

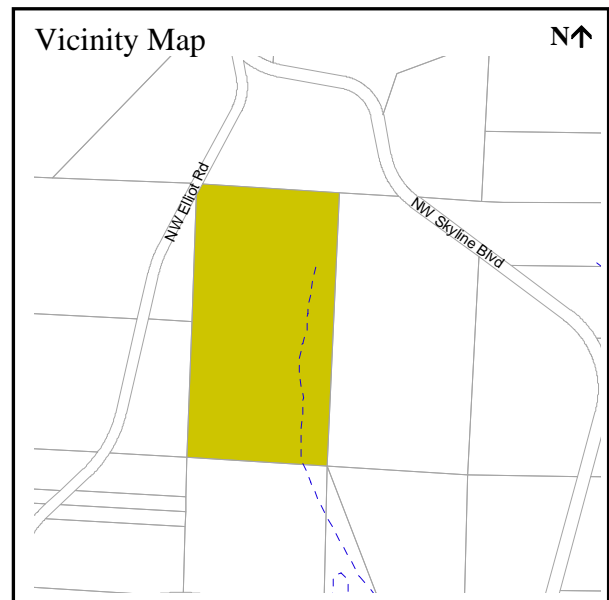


MULTNOMAH COUNTY
LAND USE AND TRANSPORTATION PROGRAM
1600 SE 190TH Avenue Portland, OR 97233
PH: 503-988-3043 FAX: 503-988-3389
<http://www.co.multnomah.or.us/landuse>

NOTICE OF DECISION

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

Case File: T2-06-072
Permit: Exception to Secondary Fire Safety Zone
Location: 16950 NW Elliot Road
TL 1100, Sec 23A, T2N, R2W, W.M.
Tax Account # R649702420
Applicant: Donis McArdle
Owner: Donis McArdle and Eugene Lockwood



Summary: Applicant is seeking approval of an Exception to the Secondary Fire Safety Zones and Forest Practice Setbacks in the Commercial Forest Use-2 zoning district in order to construct a 1,400 square foot agricultural building.

Decision: Approved, with conditions.

Unless appealed, this decision is effective Wednesday, September 6, 2006, at 4:30 PM.

Issued by:

By: _____
Kenneth Born, AICP, Planner

For: Karen Schilling- Planning Director

Date: Wednesday, August 23, 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 Kenneth Born, AICP, Staff Planner at 503-988-3043 extension 29397.

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 Wednesday, September 6, 2006 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 33.2220 - Review Uses; MCC 33.2260 - Dimensional Requirements; MCC 33.2305 - Development Standards for Dwellings and Structures; 33.2310 Exceptions to Fire Safety Zones and Forest Practice Setbacks

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.

1. Within 30 days of this decision becoming final (by October 6, 2006) and prior to the exempt farm structure sign-off, the property owner shall record the Notice of Decision (pages 1-3 of this decision 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. **Failure to sign and record the Notice of Decision within the above 30 day time period may void the decision.** [MCC 37.0670]

2. Prior to issuance of the exempt farm structure permit, the applicant shall add the primary fire safety zone to the site plan. The primary fire safety zone shall extend a fire break 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. [MCC 33.2305(A)(5)(c)1.]
3. Prior to issuance of the exempt farm structure permit, the applicant shall demonstrate that the agricultural building meets the Class 1 Ignition-Resistant Construction standards. The following information must be supplied or added to the plans:
 - a. The applicant shall obtain information from the manufacturer/distributor demonstrating a UL listing of Class A for the roof assembly. [Class 1, 504.2]
 - b. The eave ends of the roof shall be fire stopped to preclude entry of flames or embers. [Class 1, 504.2]
 - c. The applicant shall obtain information from the manufacturer/distributor demonstrating a UL listing of one-hour-rated fire-resistant construction for the exterior wall assembly.
 - d. All other required improvements such as the central monitored alarm system shall be added to the building plans to ensure construction of the building as described.
4. The proposed agricultural structure shall be used in the operation of a farm for the storage, maintenance or repair of farm machinery and farm equipment, the raising and harvesting of crops and/or the feeding, breeding or management of animals. An agricultural building may not be:
 - Used as a dwelling, office or the storage of non-farm vehicles or goods, such as recreational vehicles or boats;
 - Used for the wholesaling or retailing of products not raised or grown on the premise or in the immediate vicinity;
 - A structure in which 10 or more people are present at any one time that has 2 or more open exists or an open side and is used for a purpose other than growing plants;
 - A structure used by the public;
 - A structure subject to Section 4001 to 4127, title 42, United States Code (the National Flood Insurance Act of 1968) as amended, and regulations promulgated thereunder (ORS 455.315).

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*.

1. Project Description

Staff: The applicant is proposing to construct a 1,400 square foot pole barn on property located at 16950 NW Elliot Road. The structure will be 48 feet by 30 feet, and 12 feet high. The proposed agricultural building is to be located adjacent to the existing manufactured home, in a level area of the property. The proposal also involves the removal of a chicken house and storage shed.

2. Site Characteristics

Staff: Current zoning for the 20.07-acre property is Commercial Forest Use-2 (CFU-2), with a Significant Environmental Concern overlay for wildlife habitat and streams. The overlay for the stream is located on the eastern half of the property, and is 300 feet on both sides of the centerline of a seasonal stream. The proposed development area is approximately 315 feet west of the SEC-s zone. The property also has some areas with slopes over 25%. Areas over 25% fall with in the County’s slope hazard zone. The applicant has elected to place the development area outside of the slope hazard zone.

3. Public Comment

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 July 13, 2006. No comments received. *Procedures met.*

4. 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: Multnomah County Assessment and Taxation records shows Donis McArdle and Eugene Lockwood as the owners of the subject lot (Exhibit B.1). Ms. McArdle has been designated the applicant in this case, and has signed the General Application Form (Exhibit A.1). *This criterion has been met.*

5. Accessory Structures are Allowed in the Commercial Forest Use-2 (CFU-2) Zoning District

MCC 33.2220 Allowed Uses

(C) Farm Use, As Defined in ORS 215.203;

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

Staff: The proposed pole barn is allowed in the zoning district. *This criterion has been met.*

6. Code Compliance

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: At this time, there are no known violations on the subject property. *This criterion has been met.*

7. The Property is a Lot of Record

MCC 33.2275 Lot of Record

(A) In addition to the Lot of Record definition standards in MCC 33.0005, 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.

3. Three examples of how parcels and lots shall be aggregated are shown below with the solid thick line outlining individual Lots 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.

(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) Where approval for a “Lot of Exception” or a parcel smaller than 19 acres under the “Lot Size for Conditional Uses” provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the same ownership on February 20, 1990.

(c) Disaggregation of a Lot of Record for consideration of a new template or heritage tract dwelling may be allowed subject to the standards in (E) below.

(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.**

(C) A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 33.2290, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(D) The following shall not be deemed a Lot of Record:

- (1) An area of land described as a tax lot solely for assessment and taxation purposes.**
- (2) An area of land created by the foreclosure of a security interest.**
- (3) A Mortgage Lot.**
- (4) An area of land created by court decree.**

(E) Disaggregation of Lots of Record existing on or before August 8, 1998, being the effective date of Ordinance 916.

(1) A Lot of Record may be disaggregated for consideration of a new dwelling under MCC 33.2240 if:

(a) It consists of two legally created, aggregated lots or parcels and:

- 1. The disaggregation occurs along existing lot or parcel lines without creating any new lots or parcels;**
- 2. One of the lots or parcels is currently developed with a legally established dwelling;**
- 3. The lot or parcel on which application will be made for the new dwelling is less than 19 acres; and**
- 4. The lots or parcels constituting the disaggregated Lot of Record were in the same ownership prior to January 1, 1985.**

(b) It consists of three or more lots or parcels and:

- 1. Only one lot of less than 19 acres shall be disaggregated;**
- 2. The remaining lots or parcels shall be combined into a single lot; and**

3. The disaggregation occurs along existing lot or parcel lines without creating any new lots or parcels;
4. One of the lots or parcels is currently developed with a legally established dwelling;
5. The lot or parcel on which application will be made for the new dwelling is less than 19 acres; and
6. The lots or parcels constituting the disaggregated Lot of Record were in the same ownership prior to January 1, 1985.

(2) A property that was originally a portion of a Lot of Record that would otherwise satisfy the standards of 33.2275(E)(1) above, but has subsequently been legally transferred to another owner, may be developed with a single family dwelling if found to satisfy the standards of MCC 33.2240 (A) or (B).

Staff: The subject property was created by Partition Plat 1990-41, and was approved by the County on July 6, 1990. The property was known as "Parcel 1," and remains in the same configuration as originally approved. *This criterion has been met.*

8. The Proposed Structure Meets the CFU-2 Dimensional Requirements

8.1 § 33.2460 Dimensional Requirements

(A) Except as provided in MCC 33.2465, 33.2470, 33.2475, and 33.2480, the minimum lot size for new parcels or lots shall be 80 acres.

(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the size of such lot.

Applicant: Subject property is a 20.72 acre parcel/lot legally created under Partition Plat 1990-41 approved July 12, 1990 and recorded July 16, 1990. See Exhibit A (A.10).

Staff: The property is 20.07 acres in size and is a *Lot of Record* pursuant to MCC 33.2275. *This criterion has been met.*

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

Road Frontage	Other Front	Side	Rear
60 from centerline of road	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 33.2310, as applicable, but in no case shall they be reduced below the minimum primary fire safety zone required by MCC 33.2305 (A) (5) (c) 2.

***Applicant:** Applicant is applying for approval to construct a farm related structure, specifically a 36'X48' pole structure. The height of said structure will be 12 feet. See drawing marked Exhibit B (A.6). The Elliott Road frontage is 70.82 feet. See Exhibit A (A.10).*

***Staff:** In addition to the applicant's finding above, the agricultural building will be 30 ft from the easterly property line and approximately 130 ft from the northerly property line (Exhibit A.5). The property has 1231 ft along the front lot line. The accessory building will be 12" tall from finished grade to ridge line. The proposed building is an agricultural building as specified under ORS 455.315(2) and may have a minimum yard of 30 ft as specified under (G) below. These criteria have been met.*

- 8.3 (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.**

***Applicant:** Not applicable. Parcel abuts a street that has sufficient right-of-way width. A legal dwelling was constructed on the property in 1994. The "Permit Final" was issued October 18, 1994. See Exhibit C (A.4). Applicant proposes to build a barn/ag building.*

***Staff:** The subject property fronts on NW Elliot Road. Elliot Road is designated a *Rural Local Road* pursuant to the Multnomah County Functional Classification of Trafficways. A local road requires a minimum of a 50 ft right of way. In front of this property, the right of way width is currently 50 ft. No additional right of way would be required. This criterion has been met.*

- 8.4 (E) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirements.**

***Applicant:** Structure is an ag building but does not exceed height requirements.*

***Staff:** The proposed agricultural building will be 12 feet in height. This criterion is not applicable.*

- 8.5 (F) Yards for the alteration, replacement or restoration of dwellings under MCC 33.2220 (D) and (E); and 33.2225 (B) need not satisfy the development standards of MCC 33.2305 if originally legally established to a lesser standard than that required by MCC 33.2305, but in no case shall they be less than those originally established.**

***Applicant:** Dwelling is not being replaced. However, the chicken house and a storage shed will be removed to make room for the proposed barn structure.*

Staff: The proposed structure is an agricultural accessory structure. *This criterion is not applicable.*

- 8.6** (G) Agricultural buildings, as specified in ORS 455.315 (2) and allowed under MCC 33.2220 (C), may have minimum side and rear yard setbacks of 30 feet, but in no case shall any setback be less than the minimum primary fire safety zone required by MCC 33.2305 (A) (5) (c) 2.

Applicant: The barn will be approximately 95 feet from Elliott Road right-of-way; have a west side yard setback of 30 feet; rear setback of 1,159 feet; and on east side will be within approximately 4 feet of the deck which is attached to the dwelling. The east side yard of the dwelling is approximately 487 feet. See drawing marked Exhibit C (A.4).

Staff: Staff concurs. The minimum setbacks will be less than what is required for a secondary fire safety zone, but is not less than the minimum primary fire safety zone required by MCC 33.2305(A)(5)(c)(2). (Exhibit A.5).

9.0 **CFU-2 Development Standards for Dwellings and Structures**

MCC 33.2305 Development Standards For Dwellings and Structures

Except as provided for the alteration, replacement or restoration of dwellings under MCC 33.2220 (D) and (E); and 33.2225 (B), all dwellings and structures located in the CFU district after January 7, 1993 shall comply with the following:

9.1 (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 33.2260 (C) through (G);

Applicant: The proposed barn is to be placed where the storage shed and the chicken house are currently located which is adjacent to the house and deck. There will be no trees cut and no area cleared. Currently, the area around the shed and chicken house is graveled.

Staff: A 2002 aerial photograph of the area suggests active timber harvesting operations are occurring on contiguous properties adjacent to the subject property. Surrounding properties appear to be entirely forested, or partially forested and developed with a single family dwelling much like the subject site. The proposed agricultural building will be located adjacent to an existing manufactured home in a cleared area between the existing home and the easterly property line boundary. Because these portions of the subject property are already cleared and dedicated to residential uses, the agricultural building will be located in an area that is not used for forest practices.

The agricultural building will be located in existing cleared areas within close proximity to the existing home and will not require removal of any trees or significant vegetation. The structure has been proposed perpendicular from the endpoint of the existing access drive in order to cluster residential structures around the access road in the event of a fire. The minimum yard setbacks of 33.2260 (C) will not be met, although the applicant has applied for an exception to these standards as allowed by MCC 33.2310. *This criterion has been met.*

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

***Applicant:** Since the proposed barn is going to be placed where the chicken house and storage shed are currently located, the proposed barn will not adversely impact the farming or forest practices.*

***Staff:** The agricultural building will be located near the residence in an attempt to retain the rest of the property for future forest or farming practices if desired. All proposed improvements will occur in an area of the property assessed for residential purposes. This criterion has been met.*

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

***Applicant:** There will be no land that is currently planted used in the construction of the proposed barn. Barn will be placed where the chicken house and storage shed are currently located and those two structures will be removed, therefore, there will be no impact on forestland.*

***Staff:** Staff concurs with the applicant's statement and finds the proposed agricultural building has been sited in a cleared area of the property that is not productive as forest land. This criterion has been met.*

9.4 (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:** The access is less than 500 feet. See Site Drawing marked Exhibit D (A.3).*

***Staff:** Using the applicant's site plan, staff measures the driveway at 104 feet (Exhibit A.5), which is not greater than 500 feet in length. This criterion has been met.*

9.5 (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 33.2305 (D) with permanent signs posted along the access route to indicate the location of the emergency water source;

***Applicant:** The proposed barn is located on a parcel that is served by the Tualatin Valley Fire District. There is a pond on subject property, however, it is not within 15 feet of the driveway*

or the proposed barn structure. Pond is accessible by tractor but I'm not sure that a fire truck could navigate the terrain.

Staff: The property is located within the Tualatin Valley Fire and Rescue District. The Tualatin Valley Fire and Rescue Department official indicated by telephone that the proposal is not subject to review by the District. The address for this property has been posted. *This criterion has been met.*

9.6 (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.

Applicant: *There are no trees within 30 feet of the proposed structure. See picture page marked Exhibit E (A.7).*

Staff: A thirty foot primary fire safety zone can be established around the proposed structure. A condition of approval has been included requiring that the primary fire safety zone be drawn on the site plan prior to issuance of the exempt farm structure permit. *This criterion has been met.*

9.7 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

Applicant: *Grade is less than 10 percent slope. Slope behind where the barn is to be constructed is pastureland and there are no trees or brush in that sloped area within 100 feet of barn site. See Exhibit*

Staff: The applicant has indicated on the site plan that the slope in the area of the agricultural building is less than 10%. This was verified by staff during an August 18, 2006 site visit. (Exhibit B.3). No increase in the primary fire safety zone is required. *This criterion is not applicable.*

9.8 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 33.2260 (F) and 33.2310.

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.

Applicant: Exhibit E (A.7) shows the trees and landscaping that is within 100 feet the proposed structure. Note the trees that are on the west side of driveway are not on the subject property but are on the neighbor's property. There are no trees on the south or east within 100 feet of proposed barn.

Staff: The applicant has requested an exception to the Fire Safety Zone due to the dimensional constraints associated with the property's configuration. Findings regarding the exception can be found under MCC 33.2510 below.

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

Applicant: The building site and the fire safety zones will be maintained in their present condition. As you can see from pictures in Exhibit E (A.7) and on the site plan, the actual construction site has a slope less than 10 percent.

Staff: The applicant has demonstrated the building site contains slopes of less than 40% which is confirmed with site photos and the aerial photograph contained in the case file (Exhibit B.3 and B.4).

9.10 (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.**

Applicant: *The structure will be a metal pole barn and shall have a metal roof.*

Staff: The applicant has proposed the use of roof systems for the agricultural which they report is fire retardant. No chimney is proposed. The applicant may be required to obtain a building permit for the structure to ensure it complies with the standards of the applicable building codes. *Criterion met, as conditioned.*

- 9.11 (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....**

Applicant: *This is not applicable. Applicant is simply proposing to construct a pole barn. The domestic water supply to the house is a well. See well report marked Exhibit F (A.8.a).*

Staff: Water for agricultural use is not domestic water and may require a Water Right from the State of Oregon. The applicant is not proposing to utilize water in the building. *This criterion is not applicable.*

10. Exception to Secondary Fire Safety Zone

10.1 MCC 33.2310 Exceptions to Secondary Fire Safety Zones and Forest Practices Setbacks

(A) The secondary fire safety zone and forest practices tract setbacks for dwellings and structures may be reduced pursuant to the provisions of 33.2310 (B) when:

- (1) The tract on which the dwelling or structure is proposed has an average lot width or depth of 330 feet or less, or**
- (2) The dwelling or structure is proposed to be located within 130 feet of the centerline of a public or private road serving two or more properties; or**
- 3) The proposed dwelling or structure is proposed to be clustered with a legally existing dwelling or structure.**

Applicant: *The property width is 647.27 feet wide. The proposed structure will be located where the existing chicken house and storage shed are located. Those structures are approximately 90+ to 104 feet from NW Elliott Road. The proposed barn is to be located within 4 feet of the deck of the existing residence.*

Staff: The proposed structure is approximately 122 feet from the centerline of NW Elliott Road, a public road which serves more than two properties. The proposed structure would also be clustered in close proximity to the existing manufactured home, permitted in 1994. An Exception is available to reduce the Secondary Fire Safety Zone based on (A)(2) and (A)(3) above. *This criterion has been met.*

- 10.2 (B) Exceptions to secondary fire safety zones and forest practices setbacks shall only be granted upon satisfaction of the following standards:**

- (2) If the proposed secondary fire safety zone is less than fifty feet, the dwelling**

or structure shall be constructed in accordance with the International Fire Code Institute Urban-Wildland Interface Code Section 504 Class 1 Ignition Resistant Construction as adopted August, 1996, or as later amended, and

***Applicant:** The proposed barn is to be constructed within 104 feet of the centerline of NW Elliott Road, the barn will be approximately 4 feet from the deck of the existing house, the area to the south of the proposed barn site is pastureland, and the property to the west is landscaped and maintained by me and meets the secondary fire safety zone requirements.*

Staff: The secondary fire safety zone is less than 50 feet. The agricultural structure will need to meet the Class 1 Ignition Resistant Construction standards. *As conditioned, this criterion can be met.*

10.3 (3) There shall be no combustible fences within 12 feet of the exterior surface of the dwelling or structure; and

***Applicant:** The existing fences are farm fencing/wire 6 inch squares.*

Staff: A condition of approval has been included requiring that no combustible fence be constructed within 12 feet of the exterior of the structure. *As conditioned, this criterion can be met.*

10.4 (6) All accessory structures within the fire safety zone setbacks required by MCC 33.2305, and all accessory structures within 50 of a dwelling, shall have a central monitored alarm system.

***Applicant:** Barn shall be equipped with a Brink's monitored alarm system.*

Staff: The structure is located within the secondary fire safety zone setbacks and must have a central monitored alarm system. A condition of approval has been included requiring the alarm. *As conditioned, this criterion can be met.*

**10.5 (7) All accessory structures within 50 feet of a building shall:
(a) Have a central monitored alarm system;**

***Applicant:** The barn shall have a monitored alarm system.*

Staff: This accessory structure is will be located within 50 feet of another building, and will be required to have a central monitored alarm system as required under (6) above. *As conditioned, this criterion can be met.*

10.6 (b) Have exterior walls constructed with materials approved for a minimum of one-hour-rated fire-resistive construction, heavy timber, log wall construction or constructed with noncombustible materials on the exterior side.

Applicant: *The structure is to be a metal pole barn.*

Staff: The exterior walls will be 29 – gauge metal sheeting. Metal sheeting is a noncombustible material. *This criterion has been met.*

- 10.7** **(8) When a detached accessory structure is proposed to be located so that the structure or any portion thereof projects over a descending slope surface greater than 10 percent, the area below the structure shall have all underfloor areas enclosed to within 6 inches of the ground, with exterior wall construction in accordance with Section 504.5 of the International Fire Code Institute Urban–Wildland Interface Code Class 1 Ignition Resistant Construction as adopted August, 1996, or as later amended, or underfloor protection in accordance with Section 504.6 of that same publication.**

Exception: The enclosure may be omitted where the underside of all exposed floors and all exposed structural columns, beams and supporting walls are protected as required for exterior one-hour-rated fire-resistive construction or heavy-timber construction.

Applicant: *No portion of the proposed structure will be located in the descending slope. The structure will be located on area with less than 10 percent slope.*

Staff: The proposed structure will be constructed on slopes of less than 10% (Exhibit B.4). *This criterion is not applicable.*

5.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the exception to the secondary fire safety zone in the CFU-2 zoning district. This approval is subject to the conditions of approval established in 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	06/20/06
A.2	7	Application Narrative	06/20/06
A.3	1	Site Plan (scale 1 in: 25 ft)	06/20/06
A.4	1	Site Plan w/ contours (scale 1 in: 130 ft)	06/20/06
A.5	1	Revised Site Plan (scale 1 in: 25 ft)	08/23/06

A.6	1	Building Elevation	06/20/06
A.7	1	Site Photographs	06/20/06
A.8	3	Service Provider Forms a. Water Well Report b. Certification of On-Site Sewage Disposal c. Storm Water Certificate	06/20/06
A.9	10	Storm Water Evaluation – Proposed Pole Barn	06/20/06
A.10	1	Partition Plat No. 1990-41	06/20/06
A.11	1	Deed Information a. Bargain and Sale Deed, Dated 03/25/06	08/11/06
A.12	1	Econ-o-Fab Buildings, Inc. – proposed structure specifications	08/11/06
‘B’		Staff Exhibits	Date of Document
B.1	1	A&T Property Record	N/A
B.2	1	Zoning Map	N/A
B.3	1	Staff site photographs	08/18/06
B.4	1	Aerial photograph w/ 10 ft contours	N/A
‘C’		Administration & Procedures	Date
C.1	1	Complete Letter – Day 1	07/13/05
C.2	1	Opportunity to Comment	07/13/05
C.3	3	Administrative Decision	08/23/06