



**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.

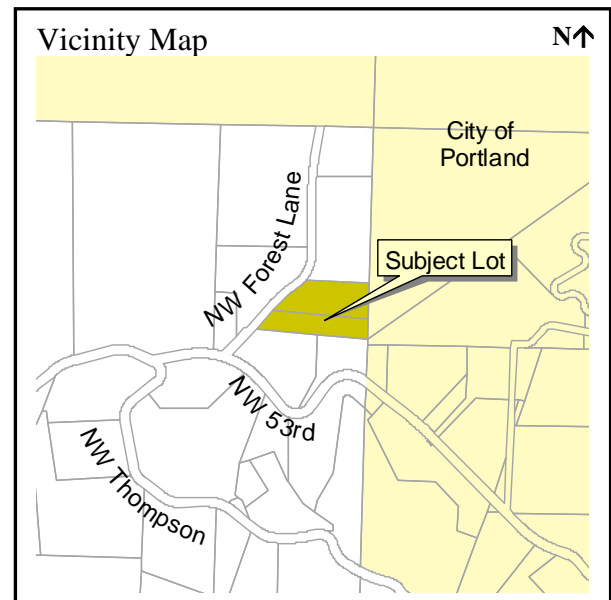
**Case File:** T2-07-058

**Permit:** Significant Environmental Concern  
Permit

**Location:** 3130 NW Forest Lane  
TL 400, Sec 25, T1N, R1W, W.M.  
Tax Account #R96125-0770

**Applicant:** Brian Bainnson

**Owner:** Andrew Michaels



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**Summary:** SEC Permit to construct a horse barn and add a mud room to the existing dwelling that will connect the detached garage to the home.

**Decision:** Approved With Conditions.

Unless appealed, this decision is effective Monday, October 15, 2007, at 4:30 PM.

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Issued by:

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

For: Karen Schilling- Planning Director

Date: Monday, October 1, 2007

Instrument Number for Recording Purposes: # 2005087772

**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, x27290.

**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 Monday, October 15, 2007 at 4:30 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC): 33.2220 Allowed Uses; 33.2256 Forest Practices Setbacks and Fire Safety Zones; 33.2261 Development Standards for Dwellings and Structures; 33.2275 Lot of Record; 33.0005 Lot of Record; 33.4520 Application for SEC; 33.4570 Approval Criteria for SEC-h; Multnomah County Comprehensive Plan Policy 38, MCC 29.012.

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. The request for a permit extension must be submitted prior to the expiration of the approval period.**

### **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 1-4 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 owner shall maintain a 30-foot primary fire safety zone as detailed in MCC 33.2256(D)(1).
3. The mud room addition and horse barn shall be constructed with a Class A or non-combustible roof. Identification of the building materials shall be included on the site plans prior to building permit sign-off [MCC 33.2061(C)].
4. 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 33.2273].
5. 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).
6. 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

[MCC 33.4570(B)(7)]

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.

7. **The dwelling shall be retrofitted with the required NFPA 13D sprinkler system throughout the dwelling. The 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 29.012, Comprehensive Plan Policy 38].**

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 x29270 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 requesting approval to construct a mud room addition on the existing dwelling that would connect the dwelling to the detached garage, and to build an accessory horse barn north of the house.

2. **Site Characteristics**

**Staff:** The subject site is within the County's West Hills Rural Plan Area just off of NW 53rd. The east side of the property borders the City of Portland and the Urban Growth Boundary. Most areas of the property are in the 20 to 25% slope range sloping towards NW Forest Lane. The site was recently cleared of the tree canopy under a Forest Practice Act harvest. Replanting has begun.

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 30, 2007 to property owners within 750-feet of the property lines. Four written comments were received.

The Oregon Department of Fish and Wildlife (ODFW) commented with recommendations on how to develop the project while protecting wildlife that may be in the area. Specifically, ODFW suggested leaving as many mature trees as possible, mitigate tree removal by planting native trees, conducting vegetation removal after August 15<sup>th</sup> to avoid disturbance of native migratory bird nesting habitat, and to revegetate bare areas with native vegetation. Trees have been removed from the property as part of a Forest Practices Permit. The state Department of Forestry sets rules for tree removal under those circumstances and the County has no authority to prevent the removal

of trees associated with logging. This permit will be issued after August 15<sup>th</sup> which will help protect migratory bird habitat.

Two neighbors also sent in written comments with the concerns centering around the harvesting of timber on the property and the potential for erosion. The property is in the Commercial Forest Use-2 zoning district which allows forest harvesting as an allowed use. As mentioned before, tree harvests conducted with a Forest Practice Permit are exempt from County oversight and are under the jurisdiction of the state. This includes the replanting and potential erosion control measures associated with the harvest. There was also a concern raised over the presence of horses confined to a small area with slopes. However, the County code allows personal horses and does not regulate the slopes or housing conditions of those horses.

Finally, the Forest Park Neighborhood Association commented on the development. Their concern is with the excavation related to the project and its proximity to Balch Creek. A Grading and Erosion Control Permit application has been submitted to provide appropriate means of erosion control and stormwater drainage mitigation. A professional engineer has certified that the run off generated from the development will be handled on site for up to a 10-year/24-hour event.

*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 the Andrew J. Michaels Trust as the owner of the subject property (Exhibit 1). Andrew Michaels has signed the SEC Application Form (Exhibit 2) as the owner of the property to authorize the processing of the permit. Brian Bainnson is the representative of Quaterfoil INC. who is processing the permits on Mr. Michaels' behalf.

*Criterion met.*

5. **A Horse Barn and Addition To an Existing Dwelling Are Allowed Uses**

**MCC 33.2215 USES**

**No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 33.2220 through 33.2240 when found to comply with MCC 33.2245 through 33.2310.**

**MCC 33.2220 ALLOWED USES**

- A. **(D) Alteration and maintenance of an existing lawfully established *habitable dwelling* as defined in MCC 33.0005.**

**Staff:** The existing dwelling was constructed with the County approved building permit #741651 (Exhibit 3) and is therefore lawfully established. Photos in building permit file (Exhibit 4) and included in the SEC record show the dwelling meets the definition of Habitable Dwelling. As such, the dwelling is eligible for approval for the mud room addition.

*Criterion met.*

- B. **(T) 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:** Horses are common in the rural area both as farm uses and as personal uses. The property is not in farm deferral and the applicant has indicated the horses will be used for personal use. As such, the barn to house the horses, feed and other required elements is accessory to the residential use on the property and is an allowed use.

*Criterion met.*

6. **The Proposed Development Will Meet the Height Requirements**

A. **MCC 33.2250 BUILDING HEIGHT REQUIREMENTS**

**(A) Maximum structure height – 35 feet.**

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

**Staff:** The mud room addition to the dwelling connecting the home and garage is one level and under 35-feet in height. Heights of the addition and horse barn will be reviewed at the building permit step for compliance with the 35-foot height limitation.

*Criteria met.*

7. **The Proposed Barn and House Addition Meet the Forest Practice and Fire Safety Zone Requirements**

**MCC 33.2256 FOREST PRACTICES SETBACKS AND FIRE SAFETY ZONES**

**The Forest Practice Setbacks and applicability of the Fire Safety Zones is based upon existing conditions, deviations are allowed through the exception process and the nature and location of the proposed use. The following requirements apply to all structures as specified:**

**Table 1**

Use	Forest Practice Setbacks			Fire Safety Zones
Description of use and location	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)
Replaced or restored dwelling in same location &/or less than 400 sq. ft. additional ground coverage; Alteration and maintenance of dwelling	May maintain current nonconforming setback(s) if less than 30 ft. to property line	30	30	Property owner is encouraged to establish Primary to the extent possible
Accessory structures within 100 ft. of dwelling	N/A	30	30	Primary required

**(A) Reductions to a Forest Practices Setback dimension shall only be allowed pursuant to approval of an adjustment or variance.**

**(B) Exception to the Secondary Fire Safety Zone shall be pursuant to MCC 33.2310 only. No reduction is permitted for a required Primary Fire Safety Zone through a nonconforming, adjustment or variance process.**

**(C) The minimum forest practices setback requirement shall be increased where the setback abuts a street having insufficient 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 setback requirements in consultation with the Road Official.**

**(D) Fire Safety Zones on the Subject Tract**

**(1) Primary Fire Safety Zone**

**(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) 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	No additional



	<b>required</b>
<b>Less than 20</b>	<b>50 additional</b>
<b>Less than 25</b>	<b>75 additional</b>
<b>Less than 40</b>	<b>100 additional</b>

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

**(2) Secondary Fire Safety Zone**

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 33.2310.

(3) No requirement in (1) or (2) 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

(4) Required Primary and Secondary Fire Safety Zones shall be established within the subject tract as required by Table 1 above.

(5) Required Primary and Secondary Fire Safety Zones shall be maintained by the property owner in compliance with the above criteria listed under (1) and (2).

**Staff:** As measured on the submitted site plan (Exhibit 5), the mud room addition is over 100-feet from the nearest property line of the tract thus meeting the Forest Practice and Fire Safety Zone setback requirements. The barn is 35-feet from the dwelling as measured on the site plan and is 85-feet to the nearest setback, thus also meeting the Forest Practice and Fire Safety Zone setback requirements.

*Criteria met.*

**8. The Proposed Barn and House Addition Meet the Development Standards**

**A. MCC 33.2261 DEVELOPMENT STANDARDS FOR DWELLINGS AND STRUCTURES**

All dwellings and structures shall comply with the approval criteria in (B) through (E) below except as provided in (A):

**(A) For the uses listed in this subsection, the applicable development standards are limited as follows:**

**1. (1) Expansion of existing dwelling.**

**(a) Expansion of 400 square feet or less additional ground coverage to an existing dwelling: Not subject to development standards of MCC 33.2261;**

**(b) Expansion of more than 400 square feet additional ground coverage to an existing dwelling: Shall meet the development standards of MCC 33.2261(C);**

**Staff:** The mud room addition is less than 400 square feet so it is not subject to the development standards of MCC 33.2061

**2. (3) Accessory buildings.**

**(a) Accessory buildings within 100 feet of the existing dwelling: Shall meet the development standards of MCC 33.2261(C);**

**(b) Accessory buildings located farther than 100 feet from the existing dwelling: Shall meet the development standards of MCC 33.2261(B) & (C);**

**Staff:** The accessory horse barn is within 100-feet of the dwelling and therefore is subject to the standards of MCC 33.2261(C).

**B. (C) The dwelling or structure shall:**

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

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

**(3) Have a fire retardant roof; and**

**(4) Have a spark arrester on each chimney.**

**Staff:** The existing dwelling is not a mobile home. The mud room addition does not include a chimney. A condition of approval shall require that the roof of the mud room and the horse barn be constructed out of fire retardant material.

*Criteria met with a condition of approval.*

**9. The Property Has Adequate Access**

**MCC 33.2273      ACCESS**

**All lots and parcels in this district shall abut a street, or shall have other access deemed by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles, except as provided for Lots of Record at MCC 33.2275(C).**

**Staff:** The property fronts NW Forest Lane Road so it has adequate access. However, NW Forest Lane Road the standard cross-section for a Rural Local facility includes 60-feet of right of way with 5-foot easements on each side for maintenance of the roadway. As such, the applicant will need to provide a 5-foot easement for slope/utility/drainage/sidewalk/landscaping/traffic control devices to maintain the function of the roadway.

*Criterion met.*

**10.    The Property is a Lot of Record**

**MCC 33.0005 - Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record 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 parcels 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 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.)**

**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:**

**(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. See Examples 1 and 2 in this subsection.**

**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. See Example 3 in this subsection.**

**Staff:** A Hearings Officer decision on a denied request for a variance in 1993 (Case 17-93 and HV 9-93) made the finding that the two properties making up the subject tract were created in 1967 when the property was zoned R-20 and had a 20,000 square foot minimum lot size. The Hearings Officer found that the two properties making up the tract are aggregated together since they were in common ownership on February 20, 1990 and considered one Lot of Record together.

Since the lots were created in 1967 and had a 20,000 square foot minimum lot size, both properties making up the tract met the minimum lot size. Both parcels had road frontage as well and met the access requirements. There were no partition requirements at the time the lots were created therefore both parcels met the land division rules in place at the time. As such both parcels were lawfully created and since they were in contiguous ownership on February 20, 1990 and continue to be so today, they are aggregated together to form one Lot of Record.

*Criteria met.*

**11.    The Proposal Meets the SEC Approval Criteria**

**MCC 33.4570      Criteria for Approval of SEC-h Permit -Wildlife Habitat**

**(B)    Development standards:**

- A. **(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 minimum clearance standards for fire safety.**

**Staff:** Under the definition of 'cleared' the entire site is forested. Recently there was a Forest Practice Act timber harvest but such areas are still considered forested since they are required to be replanted. The barn is proposed to be located 35-feet from the dwelling on a flat portion of the property and utilize the space between the two structures as an area for the horses to roam in a fenced area.

*Criterion met.*

- B. **(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 barn is roughly 85-feet from the roadway as measured on the site plan (Exhibit 5).

*Criterion met.*

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

**Staff:** There is an existing driveway serving the dwelling that is under 250-feet in length.

*Criterion met.*

- D. **(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).

**1. The modification shall be the minimum necessary to allow safe access onto the public road.**

**2. The County Road Official shall provide written findings supporting the modification.**

**Staff:** No new access points are proposed.

*Criterion met.*

- E. **(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 proposed barn is within 100-feet of the north property line, which is a side property line.

*Criterion met.*

- F. **(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.**

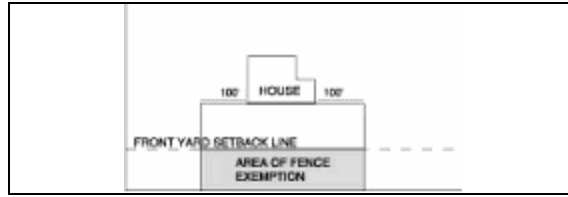
**(b) Wood and wire fences are permitted. The bottom strand of a wire fence shall be barbless. Fences may be electrified, except as prohibited by County Code.**

**(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.**

**(e) Fencing standards do not apply in an area on the property bounded by a line along the public road serving the development, two lines each drawn perpendicular to the principal structure from a point 100 feet from the end of the structure on a line perpendicular to and meeting with the public road serving the development, and the front yard setback line parallel to the public road serving the development.**

<b>FIGURE 33.4570A FENCE EXEMPTION AREA</b>
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**Staff:** A three-rail fence is proposed around the barn area to corral the horses. At 42-inches tall, it meets the fencing requirements. A condition of approval shall ensure the fence is built to the code requirements.

*Criteria met.*

**(7) The following nuisance plants shall not be planted on the subject property and shall be removed and kept removed from cleared areas of 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 sepium</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>Utricularia vulgaris</i>	Common Bladderwort
<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.

**Staff:** A condition of approval will require the owner of the land to maintain the site free of the listed nuisance plants.

*Criterion met.*

12. **Multnomah County Comprehensive Plan Policy 38**  
**Policy 38**

## **Fire Protection**

- B. There is adequate water pressure and flow for fire fighting purposes; and**
- C. The appropriate fire district has had an opportunity to review and comments on the proposal.**

**Staff:** Chapter 29 of the Multnomah County Code implements Policy 38 of the Multnomah County Comprehensive Plan. Chapter 29 contains access and fire flow requirements which are addressed through our Fire District provider forms. Drew DuBois of Tualatin Valley Fire & Rescue district has signed off the Fire District Access Review form (Exhibit 6) requiring that the dwelling be fitted with a NFPA 13D fire sprinkler system as a condition of obtaining a building permit. As such, a condition of approval will require the sprinkler system.

*Policy and Code 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. Significant Environmental Concern – Wildlife Habitat Application Form
3. Building Permit #741651
4. Photos Demonstrating Dwelling Is Habitable
5. Applicant's Site Plan
6. Fire District Access Review Form