



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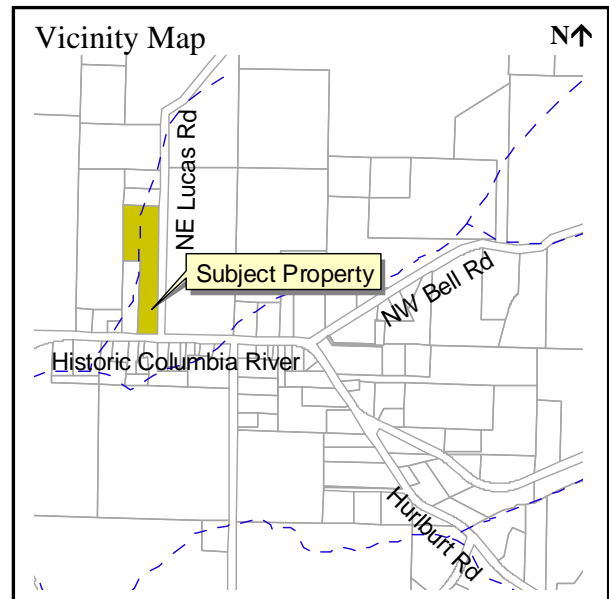
This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

**Case File:** T2-08-011

**Permit:** Road Rules Variance

**Location:** 31935 E. Historic Columbia River Hwy  
TL 1000, Sec 32D, T1N, R4E, W.M.  
Tax Account #R94432-0120

**Applicant/  
Owner:** Lonny and Sherri Hutchison



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**Summary:** Request for a variance to the Multnomah County Road Rules to allow a second driveway and access onto NE Lucas Road.

**Decision:** Approved.

Unless appealed, this decision is effective Friday, April 25, 2008, at 4:30 PM.

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Issued by:

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

For: Karen Schilling- Planning Director

Date: Friday, April 11, 2008

**Opportunity to Review the Record:** A copy of the Planning Director's 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, ext. x29270.

**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 Friday, April 25, 2008 at 4:30 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC): MCC 4.100, MCC 16.100 through MCC 16.225, Multnomah County Code Chapter 37

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 the access has not been constructed. 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.**

<p><b>Notice to Mortgagee, Lien Holder, Vendor, or Seller:</b></p>
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<p>ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.</p>
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**FINDINGS:** Written findings are contained herein.

1. **Project Description**

**Staff:** The applicant has proposed to establish a second access point from the wproperty onto NE Lucas Road. The applicant will be replacing an existing dwelling on the southern end of the property with a new dwelling at the northern end of the property and will need an access point for that replacement dwelling. The existing dwelling will become a showroom for a heating/cooling business approved under T3-07-005. The business, located at the southern end of the property, will continue to use the southern access from NE Lucas Road as well as an access approved by the Oregon Department of Transportation onto the Historic Columbia River Highway.

2. **Site Vicinity and Characteristics**

**Staff:** The subject property is located in the unincorporated community of Springdale in the East of the Sandy River Rural Plan Area located roughly 2.5 miles to the southwest of Corbett. The property contains a heating and cooling company approved under T3-07-005. As part of that approval, the property has an ingress-only access point onto NE Lucas Road at the southern end of the property. An egress-only access goes south onto the Historic Columbia River Highway. The immediate area is zoned Rural Center and contains small businesses such as a tavern, a bakery, a community market, apartments, triplexes and single-family dwellings, a school and a County road maintenance depot and office. Surrounding the rural center is mostly farm land with small areas in the Commercial Forest Use – 4 (CFU-4) zone and Multiple Use Agriculture zone (MUA-20).

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 to property owners within 750-feet of the property lines on March 6, 2008. No written 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.**

**Staff:** County Assessment and Taxation records show Lonny and Sherri Hutchison as owners of the property (Exhibit 1). A letter of authorization by property owners was included in the file authorizing an action to be taken on the property.

*Criterion met.*

5. **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 in-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:** The property was unlawfully divided in 1994 was recently discovered while processing this application. The applicant placed the property back into the configuration prior to the land division which was its last lawful configuration. Therefore, there are no active compliance cases involved with the property and the permit can be approved.

*Criterion met.*

6. **Multnomah County Road Rules Variance Criteria Are Met**

**MCC 16.200 General Variance Criteria:** In order to be granted a variance, the applicant must demonstrate that:

**A. Special circumstances or conditions apply to the property or intended use that do not apply to other property in the same area. The circumstances or conditions may relate to the size, shape, natural features and topography of the property or the location or size of physical improvements on the site or the nature of the use compared to surrounding uses;**

**B. The variance is necessary for the preservation and enjoyment of a substantial property right of the applicant and extraordinary hardship would result from strict compliance with the standards;**

**C. The authorization of the variance will not be materially detrimental to the public welfare or injurious to other property in the vicinity, or adversely affect the appropriate development of adjoining properties;**

**D. The circumstances of any hardship are not of the applicant's making.**

**MCC 16.225 Access Variance Standards:** Exceptions to access standards may be made by the County Engineer when spacing or other safety considerations make non-standard access acceptable. In addition to the variance requirements of Section 16.200 of these Rules, the applicant will be required to demonstrate that the proposed variance will not negatively impact the safety or capacity of the transportation system for a variance to be granted. The following are examples of variances that may be considered along with specific criteria that must be addressed before such a variance can be granted.

**A. Multiple Access Points:** The County Engineer may allow multiple access points when all spacing standards can be met, or when the additional access(es) will not negatively impact the safety or functionality of the Multnomah County Road Rules transportation system and a single access point cannot reasonably serve a site. Movement restrictions, such as right-in, right-out, may be placed on accesses to protect the safety and/or functionality of the transportation system.

**Staff:** As seen in the Transportation Memo dated March 26, 2008 (Exhibit 2), The County's Transportation Specialist has found that the above listed criteria are met and the proposed second access meets the Variance criteria.

*Criteria met.*

## **Conclusion**

**Staff:** Considering the findings and other information provided herein, this application for a Road Rules Variance satisfies applicable Multnomah County Zoning Ordinance requirements.

## **Exhibits**

1. Multnomah County Assessment and Taxation Property Information Sheet
2. March 26, 2008 Transportation Memo