



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.

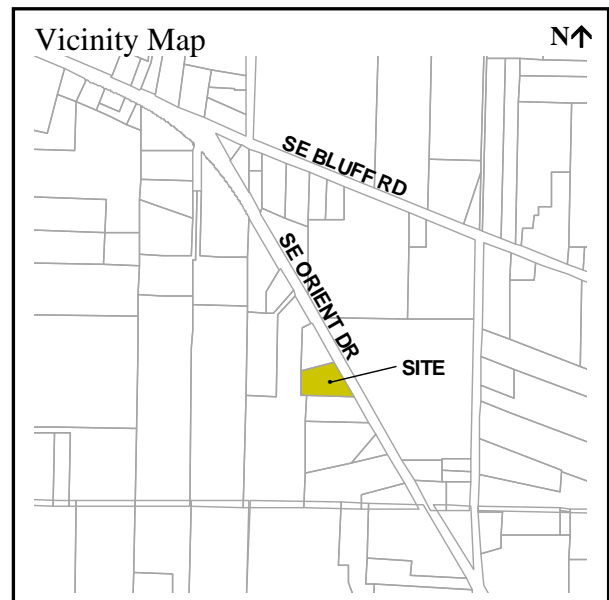
Case File: T2-08-021

Permit: Alteration of a Non-Conforming Use &
Road Rules Variance

Location: 8141 SE Orient Drive
(a.k.a. 8231 SE Orient)
TL 1200, Sec 20CC, T1S, R4E, W.M.
Tax Account #R994200950

Applicant: Joan Wood

Owners: Joan and Larry Wood
21851 SE Cottontail Drive
Sandy, Oregon 97055



Summary: Request for after-the-fact approval to convert a residential storage structure into an office /business storage building to be used in conjunction with the non-conforming industrial use.

Decision: Approved with conditions.

Unless appealed, this decision is effective Tuesday, September 2, 2008 at 4:30 PM.

Issued by:

County Engineer's Concurrence:

By: _____
Derrick I. Tokos, AICP, Planner

By: _____
Ken Born, AICP, Transportation
Planning Specialist

For: Karen Schilling - Planning Director

For: Brian Vincent, P.E.

Date: Monday, August 18, 2008

Instrument Number for Recording Purposes: #97168385

Note: Once this decision is final, application for building permits may be made with the City of Gresham. When ready to have building permits signed off, the applicant shall call the Staff Planner, Derrick I. Tokos, AICP ((503) 988-3043 x22682), for an appointment for review and approval of the conditions and to sign the building permit plans. Please note, Multnomah County must review and sign off the building permits before the applicant submits building plans to the City of Gresham. Three sets each of the site plan and building plans are needed for building permit sign off. At the time of building permit review, a fee of \$53.00 will be collected. In addition, an erosion control inspection fee of \$77.00 may be required.

Please contact Alan Young at (503) 988-3582 x22809 for information on obtaining a driveway permit.

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 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 Derrick I. Tokos, AICP, Staff Planner, at 503-988-3043, ext. 22682.

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, September 2, 2008 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): 36.7200 through 36.7215, Non-Conforming Uses; Road Rules 4.000, 4.300, 8.100, 16.000 through 16.4000, and 18.250; and Chapter 37 Administration and Procedures.

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 four 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 issuance of building permits or conveyance of the parcel, the property owner shall record the Notice of Decision cover sheet through the conditions of approval with the County Recorder along with a copy of the site plan submitted April 24, 2008. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and a copy filed with Land Use Planning. Recording shall be at the applicant's expense. [MCC 37.0670]
2. Prior to October 25, 2008 or the issuance of building permits, the applicant shall submit copies of the recorded deeds showing that the property line adjustment approved in 2006 (Case File T2-06-074) has been completed. [MCC 37.0560]
3. The door and cabinet making business may continue at its present scale without additional land use review; however, replacement, alteration or expansion of the use or structures is subject to review by the County for compliance with its non-conforming use regulations. [MCC 36.7200(B)]
4. Ordinary care and maintenance of structures and improvements does not require review by the County. [MCC 36.7200(E)]
5. If the industrial use of the property is discontinued for any reason for more than two years, it shall not be reestablished unless the resumed use conforms to requirements of the zoning code at the time of the proposed resumption. [MCC 36.7200(C)]
6. No outdoor storage is to occur in association with the industrial use [MCC 36.7210(C)(5)].
7. Hours of operations are limited to Monday through Saturday from 7:00 am to 8:00 pm. [MCC 36.7210(C)(6)]
8. Within the next 24 months, or prior to conveyance of the parcel, the applicant shall:
 - a. Obtain building permits from the City of Gresham and make necessary changes to convert the occupancy of the 1993 structure from residential storage to commercial office/industrial storage associated with the door and cabinet making business. [MCC 37.0560]
 - b. Construct the drainage improvements in accordance with specifications provided by Ray L. Moore, PE, dated November 6, 2007. [MCC 36.7210(C)(8)]
9. Within the next 24 months, or prior to the sale of the property the applicant shall remove the driveway crossing the south property line onto tax lot 1100, such that it is no longer suitable as a means of vehicular access. [MCC 37.0550]
10. Within the next 48 months, or prior to the sale of the property, the applicant shall obtain a driveway permit from the County and pave the approach onto SE Orient Drive. Pavement shall be to an approximate width of 20 feet, extending onto the property an equivalent distance. [MCC 36.7210(C)(4), MCRR 4.00, MCRR 18.250, DCM 1.2.4]

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.
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Findings of Fact

1. The applicant and owners Joan and Larry Wood are seeking after-the-fact approval to convert a 36' x 60' residential storage structure into an office/industrial storage building to be used in conjunction with their door and cabinet making business "Gresham Door and Cabinet." They have provided a site plan and floor plan, illustrating the location and interior layout of the building (Exhibit A1 and A2).
2. The property is located south of the City of Gresham in the Orient rural community. Its address is 8141 SE Orient Drive. This same address applies to residential property to the north, which is also owned by the Wood's. County addressing maps identify the address for the subject property to be 8231 SE Orient Drive; however, that address is not currently in use. The subject site is slightly less than an acre in size at 42,148 square feet. It is rectangular in shape, and slopes gradually away from Orient Drive to the west. There are two structures on the property, a shop building which dates to the early 1950's and the office/storage building which was constructed in the late 90's. There are concrete pads adjacent to each structure. A gravel driveway at the northeast corner of the property provides access. Parking and loading areas are also gravel. They are located in the center of the property, between the two buildings. A septic system occupies the southern portion of the site. All of these features are shown on the applicant's site plan.
3. As discussed later in this decision, an industrial use has existed on this property for a very long time, predating modern zoning laws that would not allow it to be built the way that it is if it were being proposed as new today. These are called "non-conforming uses ⁽¹⁾," or some call them "grandfathered uses." Consistent with ORS 215.130, Multnomah County ordinances require a land use review any time a non-conforming use is altered (MCC 36.7200(B)). This includes the construction of new buildings (MCC 36.7210(A)). The applicant filed an application for this review on April 21, 2008, a step that is required before the County can render a decision (MCC 36.7215(E)).
4. A non-conforming use review includes two steps. First, the status of the non-conforming use must be verified -- that is, it must be confirmed that the subject use is actually a non-conforming use (MCC 36.7215). Once the status of the use has been verified, a determination must be made that altering the use will not result in a greater adverse impact on the neighborhood considering specific criteria (MCC 36.7210(C)).
5. Verification of the status of a non-conforming use requires evidence that the use was legally established and operating at the time the zoning code was adopted rendering it non-conforming, and has not been abandoned or interrupted for a continuous two year period (MCC 36.7215(A)). The nature and extent of the use must also be established, the requirements for which are listed under 36.7215(B). Proof of continuity and nature and extent of the use, covering the last 10 years is the minimum required to establish a rebuttable presumption that such use is non-conforming and eligible for alteration (MCC 36.7215(F)). As demonstrated below, evidence provided by the applicant, or otherwise contained in the record, is sufficient to establish that an industrial use of the property, now a door and cabinet making business, is non-conforming.
 - a. Multnomah County property assessment records indicate that a shop building was constructed on the property in 1954. The County enacted zoning for the Orient area on July 18, 1958. The initial zoning designation for the property was A-2, an Apartment Residential District (Ord. #100). This district did not allow industrial uses. At the time zoning was enacted, the property was 1.5 acres in size and included the tax lot to the north which was developed with a number of cabins. The

⁽¹⁾ A non-conforming use is a legally established use, structure or physical improvement in existence at the time of enactment or amendment of the Zoning Code but not presently in compliance with the use regulations of the zone district in which it is located (MCC 36.0005).

parcel was identified as Tax Lot 95. Its address was Route 2, Box 360, Mount Hood Loop Highway (later named Orient Drive). Baert Metal Products used the shop building to manufacture steel septic tanks. They obtained permits from the County to expand the business as a non-conforming use in 1959, 1963, 1965, and 1968 (Permits MC 88-59, BA 197-63, BA 267-65 and BA 167-68). Mr. and Mrs. Baert explain in the 1965 permit that the business was established at the time the shop was constructed (Exhibit A3) and a site plan included with the 1959 permit shows the shop to be the structure that is on the subject property (Exhibit A4). This information is sufficient to establish that the shop was occupied with an industrial use prior to zoning. Neither the Rural Center zoning, which applied to the property in 1977 (Ord. #149) nor the current Orient Commercial Industrial (OCI) zone, in effect since 2003 (Ord. #1001)², allow industrial uses outright. Accordingly, industrial use of the property became non-conforming on July 18, 1958 when zoning was initially adopted.

- b. Non-conforming uses that are abandoned or interrupted for a continuous two year period cannot be re-established, and applicants must demonstrate continual use for at least the last 10 years to establish a rebuttable presumption that this has not occurred (ref: MCC 36.7215(F)). Tax records provided by the applicant are sufficient to establish that the current industrial use of the shop building has been continually operated during this time period. This is notwithstanding County records that show the building was vacant on specific dates in 1973 (Exhibit A5) and 1986 (Exhibit A6). Those records are only adequate to establish that there was a vacancy on the dates of the inspections. The applicants indicate in an April 14, 2008 letter that Baert's Metal had been using the property for industrial purposes when they occupied the building, and that they purchased equipment from them for use with their business (Exhibit A7). They also submitted statements from Debbie "Salisbury" Halvorsen, a relative of the Baert's (Exhibit A8), and Rawley Burns, owner of the nearby Burns Feed Store (Exhibit A9), which similarly note that Baert's Metal used the property in some industrial capacity until it was occupied by Gresham Door and Cabinet. This evidence shows that an industrial use of the site was maintained, and addresses any concerns that the property was vacant for an extended period of time in the past.
- c. Factors that must be considered in establishing the nature and extent of a non-conforming use include a description of the use, the activities conducted, the scope or intensity of uses, and the number, location, and size of physical improvements associated with the use (ref: MCC 35.7215(B)). As with continuity of use, the applicant need only demonstrate the nature and extent of the use over the last 10 years.

Two structures exist on the property, a shop constructed in 1954 and a pole building built in 1996. The pole building is 36' x 60' in size. It was permitted for residential/farm storage and the applicant indicated that they would be constructing it on the property to the north (which they also own) for use with the cabins (Exhibit A10). The applicant constructed the building on the subject property and has been using it as a business office and for storage of industrial equipment. With this application they are seeking to retroactively permit this building as an expansion of the industrial use. This is addressed later in the decision.

In their April letter, the applicant states that they rented the shop building from Ella Baert beginning in 1985 and later purchased the building and lot. The building houses their manufacturing business. Gresham Door and Cabinet, Inc. manufacture cabinetry, pre-hung doors, millwork, and countertops (Exhibit A11). The shop was originally 30' x 40' in size. The

⁽²⁾ The property was inadvertently given an Orient Residential (OR) designation in 2003, while the property to the north containing the cabins was designated OCI. This was a mapping error. The County corrected the error in 2006 (Ord. #1079) at no expense to the current owner, who brought the issue to the attention of county staff.

Baert's added a covered storage area, approximately 18' x 40' in size, to the south side of the structure in 1965 (ref: MC 88-59) and the building was renovated to include an office area in 1968 (ref: BA 167-68). We understand from the applicant that this is where their business office was originally located. The applicant's site plan shows the footprint of the shop building with these additions. Photographic slides of the property taken by the County in 1968 and 1971 when compared to recent photographs (Exhibit A12) show that the shop building has remained essentially unchanged over time. The location of the septic system, parking areas, and access to the property also generally correspond with historic records. These features and the shop building, as illustrated on the site plan, constitute the extent of the non-conforming use.

6. Alteration, expansion, or replacement of a non-conforming use may only be permitted when it is established that the changes proposed will not result in a greater adverse impact on the neighborhood within which the use is located (MCC 36.7210(C)). In determining adverse impact each of the following criteria must be evaluated (criteria underlined). As evidenced below, after considering each of the applicable criteria, this application to retroactively expand the non-conforming door and cabinet making business by adding a 36' x 60' square foot office/storage building will not cause a greater adverse impact on the neighborhood (applicant's statements from their April 17, 2008 letter in italics).
 - a. The character and history of the use and of development in the surrounding area. *"There have been no significant changes since the business started. We grew to 3 to 5 fulltime employees, the product line and scope of work remain the same. We have purchased some cabinetry and additional equipment."*

Baert's septic tank manufacturing business pre-dated zoning. Small industrial uses of this nature, primarily serving rural clientele, were scattered throughout the Orient area as were some commercial sites. The bulk of the properties though were rural residential or farm land and this defined the character of the area. That is still the case. Residential densities have grown somewhat over time; however, given Orient's rural location, lack of sewer, and strict minimum lot sizes it has been slow. Conflicts occur between commercial/industrial and residential uses. In the case of Baert's Metal, historic records show that neighbors objected to visual impacts of outdoor storage of septic tanks and the long operating hours. Given its rural location and lack of services, County plans and zoning rules have favored the predominant land use pattern of rural residential, farming, and rural service commercial/industrial uses. The area is unsuitable for larger industrial uses, and the County advised Baert's to relocate to an industrial area if they wanted to expand in a more substantial manner in the future (BA 267-65 and BA 167-68). The statement from Debbie Halverson notes that this in fact occurred, referring to the site as the "previous shop location" that they used for overflow work between 1973 and 1985.

Baert's Metal had a total of 8 employees in 1965, with 7,500 square feet of outdoor storage of industrial equipment and extended operating hours to accommodate a swing shift (BA 267-65). The applicant's have fewer employees, more limited operating hours, and no outdoor storage. Their more limited use of the property is similar to the types of small scale, rural service industries that are more typical of the Orient area. Accordingly, the applicant's door and cabinet making business, including the 36' x 60' office/storage building, will have no greater adverse impact on the character of the use and development in the area.

- b. The comparable degree of noise, vibration, dust, odor, fumes, glare or smoke detectable within the neighborhood. *We have an approved dust collecting system that meets the decibel level requirements. We have an exhaust filtered spray area. We have never had a complaint regarding any of these issues."*

The 36' x 60' pole building includes a 12' x 36' foot office. The remaining area (approximately 80% of the structure is dedicated to the storage of business equipment. These activities are within an enclosed structure, and by their nature will not contribute in any meaningful way to noise, vibration, dust, odor, fumes, glare or smoke in the surrounding neighborhood.

- c. The comparative numbers and kinds of vehicular trips to the site. *Employees generally arrive on-site, eat lunch on-site and leave for the day. We average two deliveries per week.*

The applicant's June 17, 2008 letter (Exhibit A13) notes that 80% of the structure is dedicated to storage, which does not generate a meaningful amount of traffic. The business office is also modest in size and, as we understand from the applicant, was relocated out of the shop building to provide additional area for the manufacturing operation. Accordingly, this structure will not cause an increase in traffic significant enough to constitute a greater adverse impact on the surrounding area as compared to trips already associated with the shop.

- d. The comparative amount and nature of outside storage, loading and parking. *Our current surface area for parking, loading, and storage is well compacted gravel. It regularly and without visible damage carries delivery trucks, forklifts and employee vehicles."*

No outdoor storage is proposed. Baert's Metal stored septic equipment outdoors; however, that use ceased when they vacated the property. The Gresham Door and Cabinet business does not utilize outdoor storage, meaning the right to that use has been discontinued. Similarly, the site obscuring fence surrounding the property that the County required Baert's construct to screen the storage areas from view is no longer needed. The fence has since been removed.

The County off-street parking code applies when new buildings are constructed (MCC 36.4150). Parking and loading areas are required to be paved or surfaced with a dustless material (MCC 36.4180(A)). Driveways are to be paved to a width of 20 feet (MCC 36.4170(A)). The pole building is a new building; however, since the use of the property is non-conforming the test is whether or not the addition of the structure constitutes a greater adverse impact relative to what current rules, such as the parking code, are trying to achieve. The driveway and parking areas are presently surfaced with gravel. Paving the driveway approach will satisfy the current standard for a high traffic area on the property. Parking and loading areas are confined close to the buildings where travel is at very low speeds. Maintaining a gravel surface in these areas should be sufficient to mitigate dust. County road rules and design guidelines apply to work within the right-of-way. They require a 20' improved width, which will need to be met when paving the approach (MCRR 4.000, DCM 1.2.4). By paving the approach, the applicant off-sets the impact of any additional traffic associated with the second building, ensuring no greater adverse impact relative to parking and loading.

- e. The comparative visual appearance. *The business property and building look much the same as they have since industrial use began in about the 1940's. When Joan and Larry Wood purchased the property they had commercial style landscaping installed to upgrade the exterior appearance. These plantings have been maintained and, of course, have grown. Two years ago additional plantings of arborvitae were added to further screen the main building from the road. All of this landscaping is irrigated during summer months. See photos in Tab 5.*

As noted by the applicant the visual appearance of the shop building hasn't changed much over time. Adding the pole barn as an office/business storage building adds some bulk; however, as illustrated on the site plan the structure is set further back on the property and is partially screened by the shop. It also satisfies setbacks providing separation from neighboring properties. The applicant has added arborvitae along SE Orient to create a streetscape comparable to what County Design Review standards would require for new businesses (MCC 36.7000 et. seq.). Considering all of these factors, the addition of the pole barn does result in a significant visual impact to the area.

- f. The comparative hours of operation. *"Gresham Door and Cabinet operate Monday through Friday from 8:00 am to 5:00 pm"*

The applicant later clarified that they frequently start work at 7:00 am and operate occasionally on Saturdays. Hours of operation for Baert's Metal were 7:00 am to 10:00 pm, and they could operate seven days a week (Ref: BA 267-65). The applicant's hours are more limited, and apply to the use of both structures.

- g. The comparative effect on existing flora. *"This property has been in industrial use since about the 1940's. No flora have been removed, damaged or destroyed since the Wood's purchased it. Landscaping has been added and maintained. See photos in Tab 5."*

Historic photographs and plans show that the bulk of the property has been used for industrial purposes. It appears that the pole barn was located in a cleared area that was partially dedicated to outdoor storage and parking in the past. Considering this, the addition of the structure to the property results in no greater adverse impact to vegetation on the property.

- h. The comparative effect on water drainage or quality. *"During the 23 years of Gresham Door and Cabinet's operation at this location we have not had any problems with stormwater run-off; however, we are willing to comply with current requirements as revenue permits. A civil engineer, All County Surveyors, has prepared a stormwater run-off plan. Please see plan in Gresham Door and Cabinet binder, Tab 4. Implementation of this plan will cost approximately \$ (to be determined). Current cash flow will not cover this work so we propose to complete this work by May 2013 or prior to the sale of the property as an industrial property, whichever comes first."*

The subject property is relatively small at eight tenths of an acre and the site plan shows that the shop, pole barn, septic system, parking, loading and drive areas cover most of the property. Adding the pole barn increased the amount of impervious surface, reducing the area where storm run-off could infiltrate. The County requires property owners manage run-off on their property for a 10 year, 24 hour storm. This is intended to prevent off-site drainage impacts. While we appreciate the applicant's observations that there have never been any stormwater problems, the engineer they hired to evaluate the site indicates that an on-site system is needed to meet the County standard. The engineer, Ray Moore, PE, with All County Surveyors, noted this when completing the County stormwater certificate and put together specifications for constructing two drainage swales to handle the run-off (Exhibit A14). Provided the applicant constructs the swales in accordance with the specifications, there will be no greater adverse impact to storm drainage as a result of the new impervious surfaces.

The applicant's constructed a bathroom in the pole building, which they connected to the septic system. It is shown on the floor plans for the structure and will remain. To ensure that this unpermitted connection didn't compromise the septic system and water quality, the applicant had the system inspected by a contractor (Exhibit 15) and retroactively authorized by the City of Portland Sanitarian, who ensures systems meet DEQ standards (Exhibit 16). Water service is provided by the Pleasant Home Water District, who confirmed service to the property (Exhibit 17).

- i. Other factors which impact the character or needs of the neighborhood. *"Since approximately the 1940's this property has been and continues to be used as industrial property. Its character, appearance and contribution to the community remain the same, with landscaping improvements providing an enhanced appearance."*

No other factors have been considered.

7. To avoid conflicts and ensure safe vehicle movement, County spacing standards for driveway access onto a Rural Arterial Road such as SE Orient Drive is 300 feet. The minimum distance is applied to driveways on the same side of the street as well as driveways that are opposite the site [MCRR 4.300. DCM 1.2.5]. A variance to this standard may be granted if special circumstances apply to the property that do not apply to other property in the same area (e.g. size, shape, or topography); the variance is necessary for the preservation and enjoyment of a substantial property right and to avoid

creating an undue hardship; authorizing the variance will not be materially detrimental to the public welfare or adversely affect development of adjoining properties; and the circumstances are not of the applicant's making [MCRR 16.000 and 16.200].

Assessment maps show that the subject parcel and properties to the north and south are smaller than most in the area (Exhibit A18). The parcel to the south, Tax Lot 1100, accesses SE Orient Drive at a point coterminous with the southeast corner of the applicant's property (Exhibit A19). This means that the applicant would need to locate their access 300' to the north in order to meet access spacing standards. However, due to its small size the subject parcel only has 226' of frontage. Applying the standard would prevent access to the parcel from SE Orient Drive. This is the only road adjacent to the parcel. Prohibiting access would severely impede the development of the property creating undue hardship considering that the applicant has enjoyed the use of the existing substandard access. Further, one driveway access per property is the County's standard for approval (MCRR 4.200). A site plan dated 2/26/1963 from the first land use application filed by Baert Metal shows the property's access onto SE Orient in the same location as it is today (Exhibit A20). This predated the applicant's acquisition of the property. The subject parcel was divided out of the property to the north on March 1, 1971³. This is also prior to the date the applicant acquired the property and demonstrates that circumstances resulting in the creation of a parcel that lacks frontage sufficient to meet current driveway spacing standards was not of the applicant's making. Photographs included in the case record show that this stretch of SE Orient Drive is relatively straight providing good sight lines to the north and south and there is no evidence that the access "as is" constitutes a hazard to the public. Property on the opposite side of the subject site possesses access further to the north, opposite Tax Lot 1300, so allowing the driveway for the subject parcel to remain in its present location will not impede their ability to obtain access onto Orient Drive. For these reasons the applicant's parcel qualifies for a variance to the spacing standard.

8. Evidence in the record shows that the property is a lot of record, having satisfied applicable zoning and land division regulations in effect at the time it was created (MCC 35.005(L)(13)). This is relevant insofar as the County cannot issue permits for further development on properties that were improperly created (MCC 37.0560). The property owner obtained County approval in 2006 (File T2-06-074) to adjust the property line between the subject property (TL 1200) and the property to the north, where the cabins are located (TL 1300). They own both properties. The adjustment was needed so that the pole barn would be located on Tax Lot 1300 in conformance with setbacks. The County decision approving the adjustment contains findings explaining how the two tax lots qualify as lots of record, and is; therefore, suitable evidence that the Lot of Record requirements have been satisfied. Deeds must be recorded to complete the adjustment, and from assessment records it does not appear that the owner has taken this step. Land use planning staff stamped legal descriptions for the parcels as compliant with the County decision on February 5, 2007. The stamped descriptions must be incorporated into a deed and recorded to complete the adjustment. The property line adjustment decision requires this to occur prior to October 25, 2008. A requirement that the adjustment be completed by this date and prior to issuance of building permits is included as a condition of approval.
9. At some point a gravel access was constructed across the south property line, tying into a residential driveway on the neighboring property. A 2004 aerial photograph and recent pictures of the site illustrate its location. This access is not shown on plans of past approvals for Baert's Metal (ref: 2/26/63 plan) and the applicant has indicated that they do not have an easement right to use the neighboring driveway. Authorization from that owner would be required to permit a driveway

⁽³⁾ A gift deed for the property to the north, Tax Lot 1300, was recorded March 1, 1971 (Book 774, Page 1252). This left the subject property as the balance of what was then Tax Lot 95.

connection (MCC 37.0550). The applicant is not seeking to permit access at this location and provided a site plan that shows the business using the driveway on the subject site. Accordingly, the access across the south property line needs to be removed.

10. In their application, the applicant expresses a willingness to make changes to the property to meet County requirements but asks they be given several years to complete the work. County decisions expire within 2 years unless permits have been obtained for the required work (MCC 37.0700). Notwithstanding this provision, the code authorizes the decision maker to set an alternate date in the decision (MCC 37.0700(B)). This decision sets a 4 year expiration date, to provide the applicant additional time to make the required improvements. This timeframe is consistent with the rules that apply to residential development on farm and forest zoned lands and is; therefore, not without precedent (MCC 37/0690(B)).
11. On June 27th, 2008 public notice was mailed to surrounding property owners, neighborhood associations, and other interested parties as required by MCC 37.0530. The notice included a brief description of the application and listed the applicable approval standards and recipients were given 14 days to provide comments. No comments were received.

Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for verification and expansion of the non-conforming door and cabinet making business and variance to access spacing standards of the county road rules. The application is approved subject to the conditions established in this report.

Exhibits

A copy of the site plan and floor plan are attached. All other materials submitted by the applicant, prepared by county staff, or provided by public agencies or members of the general public relating to this request are hereby adopted as exhibits hereto and may be found as part of the permanent record for this application. Exhibits referenced in this decision are described below:

<u>Label</u>	<u>Pages</u>	<u>Description</u>
A1	1	Site plan received April 24, 2008
A2	1	Floor plan received April 21, 2008
A3	3	Statement from Mr. and Mrs. John Baert from County permit BA 267-65
A4	2	Site from 1959 application to the County to expand the non-conforming business, MC 88-59
A5	1	County non-conforming card for the property
A6	1	1986 County field inventory map showing the property
A7	2	April 14, 2008 letter from Joan and Larry Wood
A8	1	October 7, 2007 letter from Debbie (Salisbury) Halvorsen
A9	1	September 24, 2007 letter from Rawley Burns, President, Burns Feed Store
A10	1	Permit coversheet for the residential/farm storage pole building
A11	2	April 17, 2008 letter from Joan and Larry Wood
A12	6	2008 photographs of the property
A13	1	June 17, 2008 letter from Joan and Larry Wood
A14	5	November 6, 2007 letter from Ray Moore, PE, with attachments

A15	1	On-site wastewater system report, Byers Septic Tank Service, dated August 20, 2007
A16	2	Certification of On-Site Sewage Disposal, City of Portland Sanitarian, received June 20, 2008, with map
A17	1	Certification of Water Service, Pleasant Home Water District, received April 21, 2008
A18	1	Assessment and Taxation map of the property
A19	1	2004 Aerial photograph of the property
A20	1	Site plan for Baert's Metal, dated February 26, 1963