projects to the front of the queue.

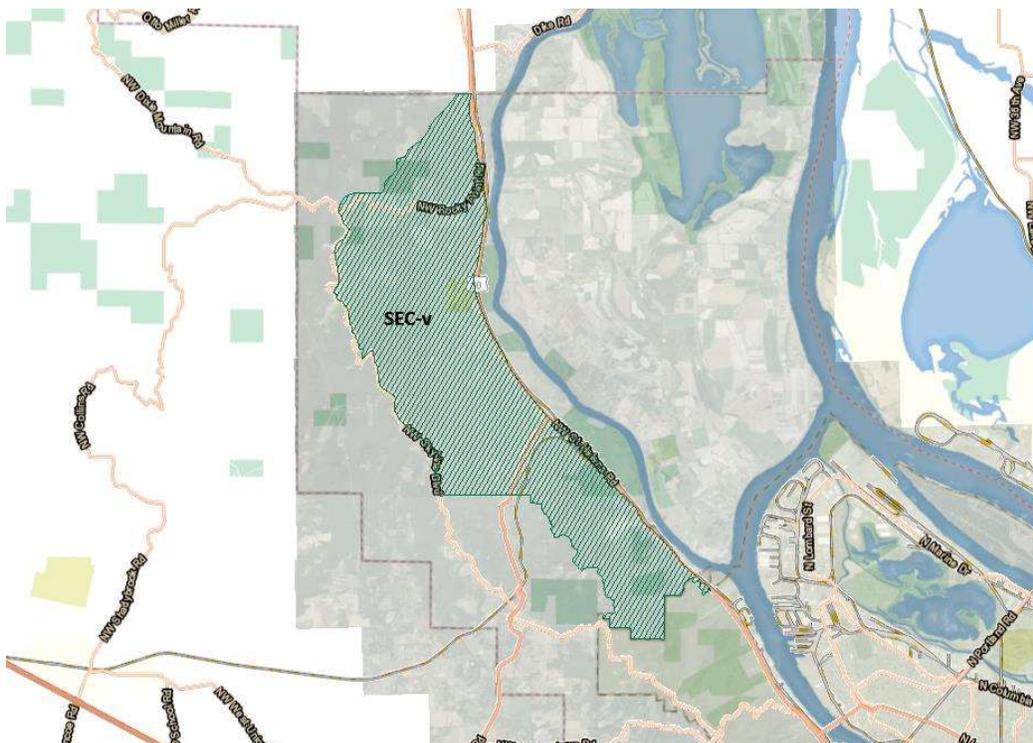
The current situation can be frustrating for applicants who want to begin their projects and can be frustrating for staff who want to be responsive to applicant's needs, but are limited by the current process.

Staff advanced item B.4 to the proposed work program because we recognize that some projects within the SEC-v overlay could be considered through a more streamlined process. Type I permits are subject to clear and objective standards that do not require interpretation or the exercise of policy or legal judgment in evaluating approval standards. Because no discretion is involved, Type I decisions do not qualify as land use or limited land use decisions. The process requires no notice to any party other than the applicant. The Planning Director’s decision is final and not appealable by any party through the normal land use process. Type I decisions may only be appealed through a writ of review proceeding to circuit court.

The exercise of creating a list of potential qualifying projects for a Type I review is to also create clear and objective standards that do not require interpretation. As a result, the Type I review tends to limit the choices available to the applicant – that is, either an application meets the Type I clear and objective standards or does not.

New Type I standards will be intended to provide a quicker, cheaper path for applicants for certain projects but with fewer choices regarding how to satisfy the criteria (i.e. the paint color must match the approved color palette). However, applicants can still opt for the Type II application process if they want to propose a project that does require some level of interpretation (i.e. applicant proposes a dark paint color that is not on the approved color palette but may meet the SEC-v standards when other factors such as location and vegetative screening are factored in).

This work session has two primary objectives. The first objective is to consider the types of projects that could benefit from a Type I review or possibly even be exempt from review. The second objective is to consider the general concepts of clear and objective standards that could apply to specific projects in the SEC-v overlay.



SECTION 2.0 CURRENT CODE

It is useful to include the existing coder here in order to inform the possible Type I SEC-v standards:

§ 39.5650 CRITERIA FOR APPROVAL OF SEC-V PERMIT - SIGNIFICANT SCENIC VIEWS.

(A) For purposes of this Section, the following terms and their derivations shall have the meanings provided below:

(1) Significant Scenic Resources – Those areas designated SEC-v on Multnomah County sectional zoning maps.

(2) Identified Viewing Areas – Public areas that provide important views of a significant scenic resource, and include both sites and linear corridors. The Identified Viewing Areas are:

Bybee-Howell House

Virginia Lakes

Sauvie Island Wildlife Refuge

Kelley Point Park

Smith and Bybee Lakes

Highway 30

The Multnomah Channel

The Willamette River

Public roads on Sauvie Island.

(3) **Visually Subordinate** – The subject development does not noticeably contrast with the surrounding landscape, as viewed from an identified viewing area. Development that is visually subordinate may be visible, but is not visually dominant in relation to its surroundings.

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

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

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

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

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

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

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

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

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

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

(5) Proposed developments or land use shall be aligned, designed and sited to fit the natural topography and to take advantage of vegetation and land form screening, and to minimize visible grading or other modifications of landforms, vegetation cover, and natural characteristics.

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

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

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

1. The new facility could not be located in an existing transmission corridor or built upon an existing facility;

2. The facility is necessary for public service; and

3. The break in the skyline is the minimum necessary to provide the service.

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

protect scenic views identified in the Goal 5 protection program that has been designated for the site.

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

SECTION 3.0 POSSIBLE PROJECT TYPES / CLEAR & OBJECTIVE STANDARDS

For discussion purposes, staff created a table of potential projects followed by general concepts for standards that could apply based on the applicability of the standard to the type of project. Staff has provided this information as a starting point for developing code, and we welcome the Planning Commission's thoughts on the concepts outlined below. Among the questions we would like to consider are:

1. Are there other types of projects that should be considered for a Type I SEC-v review or even be excepted from review in the SEC-v overlay?
2. Do the proposed standards achieve both a reasonable path for the applicant as well as achieving the objectives of protecting the area as a scenic resource?
3. Are there other types of clear and objective standards that would help ensure a good outcome for applicants and achieve the objectives of the SEC-v overlay?

The table is preceded by a proposed new exemption followed by a possible new introductory section for SEC-v Clear and Objective Standards:

Red text = proposed

§ 39.5515 EXCEPTIONS.

(A) Except as provided in subsection (B) of this Section, an SEC permit shall not be required for the following:

(15) Within the SEC-v, any exterior change to the side of an existing lawfully established structure that is 100% screened from all IVAs by the structure itself provided there is no change in ground coverage.

§ 39.5660- SEC-V CLEAR AND OBJECTIVE STANDARDS.

(A) At the time of submittal, the applicant shall provide the application materials listed in MCC 39.5520(A) and 39.5650(B). The application shall be reviewed through the Type I procedure and may not be authorized unless the applicable standards in MCC 39.5860(B) are met. For development that fails to meet all of the criteria listed above, a separate land use application pursuant to MCC 39.5650 may be submitted.

Table X. Type 1 SEC-v Development.

Type of Development	Applicable Standards of MCC 39.5660 (B)
Reroof of existing lawfully established building or structure (no increase in height).	(1)
Repaint of existing lawfully established building or structure.	(1)
Above ground and partially buried propane / heating oil tanks up to 500 gallon capacity not to exceed 5 feet above existing grade and finished grade.	(1), (3)
An accessory structure up to 200 square feet in area and 10 feet or less in height. Only one accessory building per parcel may be allowed under this guideline, regardless of whether the parcel already includes an accessory building(s).	(1), (3)
An accessory structure within 50 feet of an existing lawfully placed structure that will be 100% screened by that structure.	(3), (6)
Topographically visible addition to an existing lawfully placed building, provided the existing building is at least 500 square feet in area and the addition is no larger than 400 square feet in area and no taller than the height of the existing building. Only one addition per parcel may be allowed under this guideline, regardless of whether the parcel already includes an addition.	(1), (3), (4), (6)
Addition of any size as otherwise allowed by code if addition is 100% screened by existing lawfully placed structure.	(5)

Replacement of existing siding, doors, windows (or x% increase in window size not to exceed x total building window area).	(1)
Up to 400 square foot increase in total roof area.	(1), (3), (5)
Replacement of existing attached decks in the same dimensions.	(1)
Replacement of existing lawfully placed fences and retaining walls.	(1)
Replacement of existing lawfully established outdoor lights on existing lawfully established buildings and up to one additional light (subject to dark sky).	(2)

(B) Clear and Objective Development Standards for Type 1 SEC-v permits. The following standards are apply to Type 1 SEC-v projects as specified in Table X above:

- (1) Use of nonreflective or low reflective building materials including window frames and dark natural or earthtone colors from approved color palette. Wooden decks may utilize dark earth-tone colored natural wood.

Staff Note: We have provided an example of dark earth tone colors from rows A and B from the *Building in the Scenic Area Handbook*. The colors are in these two rows are typically approved in the Western Oregon landscape setting in the National Scenic area and Staff believes these colors provide a good example of the colors that could be considered a standard palette.

- (2) Exterior lighting that it is not highly visible from identified viewing areas and meets the Dark Sky Lighting Standards of MCC 39.6850. Shielding and hooding materials shall have a dark earthtone colored exterior and be composed of nonreflective, opaque materials.
- (3) Removal of existing tree(s) is not permitted unless it is deemed necessary by the approval authority in order to meet fire safety standards listed in the base zone. For the purposes of this standard, existing trees include any tree that existed at any time on the subject property (or tract) within 200 feet of the footprint of the proposed development or structure within a five-year period preceding the date the application is received.
- (4) The addition shall not be taller than the average roof height of existing structure.

(5) The addition shall not be taller than shortest ridgeline of roof of existing structure.

(6) The addition or structure cannot exceed 20 feet above existing grade and finished grade.

SECTION 4.0 CONCLUSION

Staff plans to take the Commission's feedback and develop draft code to bring back for a public hearing.

SECTION 5.0 ATTACHMENTS

A. Color palette from the *Building in the Scenic Area Handbook*.