



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

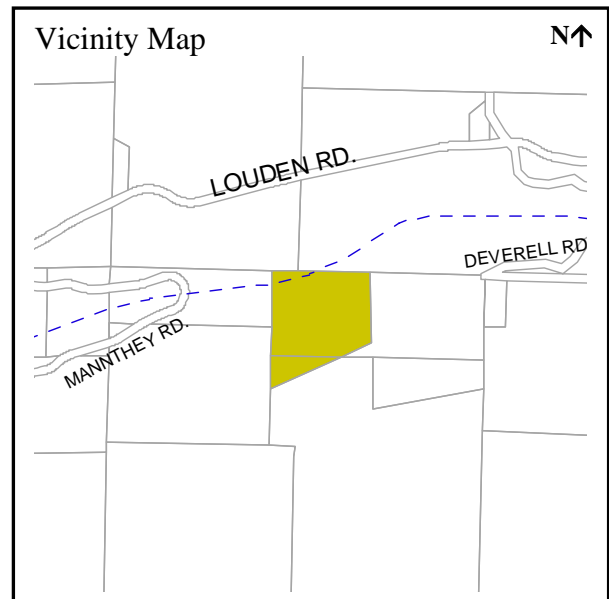
This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

Case File: T2-06-065

Permit: Administrative Decision by the Planning
Director Commercial Forest Use – 4
Development Standards

Location: 43144 SE Deverell Road
Tax Lot 700 & 701, Section 08,
Township 1 South, Range 5 East, W.M.
(R995080310 & R995080300)

**Applicant/
Owners:** Lance & Cherry Houck
43144 SE Deverell Road
Corbett, OR 97019



Summary: A determination that the proposed 24' by 36' shop meets the development standards for structures in the Commercial Forest Use – 4 (CFU-4) Zone District.

Decision: Approved with Conditions

Unless appealed, this decision is effective December 26 at 4:30 PM.

Issued by:

By: _____
George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: Monday, December 11, 2006

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 George A. Plummer, Staff Planner at 503-988-3043 ext. 29152.

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 December 26, 2005 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): Chapter 37 and MCC 33.2200 through 33.2310.

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. Pursuant to MCC 37.0690, 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 and 37.0700. 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.

1. The property owner shall maintain a primary and a secondary fire safety zone on the subject tract [MCC 35.2305(A)(5)].
 - A. 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.

B. 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. Maintenance of the secondary fire safety zone is required only on land surrounding the dwelling that is owned or controlled by the property owner.

2. The shop structure shall have a fire retardant roof; and have a spark arrester on each chimney [MCC 35.2305(B)].

Note: Once this decision is final, application for a Building Permit zoning review may be made with County Land Use planning. When ready for the permit signed off, the applicant shall call the Staff Planner, George Plummer, at (503) 988-3043 ext. 29152, for an appointment for zoning review plan check and to sign the permit form. Please note, Multnomah County must review and sign off the permit form and plans before the applicant begins to build the structure. Two (2) sets the plans and site plan of the building area are needed for permit signed off.

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 AND CONCLUSIONS

This decision is based on the findings and conclusions in the following section.

Staff Report Formatting Note: To address Multnomah County Code requirements staff provides findings as necessary, referenced in the following section. Headings for each category of finding are underlined. Multnomah County Code language is referenced using a **bold** font. The Applicant's narrative, when provided, follows in *italic font*. Planning staff analysis and findings follow the **Staff** label. At the end of the report, Exhibits are described.

1. DESCRIPTION OF THE PROPOSAL:

Applicant: *We plan to build a 24 x36 shop/storage building our on property at 43144 SE Deverell Rd in Corbett, Oregon. We have a level site to build it on. We need to run electricity for lights and outlets including 220 for applicable power tools.*

The shop till set back 140 feet from the east boundary and easement 475 feet from the west property line, 135 feet 6om the sooth line and 375 feet 6om the north line. The structure height will not exceed 25 feet.

Staff: Request to build a 24 by 36 foot shop on property within the Commercial Forest Use – 4 (CFU-4) Zone District. (Exhibit 1.1 and 1.3).

2. SITE AND VICINITY CHARACTERISTICS

Applicant: *Our parcel consists of 2 lots, a combined total of 10.74 acres. The one we will be building on is 9.37 acres and has our home located on it which was built in 1987.*

Staff: The subject property is a 9.37 acre parcel and is part of a 10.74 Lot of Record (Case CU 18-86 Exhibit 2.4). A dwelling was permitted on the property in 1986 (Exhibit 2.5). The property is heavily forested with a couple of small cleared areas, one for the dwelling location and the other area has an existing 576 square foot shed. The proposed building will be located near the existing shed (Exhibit 1.2.). The vicinity is generally forested with some cleared areas being farmed (Exhibit 2.3).

3. OWNERSHIP

MCC 37.0550: 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.

Staff: County Assessment records show the property owners as Lance and Cherry Houck (Exhibit 2.1). Lance and Cherry Houck submitted an application form which they both signed (Exhibit 1.1).

4. TYPE II CASE PROCEDURES

MCC 37.0530(B) Type II Decisions

(B) Type II decisions involve the exercise of some interpretation and discretion in evaluating approval criteria. Applications evaluated through this process are assumed to be allowable

in the underlying zone. County Review typically focuses on what form the use will take, where it will be located in relation to other uses and natural features and resources, and how it will look. However, an application shall not be approved unless it is consistent with the applicable siting standards and in compliance with approval requirements. 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. The Planning Director's decision is appealable to the Hearings Officer. If no appeal is filed the Planning Directors decision shall become final at the close of business on the 14th day after the date on the decision. If an appeal is received, the Hearings Officer decision is the County's final decision and is appealable to LUBA within 21 days of when the decision is signed.

Staff: An opportunity to comment was mailed to property owners within 750-feet of the property lines on October 9, 2006. No comments were received.

5. CFU-4 ALLOWED USES

- 5.1. MCC 35.2020(U): Allowed Uses Other structures or uses determined by the Planning Director to be customarily accessory or incidental to any use permitted or approved in this district.**

Staff: The applicant is proposing to build a 864 square foot (24 by 36 feet) shop to be accessory to the dwelling for personal uses (Exhibit 1.1 and 1.3). According to County Assessment records the dwelling is 864 square feet for the main floor which is the same size as the proposed building (Exhibit 2.1). This size of shop is common in this district, thus the proposed accessory building is customarily accessory to the dwelling. This standard is met.

6. COMMERCIAL FOREST USE – 4 DIMENSIONAL REQUIREMENTS

- 6.1. MCC 35.2260 (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.

Staff: The site plan shows that the proposed shop meets the forest practices setback for the front, rear and both side yards (Exhibit 1.2).

- 6.2. MCC 35.2260 (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 subject property is located along an easement and does not abut a public right-of-way. This criterion is not applicable.

7. COMMERCIAL FOREST USE – 4 LOT OF RECORD PROVISIONS

Lot Of Record Definition

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.)

CFU-4 Lot of Record

MCC 35.2275(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
- (2) A group of contiguous parcels or lots:
 - (a) Which were held under the *same ownership* on February 20, 1990; and
 - (b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.
 - 1. Each Lot of Record proposed to be segregated from the contiguous group of

parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area.

2. There shall be an exception to the 19 acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record.

* * *

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception, urban, or Columbia River Gorge National Scenic Area zones (e.g. MUA-20, RR, RC, R-10, GGA-40), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

- (3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

Applicant: *Our parcel consists of 2 lots, a combined total of 10.74 acres. The one we will be building on is 9.37 acres and has our home located on it which was built in 1987. The other lot is 1.37 acres and is not buildable. It is outside the water district. This parcel was purchased well before February 20, 1990 to conform with 35.2275 Lot of Record.*

Staff: This subject tract was reviewed for Lot of Record status for Case CU 18-86 (Exhibit 2.4) and was found to be a Lot of Record made up of two properties: a 9.37 acre property currently described as Tax Lot 700, Section 08, Township 1 South, Range 5 East (R995080310), Willamette Meridian and an adjacent 1.37 acre property currently described as Tax Lot 701 (R995080300) to the south. The tract and individual properties are the same configuration as they were for that case. The properties were in the same ownership on February 20, 1990 and no other adjacent property was under that same ownership. Given that the tract was found to be a Lot of Record for Case CU 18-86 and both properties were in the same ownership on February 20, 1990 the tract meets the Lot of Record standards.

8. CFU-4 DEVELOPMENT STANDARDS FOR DWELLINGS AND STRUCTURES

MCC 35.2305 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:

- 8.1. **MCC 35.2305 (A)** The dwelling or structure shall be located such that:

Staff: These standards are addressed in the following findings.

- 8.1.1. **MCC 35.2305(A)(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);

Applicant: *There is a small clearing where the shop will be built. On our property we grow trees as a commercial forest. The surrounding property also has the same use. The structure should have no impact on the surrounding property because it will be located far enough off the main access road to these properties.*

Staff: The proposed use meets the forest practices setbacks. Maintaining the fire safety zones will reduce any potential impacts. The fire safety standards will be required as a condition of approval. This standard is met.

8.1.2. MCC 35.2305(A)(2) Adverse impacts on forest operations and accepted farming practices on the tract will be minimized;

Applicant: *There should be no adverse impact on our property as there is already a clearing in the area where the shop will be built.. There is an existing driveway to the site*

Staff: The proposed accessory structure is proposed to be located toward the front of the property minimizing impacts on the forested back portion of the property (Exhibits 1.2 and 2.3). The structure is proposed to be clustered in a cleared area with an existing accessory building. Due to the proposed location towards the front of the property, the existing cleared area and clustering with existing development the forest lands on the tract are not adversely impacted by the proposed development. There is no farmland on the property. This standard is met.

8.1.3. MCC 35.2305(A)(3) The amount of forest land used to site the dwelling or other structure, access road, and service corridor is minimized;

Applicant: *We will use a minimal amount of land to site the shop. We plan to replant Douglas Fu on the surrounding land.*

Staff: The area required to site the proposed structure is minimal. The existing access road is less than 150 feet long (Exhibit 2.3). This standard is met.

8.1.4. MCC 35.2305(A)(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

Applicant: *We do not need any further access road or service corridor.*

Staff: The existing access road is less than 150 feet long. This standard is met.

8.1.5. MCC 35.2305(A)(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.
- (d) The building site must have a slope less than 40 percent.

Applicant: (A-B) *The shop site is located within the boundaries of Fire District 14 in Corbett. The appropriate forms for fire protection have already been signed and turned with in the application.*
(C) *1. There will be at least a 30 foot fire break around the building. There are two large Douglas Fir trees within the fire break with at least 40 feet between the crowns. There are no low branches on these trees. At this point there is no other vegetation nearby.*
2-3,. There is only a 1% slope on the building site, therefore we have no need for a secondary fire safety zone.

Staff: The applicant has submitted a Fire District Access Review and a Fire District Review Fire Flow Requirement forms signed by Thomas Layton, Fire Chief, Multnomah County RFPD #14 (Exhibit 1.5 and 1.6). Mr. Layton approved the access and the flow. There is no perennial water source on the property that is practical to provide vehicle access to. A condition of approval can require that the property owner maintain the fire safety zones on the property. No requirement in this decision will restrict or contradict a forest management plan. The slope for this property is relatively minor, less than 10 percent.

8.1.6. MCC 35.2305(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: A condition of approval will require that the building meet (3) and (4). Numbers (1) and (2) are not applicable for this permit.

8.1.7. MCC 35.2305(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 II stream as defined in the Forest Practices Rules.

- (1) If the water supply is unavailable from public sources, or sources located entirely on the property, the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.**
- (2) Evidence of a domestic water supply means:**
 - (a) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or**
 - (b) A water use permit issued by the Water Resources Department for the use described in the application; or**
 - (c) Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.**

Staff: The property has been served by a domestic well since the dwelling was established in 1987. This standard has been met.

8.1.7. MCC 35.2305(D) A private road (including approved easements) accessing two or more dwellings, or a driveway accessing a single dwelling, shall be designed, built, and maintained to:

- (1) Support a minimum gross vehicle weight (GVW) of 52,000 lbs. Written verification of compliance with the 52,000 lb. GVW standard from an Oregon Professional Engineer shall be provided for all bridges or culverts;**
- (2) Provide an all-weather surface of at least 20 feet in width for a private road and 12 feet in width for a driveway;**
- (3) Provide minimum curve radii of 48 feet or greater;**
- (4) Provide an unobstructed vertical clearance of at least 13 feet 6 inches;**
- (5) Provide grades not exceeding 8 percent, with a maximum of 12 percent on short segments, except as provided below:**
 - (a) Rural Fire Protection District No. 14 requires approval from the Fire Chief for grades exceeding 6 percent;**
 - (b) The maximum grade may be exceeded upon written approval from the fire protection service provider having responsibility;**
- (6) Provide a turnaround with a radius of 48 feet or greater at the end of any access exceeding 150 feet in length;**
- (7) Provide for the safe and convenient passage of vehicles by the placement of:**
 - (a) Additional turnarounds at a maximum spacing of 500 feet along a private road; or**
 - (b) Turnouts measuring 20 feet by 40 feet along a driveway in excess of 200 feet in length at a maximum spacing of 1/2 the driveway length or 400 feet whichever is less.**

Staff: These items are listed on the Fire District Access Review form (Exhibit 1.5). Thomas Layton, Fire Chief, Multnomah County RFPD #14 has initialed the form indicating, “The proposal is in compliance with the adopted Fire District standards or the standards of the Multnomah County Code Section 29.012 which ever is more stringent. This standard has been met.

Conclusion:

Staff: Based on the findings and other information provided above, this application for accessory agricultural structure satisfies the Commercial Forest Use-4 Dimensional and Development Standards, with imposed conditions.

8. EXHIBITS

8.1. Exhibits Submitted by the Applicant:

- Exhibit 1.1: Application form (1 page);
- Exhibit 1.2: Site Plan (2 pages)
- Exhibit 1.3: Applicant’s narrative (2 pages)
- Exhibit 1.4: Elevation and floor plan drawing (2 pages)
- Exhibit 1.5: Fire District Access Review (3 page)
- Exhibit 1.6: Fire District Review Fire Flow Requirements (6 pages)
- Exhibit 1.7: Certification of On-Site Sewage Disposal review (3 pages)
- Exhibit 1.8: Storm Water Certificate (2 pages);

8.2. Exhibits Provided by the County

- Exhibit 2.1: County Assessment Record for the subject property (1page);
- Exhibit 2.2: Current County Zoning Map with subject property labeled (1 page);
- Exhibit 2.3: 2004 Aerial Photo showing subject property (1 page).
- Exhibit 2.4: Case Cu 18-86 (5 pages)
- Exhibit 2.5: Building Permit for the dwelling (1 page)