



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

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## NOTICE OF DECISION

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

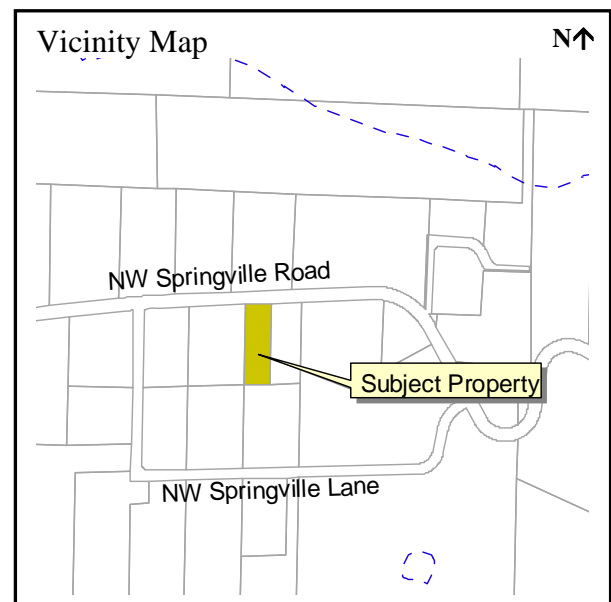
**Case File:** T2-07-048

**Permit:** Significant Environmental Concern  
Permit

**Location:** 13410 NW Springville Road  
TL 2300, Sec 16, T1N, R1W, W.M.  
Tax Account #R96116-0790

**Applicant:** Dan Lajoie

**Owner:** Susan Foldfield & K. Andrews



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**Summary:** Construct a replacement dwelling and accessory shop/garage on property zoned Multiple-Use Agriculture (MUA-20) with a Significant Environmental Concern overlay for wildlife habitat.

**Decision:** Approved With Conditions

Unless appealed, this decision is effective Tuesday, August 28, 2007, at 4:30 PM.

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Issued by:

By: \_\_\_\_\_  
Don Kienholz, Planner

For: Karen Schilling- Planning Director

Date: Tuesday, August 14, 2007

Instrument Number for Recording Purposes: #2006160171

**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 Don Kienholz, Staff Planner at 503-988-3043, extension 29270.

**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, August 28, 2007 at 4:30 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC): 33.2855 Dimensional Requirements; 33.2870 and 33.0005 Lot of Record; 33.4570 Approval Criteria for SEC-h (Habitat).

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 must be submitted 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. **Prior to building permit sign-off, the applicant 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. Recording shall be at the applicant's expense. [MCC 37.0670].**

2. The required NFPA 13D sprinkler system shall be clearly shown on the building plans. Specifications of the chosen system shall be included with plans for building permit sign-off [MCC 33.3185, MCC 29.012, Comprehensive Plan Policy 38].
3. Dedicate a 5-foot slope/utility/drainage/sidewalk/landscaping/traffic control device easement along the site's unnamed local access road frontage for the benefit of Multnomah County [MCC 33.2885].
4. The driveway serving the site must have a 20-ft paved approach [MCC 33.2885].
5. All exterior lighting shall be shown on building plans and hooded and directed downward [MCC 33.4565(C)(3)].
6. Any fencing constructed on the property after the issuance of this land use decision shall comply with the requirements of MCC 33.4570(B)(6).
7. The following nuisance plants shall not be planted on the subject property :

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

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

[MCC 33.4570(B)(7)]

**NOTE:**

Once this decision becomes final, applications for building permits may be made with the City of Portland. **When ready to have building permits signed off, call the Staff Planner, Don Kienholz, at (503)-988-3043 to schedule an appointment.** Multnomah County must review and sign off building permit applications before they are submitted to the City of Portland. Six (6) sets each of the site plan and building plans are required at the building permit sign-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:** Written findings are contained herein. The Multnomah County Code criteria and Comprehensive Plan Policies are in **bold** font. Staff comments and analysis are identified as **Staff:** and follow Applicant comments identified as **Applicant:** to the applicable criteria. Staff comments include a conclusionary statement in *italic*.

1. **Project Description**

**Staff:** The applicant is proposing to replace an existing single family residence and construct a new accessory shop on property zoned Multiple Use Agriculture (MUA-20) off of NW Springville Road in the West Hills. The property has a Significant Environmental Concern overlay for wildlife habitat (SEC-h) over its entirety.

2. **Site Characteristics**

**Staff:** The subject site is within the County's West Hills Rural Plan Area. The property is south of NW Springville Road and about ½ mile from the Washington County line. Access to the property from Springville Road already exists. The property is on the edge of an area zoned Multnomah County Use Agriculture-20 that is to the west of the subject property and made up of properties around two or three acres in size. To the east, the area is zoned Exclusive Farm Use and consists of larger lots. The entire area within Multnomah County is also within the Significant Environmental Concern Overlay for Wildlife Habitat (SEC-h).

3. **Public Comment**

**MCC 37.0530 Summary Of Decision Making Processes.**

**(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 the Land Use Board of Appeals (LUBA) within 21 days of when the signed Hearings Officer decision is mailed pursuant to 37.0660(D).**

**Staff:** An Opportunity to Comment was mailed on July 10, 2007 to property owners within 750-feet of the property lines. No comments were 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 show Susan Goldfield as the owner of the subject property (Exhibit 1). Ms. Goldfield has signed the SEC-H Application Form (Exhibit 2) as the owner of the property to authorize the processing of the permit.

*Criterion met.*

5. **A Dwelling is an Allowed Use In The MUA-20 Zone**

**MCC 33.2820 ALLOWED USES**

**(C) Residential use consisting of a single family dwelling constructed on a Lot of Record;**

**Staff:** A dwelling is an allowed use. Lot of Record Findings are made below in Finding #7

*Criterion met.*

6. **The Proposal Meets The Dimensional Requirements**

**MCC 33.32855 DIMENSIONAL REQUIREMENTS**

A. **(A) Except as provided in MCC 33.2860, 33.2870, 33.2875 and 33.4300 through 33.4360, the minimum lot size for new parcels or lots shall be 20 acres.**

**Staff:** The proposal does not include the creation of any new parcels.

*Criterion met.*

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

**Staff:** All proposed structures are over 70-feet from the property line as measured on the submitted site plan (Exhibit 3) so all the structures would meet the setbacks if additional Right-of-Way was required.

*Criterion met.*

C. **(C) Minimum yard Dimensions**

<b>Front:</b>	<b>30</b>
<b>Side:</b>	<b>10</b>
<b>Street Side:</b>	<b>30</b>
<b>Rear:</b>	<b>30</b>

**Staff:** The proposed structures are more than 70-feet from the front property line, more than 120-feet from the rear property line, and 10-feet to the nearest side property line.

*Criterion met.*

- D. **(D) The minimum yard requirement shall be in-creased where the yard abuts a street having in-sufficient right-of-way width to serve the area. The county Road Official shall determine the necessary right-of-way widths based upon the county “Design and Construction Manual” and the Planning Director shall determine any additional yard requirements in consultation with the Road Official.**

**Staff:** All proposed structures are 70-feet or more from the front property line so the yard does not need to be increased.

*Criterion met.*

7. **The Subject Property Is A Lot Of Record**

**MCC (A) In addition to the Lot of Record definition standards in MCC 33.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:**

- (1) July 10, 1958, SR zone applied;**
- (2) July 10, 1958, F-2 zone applied;**
- (3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;**
- (4) October 6, 1977, MUA-20 zone applied, Ord. 148 & 149;**
- (5) October 13, 1983, zone change from EFU to MUA-20 for some properties, Ord. 395;**
- (7) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.**

**(B) A Lot of Record which has less than the minimum lot size for new parcels or lots, less than the front lot line minimums required, or which does not meet the access requirement of MCC 33.2885, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.**

**(C) Except as otherwise provided by MCC 33.2860, 33.2875, and 33.4300 through 33.4360, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.**

**(D) The following shall not be deemed to be 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) An area of land created by court decree.**

**(E) Issuance of building permit as verification of a Lot of Record.**

**(1) The issuance of a building permit de-scribed in this subsection for new development on a lot or parcel is considered verification of compliance with applicable zoning and land division regulations for the creation of a lawful lot or parcel. The lot or parcel described in the building permit is considered a Lot of Record if the building permit was issued prior to July 1, 1986 (date of intergovernmental agreement contracting for building permit services with other jurisdictions) and complies with all of the following:**

**(a) There is a copy of the building per-mit in the Multnomah County or City of Portland permit records and the building permit indicates that the proposed development complied with zoning and land division requirements; and**

**(b) The building permit was for a new principle use, such as a new dwelling, commercial, industrial, community ser-vice, or conditional use; and**

**(c) There is a clear property description on the permit for the property for which the building or placement permit was issued. The description may be con-firmed by tax lot references, tax lot maps, site plans, or deeds recorded at the time.**

**(2) A request for verification that a lot or parcel is a Lot of Record under the provisions of this section (E) may be submitted to the Planning Director. A decision by the Planning Director is a ministerial action based upon the evidence described in this section. An appeal of the director’s decision for verification of a Lot of Record shall be submitted under the provisions of MCC 37.0740**

**MCC 33.0005(L) - Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Re-cord is a parcel, lot, or a group thereof that, when created or reconfigured, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) complies with the criteria for the creation of new lots or par-cels described in MCC 33.7785. 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 Re-cording 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.)**

**(c) Separate Lots of Record shall be recognized and may be partitioned congruent with an “acknowledged unincorporated community” boundary which intersects a Lot of Record.**

**1. Partitioning of the Lot of Record along the boundary shall require review and approval under the provisions of the land division part of this Chapter, but not be subject to the minimum area and access requirements of this district.**

**2. An “acknowledged unincorporated community boundary” is one that has been established pursuant to OAR Chapter 660, Division 22.**

**Staff:** The applicant submitted a deed recorded October 3, 1957 that created the property in its current configuration. At that time, there zoning was not in effect in the area so there was no minimum lot size. Additionally, partition requirements for creating 3 or fewer lots in a calendar year were not in place until 1978. Therefore, the parcel met the zoning and land division requirements in place at the time it was created in 1957,

*Criterion met.*

**8. The Proposed Development Meets The SEC Approval Criteria**

**MCC 33.4520      Application for SEC Permit**

**An application for an SEC permit for a use or for the change or alteration of an existing use on land designated SEC, shall address the applicable criteria for approval, under MCC 33.4560 through 33.4575.**

**MCC 33.4570 CRITERIA FOR APPROVAL OF SEC-H PERMIT -WILDLIFE HABITAT**

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

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

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

(2) Location of existing and proposed structures;

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

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

**Staff:** The applicant has provided the required application elements.

*Criteria met.*

B. **(B) Development standards:**

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

**Staff:** The proposed development is to take place in a cleared area as defined under MCC 33.4570.

*Criterion met.*

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

**Staff:** The proposed dwelling will be roughly 140-feet from the public road providing access. The accessory shop will be roughly 65-feet from the public road.

*Criterion met.*

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

**Staff:** The driveway is roughly 140-feet long as measured on the submitted site plan.

*Criterion met.*

- (4) **(4) For the purpose of clustering access road/driveway approaches near one another, one of the following two standards shall be met:**
- (a) The access road/driveway approach onto a public road shall be located within 100 feet of a side property line if adjacent property on the same side of the road has an existing access road or driveway approach within 200 feet of that side property line; or**
  - (b) The access road/driveway approach onto a public road shall be located within 50 feet of either side of an existing access road/driveway on the opposite side of the road.**
  - (d) The standards in this subsection (4) may be modified upon a determination by the County Road Official that the new access road/driveway approach would result in an unsafe traffic situation using the standards in the Multnomah County “Design and Construction Manual,” adopted June 20, 2000, (or all updated versions of the manual). Standards to be used by the Road Official from the County manual include Table 2.3.2, Table 2.4.1, and additional referenced sight distance and minimum access spacing standards in the publication A Policy on Geometric Design of Highways and Streets by the American Association of State Highway and Transportation Officials (AASHTO) and the Traffic Engineering Handbook by the Institute of Transportation Engineers (ITE).**

**Staff:** The access onto the property already exists and is 10-feet of the west property line (side) and within roughly 95-feet of the east property line (side)

*Criterion met.*

- (5) **(5) The development shall be within 300 feet of a side property line if adjacent property has structures and developed areas within 200 feet of that common side property line.**

**Staff:** The development is within 100-feet of the side property line as measured on the submitted site plan.

*Criterion met.*

- (6) **(6) Fencing within a required setback from a public road shall meet the following criteria:**
- (a) Fences shall have a maximum height of 42 inches and a minimum 17 inch gap between the ground and the bottom of the fence.**
  - (b) Wood and wire fences are permitted. The bottom strand of a wire fence shall be barbless. Fences may be electrified, except as prohibited by County Code.**
  - (c) Cyclone, woven wire, and chain link fences are prohibited.**

**(d) Fences with a ratio of solids to voids greater than 2:1 are prohibited.**

**Staff:** No fencing appears on the site plan but a condition of approval will require any future fencing to meet these criteria.

*Criteria met.*

### **Conclusion**

Considering the findings and other information provided herein, this application for a new single family dwelling, as conditioned, satisfies applicable Multnomah County Zoning Ordinance requirements.

### **Exhibits**

1. Multnomah County Assessment and Taxation Information Sheet
2. General Application Form
3. Site Plan