

**MULTNOMAH COUNTY****LAND USE AND TRANSPORTATION PROGRAM**1600 SE 190TH Avenue Portland, OR 97233

PH: 503-988-3043 FAX: 503-988-3389

<http://www.co.multnomah.or.us/landuse>

NOTICE OF DECISION

This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

Case File: T2-06-006

Permit: Lot Line Adjustment &
Planning Director's Determination

Location: Tract 1: 42900 E. Haines Road
TL 600 & 700, Sec 32C, T 1N, R 5E
Alternate Tax Account #R94532-0230

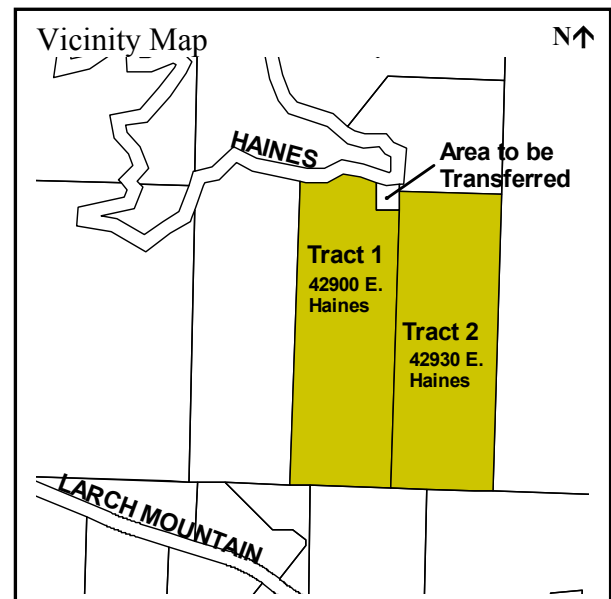
Tract 2: 42930 E. Haines Road
TL 500, Sec 32C, T 1N, R 5E
Alternate Tax Account #R94532-0130

Applicant: Larry McDougall

Property Owners: Tract 1: Larry McDougall
Tract 2: Heidi & Phillip Wilson

Base Zone: Commercial Forest Use – 4 (CFU-4)

Overlay Zones: Hillside Development and Erosion Control (HDP)



- Summary:** Applicant is requesting the following:
1. To transfer a 0.23 acre piece from Tract 1 to Tract 2 in the CFU-4 zoning district; and
 2. To construct a 40 ft by 60 ft accessory structure on 42900 E. Haines Road.
- Decision:**
1. Lot Line Adjustment: Approved with conditions; and
 2. Planning Director's Determination: The proposed 40 ft by 60 ft structure is accessory to the existing single family dwelling; and
 3. Planning Directors Decision: Approved with conditions.

Unless appealed, this decision is effective Tuesday, April 25, 2006 at 4:30 PM.

Issued by:

By: _____
Lisa Estrin, Planner

For: Karen Schilling- Planning Director

Date: Tuesday, April 11, 2006

Instrument Number for Recording Purposes: #2004154644

Opportunity to Review the Record: A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director's Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact Lisa Estrin, Staff Planner at 503-988-3043.

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 37.0640. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Land Use Board of Appeals until all local appeals are exhausted.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Tuesday, April 25, 2006 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC):

Commercial Forest Use -4

MCC 35.2220 Allowed Uses
MCC 35.2225 Review Uses
MCC 35.2260 Dimensional Requirements
MCC 35.2270 Lot Line Adjustment
MCC 35.2275 Lot of Record
MCC 35.2305 Development Standards for Dwellings and Structures

Land Divisions

MCC 35.7970 Property Line Adjustment (Lot Line Adjustment)

Chapter 37: Administration and Procedures: particularly

MCC 37.0530(B) Type II Process
MCC 37.0550 Initiation of Application
MCC 37.0560 Code Compliance

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at <http://www.co.multnomah.or.us/landuse>.

Scope of Approval

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. **This land use permit expires two years from the date the decision is final if; (a) development action has not been initiated; (b) building permits have not been issued; or (c) final survey, plat, or other documents have not been recorded, as required. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0690 or 37.0700, as applicable. A request for permit extension may be required to be granted prior to the expiration date of the permit.**

Conditions of Approval

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

Property Line Adjustment

1. This approval is based on submitted materials and materials contained in the Exhibit List. The proposed property line adjustment shall be completed as shown in Exhibit A.25 [MCC 37.0580]. No additional lot or parcel shall be created through this process [MCC 33.7970(C)(1)].
2. The applicant shall complete the procedures provided in the “Applicant’s Instructions for Finishing a Property Line Adjustment,” and in the “Surveyor’s Instructions for Finishing a Property Line Adjustment”.
3. Prior to recording the deeds, the property owner, or representative thereof, shall submit copies of the final survey, and legal descriptions to Multnomah County Planning for verification that the adjusted properties conform to the approved Tentative Plan Map (Exhibit A.25). If the submitted documents conform to the approved Tentative Plan Map (Exhibit A.25) and zoning requirements, staff will sign the survey and deeds. Multnomah County Planning must approve these documents prior to their recordation [MCC 33.7970].

Accessory Structure

4. Within 30 days of this decision becoming final and prior to building permit sign-off, the applicant shall record the Notice of Decision (pages 1-3 of this decision and a modified site plan showing the primary and secondary fire safety zone around the accessory structure) with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and filed with the Land Use Planning Division, and a copy of the recorded document shall be submitted to the Land Use Planning Division. Recording shall be at the applicant’s expense. [MCC 37.0670]
5. Prior to Land Use sign-off of the building permit, the property owner or their representative shall finish the lot line adjustment process. [MCC 37.0560]
6. Prior to Land Use sign-off of the building permit, the property owner or their representative shall amend the site plan to show a primary and secondary fire safety zone on the plan. These fire safety zones shall be in compliance with the regulations under MCC 35.2305(A)(5).
7. The primary and secondary fire safety zones shall be maintained in compliance with MCC 35.2305(A)(5) by the property owner at all times.
8. The property owner or their representative shall obtain a building permit prior to construction of the accessory structure. In addition, if a chimney is installed on the building, it shall have a spark arrester. [MCC 35.2305(B)]
9. No home occupation or business use shall occur within the accessory structure unless a Type B Home Occupation or other Permit is first approved by the Land Use Planning section.

Note: The Planning Director’s policy is for the case planner to provide zoning approval of the final Plan on an appointment basis. Please contact Lisa Estrin at 503.988.3043 x22597 to set a time for zoning approval.

Notice to Mortgagee, Lien Holder, Vendor, or Seller:

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

Findings of Fact

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

Project Description:

Applicant: The following is a description and planned use of the accessory structure I propose to build on the above listed property owned by myself. The workshop proposed is a 40’ x 60’ designed and constructed by Web Steel of Sandy Oregon. This is a professionally designed and engineered structure more than suitable to be place do on the property. The work shop is and will be used by myself and not of any business nature. I simply need a workshop where I can store my vehicles, boat, tractors and other equipment to get them out of the harsh weather we experience in Corbett. I buy and restore old cars for my personal use not for resale. Currently the garage that is attached to the home is much too small to accomplish my restorations. The workshop will also be used to accomplish woodworking necessary to update the interior of our home. The home was a rental prior to me wife and I purchasing it in 2004 and was and is in dire need of interior work. I have woodworking and painting to be able to work on my cars and also to work on my home. Once again there will be NO business run from my property. I earn my honest living, building, repairing and operating VLCCs. (Very Large Crude Oil Carriers) otherwise known as oil tankers. So believe me when I say that I see no future of building or repairing an oil tanker in Corbett Oregon. It’s a logistical nightmare.

The structure its self is of metal framework, top, sides and fore and aft. And of course fire resistant. As you will see there is plenty of firebreaks and access to the structure as well. It will not be an eyesore either. When we purchased the property there were many eyesores around here. It took two full dumpsters to haul off all the trash that was left behind by years of renters and blackberries had overtaken much of the home area around the house its self. My wife and I have spent countless hours removing the blackberries and trash and replanting everything with approx. 800#s of grass seed and counting. I thank you for your time and hope the proposed workshop will be approved.

I have read thoroughly through all the permit applications and also the exemptions that apply to them. As far as the Hillside Development Permit goes, our proposed building site is exempt from having to file this application. We are not going to be disturbing any natural and or finished slopes, no fill dirt is being brought in, no storage of earth material, no rainwater runoff will be diverted, no impervious surfaces created, and we are not blocking any drainage ways. I’ am enclosing a County GIS map with the area of the proposed build site clearly marked. As you will see the area of the site is in the cleared area of the property. It is my understanding that when the other tow adjoining properties and mine were developed, areas around the home sites were leveled out and cleared, (fire breaks and future build sites). This info comes from locals I have talked to about these areas.

The Grading and Erosion Control Permit is also another permit that is not applicable. I know it is difficult to see in the aerial photos but the build site was overtaken with blackberry bushes. A very nice and flat area. My wife and I spent countless hours’ hand pulling these vines from the ground and clearing out years of trash that was dumped here. This was the case all around the home site. After all the berry vines were removed, we had brought in ¾” “crush and run” gravel. If memory serves me right it was 10 dump truck loads. The proposed build site was built up higher than the 20’ wide roadway that will be around the area. Elevation of the build site pad is approx. 5” - 6”. Thus a 5 inch slab will be laid upon this pad giving it about 10”-12” above the roadway.

We have decided not to put in a deep sink in the shop for the simple reason that we do not want to have to tear up the freshly planted lawns to run the drain over to the septic tank which was recently installed

and inspected by the city of Portland on July 22nd of this year. We have planted thus far 800#s of grass seed to help choke down the blackberries. The proposed shop again is not a business oriented shop.

Site and Vicinity:

Staff: The property is located in the East of Sandy River Plan Rural Area and is within the Commercial Forest Use - 4 (CFU-4) zone district. The property currently contains a 2,240 sq. ft. single family dwelling with an attached 624 sq. ft. garage (total square footage of 2,864). The property is heavily forested with slightly less than 13 acres in forest practices. In the past for the construction of the dwelling an approximate 1 acre area has been flattened and prepared for the existing dwelling and associated uses. The surrounding properties to the north, south east and west are chiefly in forest practices or residential with forest practice or farm use. The zoning to the west, east and north is CFU-4. The properties to the immediate south are zoned either Rural Residential or Multiple Use Agriculture.

1.00 Administration and Procedures

1.01 Type II Case Procedures

MCC 37.0530(B): ...Upon receipt of a complete application, notice of application and an invitation to comment is mailed to the applicant, recognized neighborhood associations and property owners within 750 feet of the subject tract. The Planning Director accepts comments for 14 days after the notice of application is mailed and renders a decision...

Staff: The application was submitted January 17, 2006 and an "Opportunity to Comment" notice was mailed on February 27, 2006 to all properties within 750 feet of the subject properties in compliance with MCC 37.0530. No written comments were received.

1.02 Proof of Ownership

MCC 37.0550 Initiation of Action

Except as provided in MCC 37.0760, Type I – IV applications may only be initiated by written consent of the owner of record or contract purchaser. PC (legislative) actions may only be initiated by the Board of Commissioners, Planning Commission, or Planning Director.

Staff: The proposed project is located on Tax Lot 500, 600 & 700, Section 32C, Township: 1 North, Range: 5 East. Assessment & Taxation records show that Tax Lot 500 & 600 is owned by Phillip & Heidi Wilson. Tax Lot 700 is owned by Larry McDougall. All property owners have signed the Lot line adjustment Statement of Property Owner Consent (Exhibit A.2). *This criterion has been met.*

1.03 MCC 37.0560 Code Compliance And Applications.

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

(A) A permit or other approval, including building permit applications, may be authorized if:

- (1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or**
- (2) It is necessary to protect public safety; or**

(3) It is for work related to and within a valid easement over, on or under an affected property.

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

Staff: In November 1977, Tax Lot 600 was broken out from Tax Lot 700 to grant road access to Tax Lot 500. The zoning at the time was Multiple Use Forest – 20 (MUF-20) which had a minimum lot size of 20 acres. Tax Lot 600 is only 0.23 of an acre. Tax Lot 600 was created to give Tax Lot 500 access to Haines Road. The proposed lot line adjustment will correct the illegal partition by combining Tax Lot 600 into Tax Lot 500 as intended in 1977. No other zoning violations are known on the subject tracts.

2.00 *Lot of Record Determination*

2.01 MCC 35.2275 Lot of Record

(A) In addition to the Lot of Record definition standards in MCC 35.0005, for the purposes of this district a Lot of Record is either:

(1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or

(4) Exceptions to the standards of (A)(2) above:

(a) Where two contiguous parcels or lots are each developed with a lawfully established habitable dwelling, the parcels or lots shall be Lots of Record that remain separately transferable, even if they were held in the same ownership on February 20, 1990.

(B) In this district, significant dates and ordinances applicable for verifying zoning compliance may include, but are not limited to, the following:

(1) July 10, 1958, F-2 zone applied;

(2) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;

(3) October 6, 1977, MUF-20 and CFU-38 zones applied, Ord. 148 & 149;

(4) August 14, 1980, MUF-19 & 38 and CFU-80 zones applied, Ord. 236 & 238;

(5) February 20, 1990, Lot of Record definition amended, Ord. 643;

(6) January 7, 1993, MUF-19 & 38 zones changed to CFU-80, Ord. 743 & 745;

(7) August 8, 1998, CFU-4 zone applied, Ord. 916 (reenacted by Ord. 997);

(8) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.

MCC 35.0005 (L)(13) Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof which when created and when reconfigured (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

(a) “Satisfied all applicable zoning laws” shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.

(b) “Satisfied all applicable land division laws” shall mean the parcel or lot was created:

1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or
2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or
3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in recordable form prior to October 19, 1978; or
4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and
5. “Satisfied all applicable land division laws” shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See Date of Creation and Existence for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU and CFU districts.)

Staff: Tax Lots 500 and Tax Lots 600 & 700 (combined) 1N5E32C were created in November, 1975 by the recordation of deeds (Exhibits A.9, A.10 7 A.11). Partitioning requirements were not adopted by the County until 1978. The zoning at the time was F-2 with a minimum lot size of 2 acres. The F-2 zoning district did not have a minimum road frontage requirement at that time. Both tax lots are approximately 13 acres which exceeded the minimum lot size at the time. Tax Lot 700 was owned by Ted Weisgram on February 20, 1990. Tax Lot 500 was owned by Joan & Stephen Tidyman. Both Tax Lot 500 and Tax Lot 600 & 700 (combined) qualify as *Lots of Record*. Upon proper completion of the lot line adjustment, Tax Lot 500 will contain the area of Tax Lot 600. Both Tax Lots will continue to be *Lots of Record* after the completion of the lot line adjustment.

3.00 ***Property Line Adjustment***

3.01 **MCC 35.2225 REVIEW USES**

(H) Lot Line Adjustment pursuant to the provisions of MCC 35.2270.

Staff: The applicant has applied for a lot line adjustment. The application has demonstrated compliance with MCC 35.2270 as shown below.

3.02 **MCC 35.2270 Lot Line Adjustment**

(A) An adjustment of the common lot line between contiguous Lots of Record based on a finding that:

- (1) The permitted number of dwellings will not thereby be increased above that otherwise allowed in this district;
- (2) The resulting lot configuration is at least as appropriate for the continuation of the existing commercial forest practices in the area as the lot configuration prior to adjustment;

(3) The new lot line is in compliance with the dimensional requirements of MCC 35.2260 (C) through (D); and

(4) Neither of the properties is developed with a dwelling approved under the provisions for a mobile home on a Health Hardship, or a dwelling for the housing of help required to carry out a farm or forest use.

Staff: Land Use Planning has found that Tracts 1 & 2 are both *Lots of Record* pursuant to MCC 35.2275 (see above). Through this lot line adjustment, Tract 1 will decrease in size by approximately 0.23 of an acre. Tract 2 will increase in size by 0.23 of an acre. Both tracts are currently occupied by existing single family dwellings. The lot line adjustment will not transfer either dwelling to the other lot, nor create a new parcel. Both tracts are currently in the County's forest deferral program and will remain so after the lot line adjustment. The area to be transferred is utilized by Tax Lot 500 to gain access to Haines Road. This access contributes to the ability to perform forest practices on the site. The resulting lot configuration is as appropriate for the continuation of the existing commercial forest practices in the area as the tract configuration prior to adjustment. The adjustment will not alter the building setbacks on either tract (Exhibit A.8 & A.23) as the existing structures are not located near the adjustment. No Health Hardship or housing of help has been approved on either tract. *These criteria have been met.*

3.03 MCC 35.7970 Property Line Adjustment (Lot Line Adjustment)

A property line adjustment is the relocation of a common property line between two abutting properties.

(A) The Planning Director may approve a property line adjustment between two properties, in the Rural Area, where an additional lot or parcel is not created and where the existing lot or parcel reduced in size by the adjustment is not reduced below the minimum lot size established by the applicable zoning designation.

(B) The Planning Director may approve a property line adjustment between two properties in the Rural Area where an additional lot or parcel is not created but where one or both of the adjusted properties are below the minimum lot size established by the applicable zoning district designation. Such an adjustment shall comply with any applicable zoning district standards for a Property Line Adjustment or Lot Line Adjustment.

Staff: The subject properties are zoned Commercial Forest Use – 4 (CFU-4). The minimum lot size in the CFU-4 zone is 80 acres to create a new parcel. Pursuant to the finding listed in section 2.01, Tracts 1 and 2 are both legal parcels and Lots of Record. Currently, Tract 1 is 13.13 acres in size. Tract 2 is 13.05 acres. After the property line adjustment is completed, Tract 2 will increase to 13.27 acres and Tract 1 will decrease to 12.92 acres. The proposed adjustment has met the applicable lot line adjustment criteria for the CFU-4 zoning district. *This criterion has been met.*

3.04 (C) Property line adjustments approved under subsections (A) and (B) above shall meet the following additional standards:

(1) No additional lot or parcel shall be created from any parcel by the property line adjustment; and

Staff: Tract 1 and Tract 2 are both legal parcels and will remain as two separate parcels. No additional parcels will be created (Exhibit A.25). *This criterion has been met.*

3.05 (2) Owners of both properties involved in the property line adjustment shall

consent in writing to the proposed adjustment and record a conveyance or conveyances conforming to the approved property line adjustment; and

Staff: Larry McDougall owns Tract 1. Heidi & Phillip Wilson own Tract 2. Both property owners have consented in writing to the application (Exhibit A.2). *This criterion has been met.*

3.06 **(3) The adjusted properties shall meet all dimensional requirements in the underlying zoning district designation except for lot area.**

Staff: Both tracts are located in the Commercial Forest Use – 4 (CFU-4) zoning district. Both tracts are currently occupied by a single family dwelling. The Dimensional Requirements of the CFU-4 are as follows:

Road Frontage	Other Front	Side	Rear
60 from centerline of road from which access is gained	130	130	130

The proposed lot line adjustment will alter the interior lot line of the two tracts by 100 ft adjacent to the front lot line. Neither dwelling will have its existing setback dimensions altered by the proposal as the buildings are setback from the area of transfer by a minimum of 100 feet and the change has no effect. *This criterion has been met.*

3.07 **(4) The right-of-way width between the front line of each adjusted property and the centerline of any adjacent County road shall comply with the applicable provisions of the Street Standards Code and Rules as determined by the County Engineer.**

Staff: Both tracts front onto Haines Road. Haines Road is a public right of way and exceeds the 50 ft standard for a *Local* Street. In addition, the Transportation Planning section has determined that no additional right of way is required as part of this application (Exhibit B.4). *This criterion has been met.*

3.08 **(D) The procedure and forms for obtaining approval of a property line adjustment shall be as provided for by the Planning Director.**

Staff: The applicant has submitted the required forms (Exhibit A.1 through A.25). A lot line adjustment is a Type II application. Pursuant to the findings under MCC 37.0530(B) above, the procedures have been followed as required by the Planning Director.

4.00 ***CFU-4 Accessory Structure Criteria***

4.01 **MCC 35.2220 Allowed Uses**

(U) Other structures or uses determined by the Planning Director to be customarily accessory or incidental to any use permitted or approved in this district.

Applicant: The proposed shop again is not a business oriented shop. ...I'm just looking forward to retirement and plan on tinkering, and restoring old cars. I do not resale them with a strong objection from my wife, I collect them. I just need a place where I can easily work on my cars, and store them. The shop is also going to be used to keep all my other equipment in. Farm and garden tractors and associated equipment. The little attached garage is just too small. Once again please bear with me as we endeavor to get the shop built. This is all very new to me. The shop is going to be supplied by Web Steel of Sandy Oregon, and is of Metal siding, framing and roof. It definitely is not an eyesore. I have a tendency to over engineer things so I can guarantee it will definitely be a nice shop.

Staff: The applicant is proposing a 40 ft by 60 ft (2400 sq. ft) accessory structure to use as a garage, storage building and shop. The primary use of the property is a 2,864 sq. ft single family dwelling with attached garage. The proposed accessory structure does not exceed the square footage of this primary use which would indicate that it is incidental to the primary use and can qualify as an accessory use. Staff then looked at accessory structures on properties within a quarter mile of the subject site. While there were no single structures that exceeded the proposed 2400 sq. ft, one accessory structure did exceed 2000 sq ft. but appears to be a farm structure as there is no dwelling on the property. The 2nd largest structure is 1,750 sq ft and is accessory to a 2574 sq ft dwelling. Since the proposed accessory structure has multiple proposed uses, the additional 400 sq ft seems to fit as customarily accessory because many properties in the area have multiple structures with similar accessory uses in each. As such, staff finds the proposed 2400 sq ft structure accessory to the existing 2,864 sq. ft dwelling.

Address	A&T Map Tax Lot #	Size of SFD*	Accessory Structures	Size (sq ft)	Total Acc. Structures on Property
43161 E. Haines	1N5E32C – 00100	2200 sq ft	Acc. Bldg Shed Shed Acc. Bldg	256 240 600 1500	2596 sq ft
43108 E. Haines	1N5E32C – 00300	5524 sq ft	Shop	504	504 sq ft
42800 E. Haines	1N5E32C – 00800	2880 sq ft	Acc. Bldg	1280	1280 sq ft
42901 E. Larch Mtn Road	1S5E05B – 00200	1440 sq ft	Det. Garage	360	360 sq ft
43005 E. Larch Mtn Road	1S5E05B – 00100	2574 sq ft	Acc. Bldg	1750	1750 sq ft
43199 E. Larch Mtn Road	1S5E05A – 00200	0	Acc. Bldg Acc. Bldg	2016 864	2880 sq ft
42912 E. Larch Mtn Road	1S5E05B – 00900	1560 sq ft	Acc. Bldg	710	710 sq ft
43303 E. Larch Mtn Road	1S5E05A – 00300	2156 sq ft	Acc. Bldg	640	640 sq ft
43000 E. Larch Mtn Rd	1S5E05B – 01100	1680 sq ft	Det. Garage	320	320 sq ft
43200 E. Larch Mtn Road	1S5E05B – 01200	1344 sq ft	Acc. Bldg	1120	1120 sq ft
43400 E. Larch Mtn Road	1S5E05A – 01900	1550 sq ft	Shop Det. Garage	648 480	1128 sq ft

*Dwelling plus attached garage if applicable.

This criterion has been met.

4.02 **MCC 35.2260 Dimensional Requirements**

(C) Minimum Forest Practices Setback Dimensions From Tract Boundary– Feet:

Road Frontage	Other Front	Side	Rear
60 from centerline of road from which access is gained	130	130	130

Maximum Structure Height - 35 feet

Minimum Front Lot Line Length - 50 feet.

Forest practices setback dimensions shall not be applied to the extent they would have the effect of prohibiting a use permitted outright. Exceptions to forest practices setback dimensions shall be pursuant to MCC 35.2310, as applicable, but in no case shall they be reduced below the minimum primary fire safety zone required by MCC 35.2305 (A) (5) (c) 2.

(D) The minimum forest practices setback requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.

Staff: The proposed accessory structure meets the above setback requirements (Exhibit A.23). Haines Road is a 60 ft public right-of-way. The Transportation Planning section has determined that no additional right-of-way at this time. *This criterion has been met.*

4.03 **MCC 35.2305 Development Standards for Dwellings and Structures**

Except as provided for the alteration, replacement or restoration of dwellings under MCC 35.2220 (D) and (E); and 35.2225 (B), all dwellings and structures located in the CFU district after January 7, 1993 shall comply with the following:

(A) The dwelling or structure shall be located such that:

(1) It has the least impact on nearby or adjoining forest or agricultural lands and satisfies the minimum yard and setback requirements of 35.2260 (C) through (G);

Staff: The proposed accessory structure will be located within 30 to 40 ft from the existing dwelling and meets the Forest Practice Setbacks of MCC 35.2260(C). The surrounding properties are forested. The buildings on the properties immediately adjacent to the west and east are located in a line approximately 200 ft from the road with the structures on the subject property. The structures, in turn, are approximately 250 ft apart on the three properties. This clustering of structures with the neighboring properties allows forest practices on these adjoining properties without impact for over 900 to 1000 ft to the south. As located, the accessory structure will have the least impact on nearby and adjoining forest practices. *This criterion has been met.*

4.04 **(2) Adverse impacts on forest operations and accepted farming practices on the tract will be minimized;**

Staff: The subject property has 11.95 acres in forest practices (Exhibit B.1). The location of the proposed accessory structure is within the 1 acre of land utilized for the homesite. No additional forested areas will be impacted to place the structure. *This criterion has been met.*

4.05 **(3) The amount of forest land used to site the dwelling or other structure, access**

road, and service corridor is minimized;

Staff: The location of the proposed accessory structure is within 40 ft of single family dwelling and will not require the removal of any lands currently in forest practice. The applicant is not proposing to extend the service corridor in order to access the structure. The amount of forest land used to site the accessory structure is minimized. *This criterion has been met.*

4.06

(4) Any access road or service corridor in excess of 500 feet in length is demonstrated by the applicant to be necessary due to physical limitations unique to the property and is the minimum length required; and

Staff: The service corridor will not be extended and is approximately 350 ft in length. *This criterion has been met.*

4.07

(5) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:

(a) The proposed dwelling will be located upon a tract within a fire protection district or the dwelling shall be provided with residential fire protection by contract;

(b) Access for a pumping fire truck to within 15 feet of any perennial water source on the lot. The access shall meet the driveway standards of MCC 35.2305 (D) with permanent signs posted along the access route to indicate the location of the emergency water source;

(c) Maintenance of a primary and a secondary fire safety zone on the subject tract.

1. A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure. Trees within this safety zone shall be spaced with greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height.

2. On lands with 10 percent or greater slope the primary fire safety zone shall be extended down the slope from a dwelling or structure as follows:

Percent Slope	Distance in Feet
Less than 10	Not required
Less than 20	50
Less than 25	75
Less than 40	100

3. A secondary fire safety zone is a fire break extending a minimum of 100 feet in all directions around the primary safety zone. The goal of this safety zone is to reduce fuels so that the overall intensity of any wildfire is lessened. Vegetation should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent the spread of fire up into the crowns of the larger trees. Assistance with planning forestry practices which meet these objectives may be obtained from the State of Oregon Department of Forestry or the local Rural Fire Protection

District. The secondary fire safety zone required for any dwelling or structure may be reduced under the provisions of MCC 35.2260 (F) and 35.2310.

4. No requirement in 1., 2., or 3. above may restrict or contradict a forest management plan approved by the State of Oregon Department of Forestry pursuant to the State Forest Practice Rules; and

5. Maintenance of a primary and a secondary fire safety zone is required only on land surrounding the dwelling that is owned or controlled by the home owner.

Staff: The subject property is located within Corbett Fire District (Multnomah County RFPD #14) (Exhibit A.19 & A.20). There is no perennial watercourse or pond on the subject site. While the applicant has not shown the primary or secondary fire safety zone on the site plan (Exhibit A.23), the distances exist for these zones to be created. The subject property rises from the north to the south. The primary fire safety zone may need to be extended 75 ft down slope towards Haines Road. This distance is available as the proposed building is 280 ft from Haines Road. A condition of approval has been included requiring that the primary and secondary fire safety zones be shown on the site plan prior to zoning approval of the building permit. *As conditioned, this criterion has been met.*

4.08 **(d) The building site must have a slope less than 40 percent.**

Staff: The building site has been flattened. The development area has a slope of approximately 24%. *This criterion has been met.*

4.09 **(B) The dwelling or structure shall:**

(1) Comply with the standards of the applicable building code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes;

(2) If a mobile home, have a minimum floor area of 600 square feet and be attached to a foundation for which a building permit has been obtained;

(3) Have a fire retardant roof; and

(4) Have a spark arrester on each chimney.

Staff: The property owner is required to obtain a building permit for the construction of the proposed accessory structure. The building will meet the applicable building code standards through the building permit process. The structure will have a metal roof which qualifies as a fire retardant roof. No heating source has been shown on the plans. A condition of approval has been included requiring compliance with building codes. *This criterion has been met through a condition of approval.*

4.10 **(C) The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class 11 stream as defined in the Forest Practices Rules.**

Staff: The subject site is served by a 10" PVC water pipe owned by the Corbett Water District.

5.00 **Conclusion**

Based on the findings and other information provided above, the applicant has carried the burden necessary for the approval of:

1. A property line adjustment between Tax Lot 500 and 700 to transfer the area contained in Tax Lot 600, 1N5E32C; and.
2. The Planning Director has determined that the proposed structure is accessory to the single family dwelling on Tax Lot 700; and.
3. The proposed accessory structure meets the Development Standards for Structures as contained in the Commercial Forest Use – 4 zone subject to the conditions of approval established as part of this report.

6.00 ***Exhibits***

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	1/17/06
A.2	1	Statement of Property Owners Consent	1/17/06
A.3	1	Floor Plan for Accessory Structure	1/17/06
A.4	6	Photos of Development Site	1/17/06
A.5	1	Portland Maps Air Photo of Subject Site with Home and Proposed Building Drawn In	1/17/06
A.6	1	Portland Maps Close – Up of Home Site and Proposed Accessory Structure	1/17/06
A.7	1	Air Photo with House and Proposed Accessory Structure with Dimensions and Some Property Lines	1/17/06
A.8	1	Site Plan	1/17/06
A.9	2	Bargain & Sales Deed for TL 700 (Book 1073, Page 857 & 858)	1/17/06
A.10	2	Bargain & Sales Deed for TL 800 (Book 1073, Page 859 & 860)	1/17/06
A.11	1	Bargain & Sales Deed for TL 500 (Book 1073, Page 861)	1/17/06
A.12	3	Statutory Warranty Deed (2004-254644)	1/17/06
A.13	2	Warranty Deed (Book 1222, Page 2095 & 2096)	1/17/06
A.14	1	Notes Regarding Deed Research	1/17/06
A.15	2	Portland Maps Detail Report	1/17/06
A.16	1	Narrative Regarding Shop	1/17/06
A.17	3	Legal Descriptions for Tract 1, Tract 2 and Transfer Tract	1/17/06

A.18	3	Stormwater Certificate and Design	1/17/06
A.19	6	Fire District Review Fire Flow Requirements	1/17/06
A.20	3	Fire District Access Review	1/17/06
A.21	1	Certification of Water Service	1/17/06
A.22	1	Map Showing McDougall & Wilson Driveway and Haines Road	1/17/06
A.23	1	Revised Site Plan	3/7/06
A.24	3	Elevations of Accessory Structure	3/7/06
A.25	1	Tentative Plan Map	3/7/06
‘B’		Staff Exhibits	Date of Document
B.1	1	A&T Property Record for 1N5E32C - 00700	1/10/06
B.2		A&T Property Record for 1N5E32C - 00500	
B.3		Accessory Structure Comparables	
B.4	1	Transportation Comments	
‘C’		Administration & Procedures	Date
C.1	1	Complete Letter – Day 1	1/17/06
C.2		Opportunity to Comment	2/27/06