



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: T2-09-037

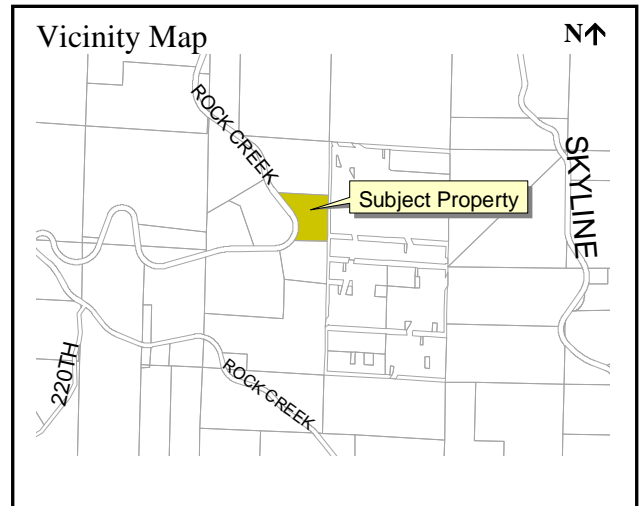
Permit: Significant Environmental Concern Permit

Location: 14700 NW Rock Creek Road
Portland, OR 97231
Tax Lot 00400, Section 26A
Township 02 N, Range 02 W, W.M.
R972260440

**Applicants/
Landowners:** Ron and Jennifer Rich

Base Zone: Commercial Forest Use-2 (CFU-2)

Overlays: Significant Environmental Concern Permit
for Wildlife Habitat



Summary: Application for a Significant Environmental Concern Permit for wildlife habitat to construct a 900 square foot (30'X30') barn on property zoned Commercial Forest Use-2 (CFU-2).

Decision: Approved with conditions.

Unless appealed, this decision is effective September 18, 2009 at 4:30 PM.

Issued by:

By: _____
Joanna Valencia, Planner

For: Karen Schilling- Planning Director

Date: Friday, September 4, 2009

Instrument Number for Recording Purposes: # 2005120527

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 Joanna Valencia, Staff Planner at 503-988-3043, ext. 29637.

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 September 18, 2009 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 33.2220(T) Allowed Uses, MCC 33.2250 Building Height Requirements, MCC 33.2256 Forest Practices Setbacks and Fire Safety Zones, MCC 33.2261 Development Standards for Dwellings and Structures, MCC 33.2273 Access, MCC 33.2275 Lot of Record, MCC 33.4510 Uses; SEC Permit Required, MCC 33.4520 Application for SEC Permit, MCC 33.4570 Criteria for Approval of SEC-h Permit -Wildlife Habitat, Chapter 37 Administration and Procedures.

Copies of the referenced Multnomah County Code (MCC) 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 (2) 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. After the decision is final and prior to building permit sign-off, 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 (Exhibit A.9). 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. The structure shall have a fire retardant roof and this shall be noted in the plans prior to building plan sign-off [MCC 33.2261(C)].
3. As shown in the submitted site (Exhibit A.9) plan a minimum 30 foot primary fire safety zone is provided around the proposed pole barn. The fire safety zone shall be maintained and 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 within the primary fire safety zone should be kept less than 2 feet in height [MCC 33.2256(D)(1)].

4. The applicant shall not plant any of the nuisance plants listed in the Table provided in MCC 33.4570(B)(7) anywhere on the subject property and shall keep the plants from being established on-site [MCC 33.4570(B)(7)].
5. The landowner shall acquire a driveway permit for the site's access onto Rock Creek Road prior to building plan sign-off. The Multnomah County Road Rules requires a permit for all new driveway approaches to roads under County jurisdiction. Please contact Alan Young at (503) 988-3582 for more information on how to obtain a driveway permit. [MCRR 18.250]

Note: Once this decision is final, application for building permits may be made with the City of Portland. When ready to have building permits signed off, the applicant shall call the Staff Planner, Joanna Valencia, at (503) 988-3043 ext. 29637, 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 Portland. Five (5) 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.

Notice to Mortgagee, Lien Holder, Vendor, or Seller:

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

Findings of Fact

FINDINGS: Written findings are contained herein. The Multnomah County Code (MCC) criteria and Comprehensive Plan Policies are in **bold** font. Staff analysis and comments are identified as ‘**Staff:**’ and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

1.00 Project Description:

Staff: The applicant is proposing to construct a 900 square foot (30’X30’) pole barn to be used as a four stall horse barn with a center aisle for horses and hay storage. The proposed structure is located within 100 feet of the existing single family residence.

2.00 Commercial Forest Use-2

§ 33.2220 ALLOWED USES

(T) Accessory Structures:

(1) Other structures or uses listed below when customarily accessory or incidental to any use permitted or approved in this district.

- (a) Garages or carports;**
- (b) Pump houses;**
- (c) Garden sheds;**
- (d) Workshops;**
- (e) Storage sheds;**
- (f) Greenhouses;**
- (g) Woodsheds;**
- (h) Shelter for pets, horses or livestock and associated buildings such as: manure storage, feed storage, tack storage, and indoor exercise area;**
- (i) Swimming pools, pool houses, hot tubs, saunas, and changing rooms;**
- (j) Sport courts;**
- (k) Gazebos, pergolas, and detached decks;**
- (l) Fences, gates, or gate support structures; and**
- (m) Similar structures.**

(2) If the accessory structure is a building, then to be an “allowed use” the foot print of the building in combination with the foot-print of all other accessory buildings on the property shall not exceed 2500 square feet.

(3) If the accessory structure has a bathroom or kitchen facilities, then prior to issuance of the building permit the property owner shall record a deed restriction with County Records that states that the owner under-stands and agrees that the structure cannot be occupied as a dwelling.

(4) Buildings in conjunction with farm uses as defined in ORS 215.203 are not subject to these provisions.

Staff: This is an application for an accessory structure qualifying as an allowed use under Multnomah County Code (MCC) 33.2220(T)(1)(h). As mentioned above, this is an application for a pole barn to be used as a four stall horse barn with a center aisle for horses and hay storage. The proposed structure is 900 square feet. The combination of the footprint of the new pole barn building with the existing accessory buildings on the property does not exceed the 2500 square foot threshold. *This criterion is met.*

§ 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 proposed maximum height of the structure is 13 feet. *This criterion is met.*

§ 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)
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 required
Less than 20	50 additional
Less than 25	75 additional
Less than 40	100 additional

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

Staff: As shown in the submitted site plan (Exhibit A.9) a minimum 30 foot primary fire safety zone is provided around the proposed pole barn that is located within 100 foot from the existing dwelling. A condition has been included that requires that the safety zone be maintained and that 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. *As conditioned, this criterion is met.*

(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: The application is for an accessory structure located within 100 feet of the existing single family dwelling. As outlined in Table 1 above, a Primary Fire Safety Zone is only required for this structure and a Secondary Fire Safety Zone is not required. *This criterion is not applicable.*

§ 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):

(3) Accessory buildings.

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

Staff: The proposed application is for an accessory building within 100 feet of the existing single family dwelling. The development standards of MCC 33.2261(C) are addressed below.

33.2261 (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 pole barn is proposed to have metal roofing and siding. The structure doesn't have a chimney. A condition of approval has been included requiring that the structure shall have a fire retardant roof. *As conditioned, this standard is met.*

§ 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 subject property abuts and is accessed off of Rock Creek Road, a county right of way. Review of the project finds that an access permit doesn't currently exist for the subject property. The landowner will need to acquire a driveway permit for the site's access onto Rock Creek Road. The Multnomah County Road Rules requires a permit for all driveway approaches to roads under County jurisdiction. Please contact Alan Young at (503) 988-3582 for more information on how to obtain a driveway permit [MCRR 18.250]. A condition has been included requiring an access be obtained prior to building plan review. *As conditioned, this criterion is met.*

3.00 Significant Environmental Concern Permit for Wildlife Habitat

§ 33.4570 CRITERIA FOR APPROVAL OF SEC-H PERMIT -WILDLIFE HABITAT

(B) Development standards:

- (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: As shown in the submitted site plan (Exhibit A.9), a cleared area currently exists on the property in proximity to the existing single family dwelling. The proposed pole building is located within 100 feet of the existing dwelling. No additional areas will be cleared for the development. *This criterion is met.*

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

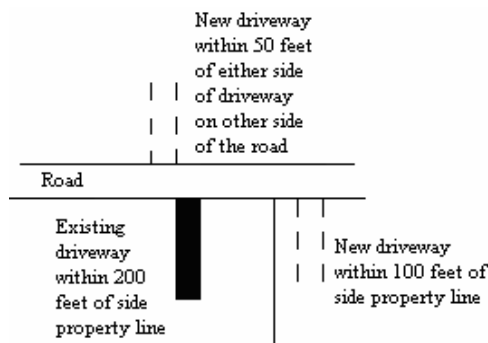
Staff: As indicated in the submitted application, the distance between the proposed development and the nearest public road is 125 feet. *This criterion is met.*

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

Staff: The length of the driveway serving the development is 125 feet. *This criterion is met.*

(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.**
- (c) Diagram showing the standards in (a) and (b) above.**



For illustrative purposes only.

(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: An existing driveway currently exists and serves the subject property. There are no proposed changes to the existing access. No driveway permits were found on record for the subject property, and as addressed under MCC 33.2273 above, an access permit will need to be obtained by the landowner prior to building plan sign-off. *This criterion is not applicable.*

(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: As indicated by the applicant, there are no structures or developed areas within 200 feet of the common side property lines. *This criterion is not applicable.*

(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.

Staff: The proposal doesn't include the installation of any fencing. *This criterion is not applicable.*

(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 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
<i>Loentodon autumnalis</i>	Fall Dandelion

Scientific Name	Common Name
<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 has been included requiring that the listed nuisance plants are not planted and that the property shall be kept clear of such plants. *As conditioned, this criterion is met.*

(C) Wildlife Conservation Plan. An applicant shall propose a wildlife conservation plan if one of two situations exist.

- (1) The applicant cannot meet the development standards of Section (B) because of physical characteristics unique to the property. The applicant must show that the wild-life conservation plan results in the mini-mum departure from the standards required in order to allow the use; or
- (2) The applicant can meet the development standards of Section (B), but demonstrates that the alternative conservation measures exceed the standards of Section (B) and will result in the proposed development having a less detrimental impact on forested wildlife habitat than the standards in Section (B).

Staff: The applicant has demonstrated that the project can meet all the development standards of Section (B) above, therefore a Wildlife Conservation Plan is not needed. *This criterion is not applicable.*

4.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Significant Environmental Concern Permit to establish a 900 square foot pole barn in the Commercial Forest Use-2 (CFU-2) zone. This approval is subject to the conditions of approval established in this report.

5.00 Exhibits

'A' Applicant's Exhibits

'B' Staff Exhibits

'C' Procedural Exhibits

Exhibits with a "*" after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T2-09-037 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	11	Significant Environmental Concern for Wildlife Habitat Permit General Application form	6/11/09
A.2	10	CFU Zone Standard Permit Application	6/11/09
A.3	1	Site Plan	6/11/09
A.4	1	Minimal Impact Calculations	6/11/09
A.5	2	Certification of On-Sewage Disposal	6/11/09
A.6	4	Fire District Review Fire Flow Requirements	6/11/09
A.7	1	Vicinity Map	7/14/09
A.8	1	Project Narrative Response to completeness letter	7/14/09
A.9*	1	Revised Site Plan	7/14/09
A.10	14	Storm Water Certificate and attachments completed by Chris P. Kittredge, P.E.	7/10/09
'B'	#	Staff Exhibits	
B.1	3	A&T Property Information	
B.2	1	A&T Tax Map with Property Highlighted	
'C'	#	Administration & Procedures	Date
C.1	2	Incomplete Letter	7/1/09
C.2	1	Applicant's Acceptance of 180 Day Clock	7/14/09
C.3	1	Complete Letter (Day 1)	7/21/09
C.4	2	Opportunity to Comment	7/22/09