

**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: T2-2010-776

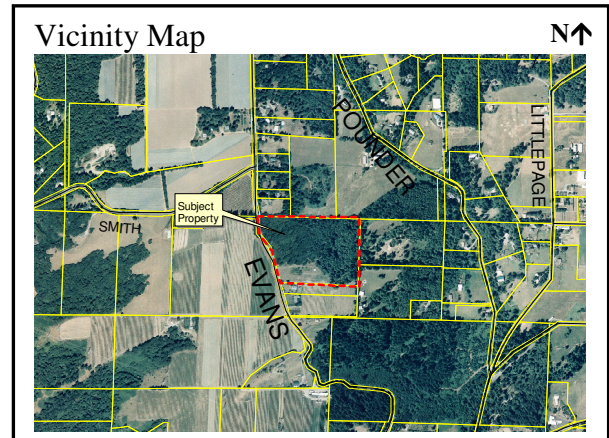
Permit: New Forest Dwelling (Heritage Tract)

Location: 750 SE Evans Road
TL 100, Sec 03A, T1D, R4E, W.M.
Tax Account #R994030910

Applicant: Dale Burkholder
PO Box 305
Corbett, OR 97019

Owner: John and Sandra Adams
6425 SE 15th Avenue
Portland, OR

Base Zone: Commercial Forest Use – 4 (CFU-4)



Summary: The applicant is seeking approval to place a single family dwelling in the Commercial Forest Use – 4 (CFU-4) zone district under the Heritage Tract Dwelling provisions of the CFU-4 district.

Decision: Approved.

Unless appealed, this decision is effective November 23, 2010 at 4:30 PM.

Issued by:

By: _____
Kevin Cook, Planner

For: Karen Schilling- Planning Director

Date: Tuesday, November 9, 2010

Instrument Number for Recording Purposes: #BP16241918

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 Kevin Cook, Staff Planner at 503-988-3043, ext. 26782.

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 November 23, 2010 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): **MCC 35.2240**, Template and Heritage Tract Dwellings; **MCC 35.2245**, Use Compatibility Standards; **MCC 35.2056**, Forest Practices Setbacks and Fire Safety Zones; **MCC 35.2261**, Development Standards for Dwellings and Structures; **MCC 35.2250**, Building Height Requirements; **MCC 35.2273**, Access; **MCC 35.2275**, Lot of Record; **MCC 35.2285**, Off-Street Parking and Loading; **MCC 35.2307**, Single Family Dwellings Condition of Approval – Prohibition on Claims Alleging Injury From Farm or Forest Practices; **MCC Chapter 37**, Administration and Procedures. Multnomah County Road Rules (MCRR): **MCRR 1.000 – MCRR 22.000**.

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 four (4) 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.

Note: Once this decision is final and all “prior to building permit” conditions have been met, 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, 26782, at (503) 988-3043 ext. 26782, for an appointment for review and approval of the conditions and to sign and stamp the building permit plans. Please note, Multnomah County must review and sign off the building permit plans before the applicant submits building plans to the City of Gresham. Three (3) 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.

Conditions of Approval

1. After this decision is final and **prior to building permit sign-off**, the property owner shall record with the County Records the Notice of Decision cover sheet through the conditions of approval. The conditions of this 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 property owner shall maintain primary and secondary fire safety zones surrounding the dwelling. The primary fire safety zone (described below) is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure. The primary fire safety zone is increased to 105 feet towards the north and towards the west due to increased slope. [MCC 35.2256]

The secondary fire safety zone (described below) is a fire break extending a minimum of 100 feet in all directions around the primary safety zone. These fire safety zones shall be shown on the site plan for the building permit. [MCC 35.2256]

Within the primary safety zone the trees 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.

Within the secondary fire safety zone, the goal is to reduce fuels so that the overall intensity of any wildfire is lessened. Vegetation shall be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees shall 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. [MCC 35.2256]

3. The proposed dwelling shall:
 - (a) Comply with the standards of the applicable building code or if a mobile home as prescribed in ORS 446.002 through 446.200;
 - (b) 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;
 - (c) A fire retardant roof; and
 - (d) A spark arrester on each chimney.

Prior to starting construction work on the dwelling the property owner shall obtain the required building department permits for the type of construction proposed. It is the property owner's responsibility to confirm that the work performed under the building permit meets the code and that a "final" inspection is completed **prior to occupancy**. [MCC 35.2261(C)]

4. The property owner shall provide an all-weather surface of at least 12 feet in width for a driveway which supports a minimum gross vehicle weight (GVW) of 52,000 lbs with an unobstructed vertical clearance of at least 13 feet 6 inches. If there are any culverts installed under the driveway the property owner shall submit a Registered Professional Engineer certification that the culvert will support a minimum gross vehicle weight (GVW) of 52,000 lbs. The property owner shall provide a turnaround with a radius of 48 feet or greater at the end of access driveway. For the safe and convenient passage of vehicles, the property owner shall provide a turnout measuring 20 feet by 40 feet along the driveway at a maximum spacing of 1/2 the driveway length. The overall driveway grade shall not exceed 8 percent, with a maximum of 12 percent on short segments unless written approval from the fire protection service provider having responsibility provides for an exception. A final driveway/access inspection is required **prior to occupancy** of the dwelling. [MCC 35.2261(E)]
5. For any portion of the driveway that will serve two or more dwellings the driveway shall be a minimum of 20 feet in width. A final driveway/access inspection is required **prior to occupancy** of the dwelling. [MCRR 4.400]
6. The statement, in Exhibit B12 shall be recorded with County Records **prior to building permit sign-off**. This statement confirms that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices. [MCC 35.2307].
7. **Prior to building plan sign-off** the property owner shall abandon the northern, non-permitted access in accordance with the County Right-of-Way office. [MCC 35.2273]
8. **Prior to any soil disturbance** related to the proposed development, the property owner shall obtain a Grading and Erosion Control Permit unless property owner submits evidence that demonstrates that the proposed project meets the requirements for a Minimal Impact Project. [MCC 29.336]

9. **Prior to building permit sign-off** the property owner shall plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules. [MCC 35.2240(B)(4)(b)]
10. The property owner shall submit a stocking survey report to the county assessor and the assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules. [MCC 35.2240(A)(6)(b)]
11. The dwelling shall be no taller than 35 feet. [MCC 35.2250(A)]
12. The county preferred right-of-way for Rural Collector roadway is 60 feet. Currently, 40 feet of right-of-way exists adjacent to Tax Lot 100 for SE Evans Road. Prior to building plan sign-off the property owner shall dedicate sufficient right-of-way to achieve 60 feet from the centerline of SE Evans Road, where needed. This dedication is estimated to be 10 feet. This dedication will be used to facilitate improvements to the roadway in order to serve growing travel demand, which will be generated by this proposed action. Contact Pat Hinds at (503) 988-3712 for more information on this dedication requirement. [MCRR 6.200]
13. The driveway serving the site shall have a 20-ft wide paved approach to SE Evans Road, a county road. This paved approach will be measured from the edge of pavement of SE Evans Road. It must not create any drainage problems along the County Road. This paved approach will help to protect the County Road from debris from the driveway, and will improve the safety of this access. Please contact Alan Young, Right-of-Way Specialist at (503) 988-3582 regarding this requirement.

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, Kevin Cook at (503) 988-3043 ext. 26782, 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 (3) 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.

NOTICE OF APPEAL HEARING
CASE FILE T2-2010-776

If an appeal of this decision is filed, a public hearing will be held on December 3, 2010. The hearing will begin at 9:00 AM or soon thereafter.

The hearing will take place in Room 103 at the Land Use Planning Division office located at 1600 SE 190th Avenue, Portland, OR 97233. If no appeal is filed, a notice canceling this hearing will be posted on the outside of the Yeon Annex Building doors. You can also call the receptionist at 503-988-5050 option '0' to inquire on the status of the hearing.

The Hearing shall be regarding the application for a New Forest Dwelling on property known as 750 SE Evans Road. Applicable criteria are listed on page 2 of the Decision.

This Decision serves as the staff report available at the hearing pursuant to MCC 37.0620(D). Copies of the referenced Multnomah County Code sections and staff report can be obtained by contacting our office at 503-988-3043 or by visiting our website at <http://www.co.multnomah.or.us/landuse>

Any issue that is intended to provide a basis for an appeal to the Land Use Board of Appeals (LUBA) must be raised prior the close of the public record. Issues must be raised and accompanied by statements or evidence sufficient to afford the County and all parties an opportunity to respond to the issue.

A public hearing to consider any appeal will be conducted before one of the following County Hearings Officer's:

Joan Chambers
Liz Fancher

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 requests an approval for New Forest Dwelling (Heritage Tract Dwelling) in the Commercial Forest Use - 4 (CFU-4) Zone District in the East of the Sandy River Plan Area.

2.00 Property Description & History:

Staff: The subject property is a 20.06 acre tract located along SE Evans Road (Exhibit B.1 and B.5). The dwelling is proposed to be located approximately 345 feet from the SE Evans Road right-of-way. There is currently an agricultural barn located approximately 425 feet from the SE Evans Road right-of-way and 80 feet from the proposed dwelling location (see site plan, Exhibit A2). The tract is currently planted in approximately half an acre of Christmas trees (Exhibit B.8) and is assessed as agricultural land according to County Assessment and Taxation records (Exhibit B.1).

There is an existing approved access off of SE Evans Road located adjacent to the south property line of the subject tract. The approved access is associated with a 10 foot wide driveway that provides access to the subject tract as well as to a dwelling located on the neighboring property to the east (834 SE Evans Road). There is a second non-approved driveway located 150 feet north of the approved access on the subject tract; the northern access is proposed to be removed (Exhibit A.1 and A.4).

Properties located to the east of the subject tract are also within the CFU-4 zone district, while properties located to the west, south, and northeast are located within the Exclusive Farm Use (EFU) zone district. Properties to the north along SE Evans Road are located within the Multiple Use Agriculture – 20 (MUA-20) zone district and tend to be smaller residential lots of about 2 acres on average (Exhibit B.4 and B.5).

Nearly all of the parcels in the area that are east of SE Evans Road contain single family dwellings and contain a mix of forested areas and open fields. The EFU properties west of SE Evans Road are primarily agricultural fields that are in active cultivation (Exhibit B.5).

3.00 CFU Lot of Record:

3.1. CFU Lot of Record

MCC 35.2275(A) In addition to the *Lot of Record* definition standards in MCC 35.0005, for the purposes of this district a Lot of Record is either:

- (1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990
- (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 owner-ship 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.

Lot Of Record Definition

MCC 35.0005 Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Re-cord is a parcel, lot, or a group thereof that, when created or reconfigured, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) complies with the criteria for the creation of new lots or parcels described in MCC 35.7785. 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 Re-cord for the siting of a dwelling in the EFU and CFU districts.)
- (c) Separate Lots of Record shall be recognized and may be partitioned congruent with an “acknowledged unincorporated community” boundary which intersects a Lot of Record.
 1. Partitioning of the Lot of Record along the boundary shall require review and approval under the provisions of the land division part of this Chapter, but not be subject to the minimum area and access requirements of this district.
 2. An “acknowledged unincorporated community boundary” is one that has been established pursuant to OAR Chapter 660, Division 22.

Staff: The Applicant submitted a copy of deed filed with County Records on April 26, 1961 in Book 2079 on Page 574 (Exhibit A.5). The parcel is shown in the same configuration on county’s earliest zoning maps from 1962 (Exhibit B.3). The 20.06 acre tract was in the F2 zone at that time, which had a 2 acre minimum lot size. A&T property information indicates that none of the three contiguous CFU properties were in the same ownership on February 20, 1990, so the parcel is not aggregated with any other properties. *The subject parcel is a Lot of Record.*

4.00 Heritage Tract Dwelling

4.1 MCC 35.2240(B) A *heritage tract dwelling* may be sited, subject to the following:

(1) On a tract:

(a) That is not developed with a single family residence, and

Staff: The tract consists of the single subject property and no other lots or parcels. The subject tract is not developed with a single family residence. *The criterion is met.*

4.1.2 (b) That is not capable of producing 5,000 cubic feet per year of commercial tree species based on soil type, and

Staff: Based on County soil maps (Exhibit B.7), the 20.06 acre tract is comprised of soils that have a maximum annual yield of 125 CF/Acre. Based on this figure, the tract is capable of producing a maximum of 2507.5 CF/Acre per year. The tract is not capable of producing 5,000 cubic feet per year based on soil type. *The criterion is met.*

4.1.3 (c) That is located within 1,500 feet of a dedicated public right-of-way that provides or will provide access to the subject tract. The road within the public right-of-way shall be maintained to the standards set forth in the County Right-of-Way Access Permit and be, as applicable, either paved or surfaced with rock. The road shall not be:

1. A U.S. Bureau of Land Management road; or

2. A U.S. Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.

Staff: The subject tract abuts a public right-of-way maintained by Multnomah County. There is an existing approved access to the tract that will serve the proposed dwelling. *The criterion is met.*

4.1.4 (d) For which deeds or other instruments creating the lots or parcels were recorded with the County Recorder, or were in recordable form prior to January 1, 1985;

Staff: The subject tract was created on or before April 26, 1961; see finding under Section 3 above. *The criterion is met.*

4.1.5 (e) That is comprised of lots or parcels that were lawfully created and pursuant to the definition of “Date of Creation and Existence” in MCC 35.0005, if the lot, parcel or tract does not qualify for a dwelling under the standards in MCC 35.2240(B), any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the criteria for a new dwelling;

Staff: The subject tract was lawfully created on or before April 26, 1961; see finding under Section 3 above. The tract is in the same configuration as it was on April 26, 1961. *The criterion is met.*

4.1.6 (f) Notwithstanding the same ownership grouping requirements of the Lot of Record section, the tract was acquired and owned continuously by the present owner:

1. Since prior to January 1, 1985; or

2. By devise or by intestate succession from a person who acquired the lot or parcel since prior to January 1, 1985.

3. For purposes of this subsection, “owner” includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.

Staff: The tract was obtained by John Q. Adams and Sandra Adams on April 6, 1982 as indicated by Book 1589, and Page 281 of the Multnomah County Deed Records (Exhibit A.6). *The criterion is met.*

4.1.7 (g) Where the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, that no dwelling exists on another lot or parcel that was part of that tract.

Staff: The subject parcel has not been a part of a tract at any point since its creation on April 26, 1961. *The criterion is met.*

4.2 (2) When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling shall be consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.

Staff: The tract is not located within a designated big game habitat area. *The criterion is met.*

4.3 (3) When the tract on which the dwelling will be sited consists of more than one lot or parcel, the remaining lots or parcels shall be consolidated into a single lot or parcel prior to the issuance of any development permits.

Staff: The tract consists of the single subject property and no other lots or parcels; therefore the tract is already consolidated. *The criterion is met.*

4.4 (4) Prior to the issuance of any development permits the owner of the tract shall plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules, provided, however, that:

(a) The Transportation and Land Use Planning Department shall notify the County Assessor of the above condition at the time the dwelling is approved;

Staff: Condition 11 requires the property owner to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet ODF stocking requirements. The

Land Use and Transportation Program will notify the County Assessor of the above condition at the time the dwelling is approved. *As conditioned, the criterion is met.*

- 4.4.1 (b) The property owner shall submit a stocking survey report to the County Assessor and the Assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules. The Assessor will inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report or where the survey report indicates that minimum stocking requirements have not been met;**

Staff: Condition 10 requires the property owner to submit a stocking survey report to the county assessor. The assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules. *As conditioned, the criterion is met.*

- 4.4.2 (c) Upon notification by the Assessor, the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the Department of Forestry determines that the tract does not meet those requirements, it will notify the owner and the Assessor that the land is not being managed as forest land. The Assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax pursuant to ORS 321.372;**

Staff: Condition 10 requires the property owner to submit a stocking survey report to the county assessor. The assessor will verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules. *As conditioned, the criterion is met.*

- 4.5 (5) The dwelling meets the applicable development standards of MCC 35.2256 and 35.2261.**

Staff: The proposed dwelling meets the development standards of MCC 35.2256 and 35.2261 (see findings under Sections 7 and 8 below). *The criterion is met.*

5.00 Use Compatibility Standards

- 5.1 35.2245(B) Single family dwellings as specified in MCC 35.2225 (B) may be allowed upon a finding that they will not significantly impact open space, public facilities, wildlife habitat, and rural community character.**

Staff: The proposed dwelling is not expected to result in significant impacts to open space, public facilities, or wildlife. Additionally, the single family dwelling will be sited in area that has other single family dwellings located on rural acreage lots and is therefore conforming to the rural community character of the area. *The criterion is met.*

6.00 Building Height Requirements

- 6.1 35.2250(A) Maximum structure height – 35 feet.**

Staff: Condition 11 requires the dwelling to be no more than 35 feet tall. *As conditioned, the criterion is met.*

7.00 Forest Practices Setbacks and Fire Safety Zones

- 7.1. **MCC 35.2256: 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)
Heritage Tract Dwelling	N/A	30	130	Primary & Secondary required

Staff: The proposed dwelling meets the Forest Practice setbacks (Exhibit A.2) with the proposed front-yard setback of approximately 345 feet, the rear-yard setback 610 feet, the north side-yard setback about 560 feet and the south side-yard setback at 210 feet. The Fire Safety Zones are addressed in Section 7.3 below. *The criteria are met.*

- 7.2. **MCC 35.2256(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.**

Staff: In an email dated August 19, 2010 (Exhibit A.2) Joanna Valencia, County Transportation Planner, states that 10 feet of additional right-of-way dedication is required along the tract’s frontage with SE Evans Road. Given there is an additional dedication needed, the setback abutting the road needs to be increased by 10 feet. Condition 12 requires the dedication of 10 of right-of-way prior to the building plan sign off. *As conditioned, the criterion is met.*

7.3. Fire Safety Zones on the Subject Tract

7.3.1. MCC 35.2256(D) (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: The soils map (Exhibit B.7) shows that the building site will be on a slope of less than 10 percent. Slopes adjacent to the building site towards the north and towards the west are between 10 percent and 25 percent; therefore, the primary fire safety zone is increased from 30 feet to 105 feet to the north and to the west. Slopes adjacent to the building site towards the east and towards the south are less than 10 percent; therefore, no extension of the primary fire safety zone is required towards the east or towards the south. Condition 2 requires a primary fire break to be maintained for the tract. *As conditioned, the criterion is met.*

- 7.3.2. MCC 35.2256(D)(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 applicant's site plan shows the proposed dwelling site will meet the required forest practice setbacks as required:

Front-yard required (west) = (205 feet plus 10 feet of future additional right-of-way width) = 215 feet. Proposed distance to front property line = 345 feet.

Rear-yard required (east) = 130 feet. Proposed distance to rear property line = 610 feet.

South side-yard required = 130 feet. Proposed distance to south property line = 210 feet.

North side-yard required = 180 feet. Proposed distance to the north property line = 560 feet.

The required forest practice setbacks will be located on the subject tract. Condition 2 requires the fire safety zones to be established and maintained by the property owner. *As conditioned, the criterion is met.*

8.00 CFU Development Standards for Dwellings and Structures

- 8.1 MCC 35.2261:** All dwellings and structures shall comply with the approval criteria in (B) through (E) below except as provided in (A):

Staff: MCC 35.2261(B) through (E) are addressed in the following findings (MCC 35.2261(A) addresses existing dwellings).

- 8.2. MCC 35.2261(B) New dwellings, replacement dwellings greater than 100-feet from an existing dwelling, and accessory buildings (or similar structures) greater than 100-feet from a dwelling shall meet the following standards in (1) and (3) or (2) and (3):**

Staff: The proposed development is a new dwelling. *Findings below demonstrate that standards in (2) and (3) are met.*

- 8.2.1. (2) The structure shall satisfy the following Option 2, Discretionary Type 2 Permit requirements:**

- (a) It has the least impact on nearby or adjoining forest or agricultural lands and satisfies the standards in MCC 35.2256;**

Staff: The dwelling will be located in an existing clearing that is at least 210 feet from the nearest property and is not expected to impact existing agricultural or forestry operations in the area.

- 8.2.2 (b) Adverse impacts on forest operations and accepted farming practices on the tract will be minimized;**

Staff: The dwelling will be located in an existing non-cultivated clearing and is not expected to impact the existing farming nor any future forest operations on the tract.

- 8.2.3 (c) The amount of forest land used to site the dwelling or other structure, access road, and service corridor is minimized;**

Staff: The proposed dwelling will be located in an existing clearing and the access road is existing.

- 8.2.4 (d) Any access road or service corridor in excess of 500 feet in length is demonstrated by the applicant to be necessary due to physical limitations unique to the property and is the minimum length required; and**

Staff: The applicant's driveway will be 475 feet long between SE Evans Road and the Dwelling site.

- 8.3 MCC 35.2261(B)(3) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:**

- (a) The proposed dwelling will be located upon a tract within a fire protection district or the dwelling shall be provided with residential fire protection by contract;**
(b) Access for a pumping fire truck to within 15 feet of any perennial water source of 4,000 gallons or more within 100 feet of the driveway or road on the lot. The access shall meet the driveway standards of MCC 33.2261(E) with permanent signs posted along the access route to indicate the location of the emergency water source;

Staff: The proposed dwelling is within the Corbett Rural Fire Protection District. The applicant has submitted Fire District Fire Access signed by the Fire Chief (Exhibit A.10) approving access. There is no known perennial 4,000 gallon water source on or adjacent to the subject tract. *The applicable standards are met.*

- 8.4. MCC 35.2261(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: Condition 3 requires the dwelling meet these standards.

8.5. MCC 35.2261(D) The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class 1 stream as defined in the Forest Practices Rules.

- (1) If the water supply is unavailable from public sources, or sources located entirely on the property, the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.
- (2) Evidence of a domestic water supply means:
 - (a) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or
 - (b) A water use permit issued by the Water Resources Department for the use described in the application; or
 - (c) Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.

Staff: The applicant has proposed utilizing public water. The Corbett water district indicates that they can serve the tract from a 4 inch diameter water line located on the west side of SE Evans Road.

8.6.1 MCC 35.2261(E) A private road (including approved easements) accessing two or more dwellings, a driveway accessing a single dwelling, a Forest Practices road that is utilized as a private road/driveway accessing a dwelling(s), or a new driveway constructed to access a replacement/restored dwelling, shall be designed, built, and maintained to:

- (1) Support a minimum gross vehicle weight (GVW) of 52,000 lbs. Written verification of compliance with the 52,000 lb. GVW standard from an Oregon Professional Engineer shall be provided for all bridges or culverts;

Staff: Condition 4 requires a driveway with any culvert to meet the 52,000 lb. GVW standard.

8.6.2. (2) Provide an all-weather surface of at least 20 feet in width for a private road and 12 feet in width for a driveway;

Staff: Condition 4 requires that the driveway has been constructed to this standard.

8.6.3. (3) Provide minimum curve radii of 48 feet or greater;

Staff: Condition 4 requires the driveway to be constructed to this standard.

8.6.4. (4) Provide an unobstructed vertical clearance of at least 13 feet 6 inches;

Staff: Condition 4 requires the driveway to be constructed to this standard.

8.6.5. (5) Provide grades not exceeding 8 percent, with a maximum of 12 percent on short segments, except as provided below:

- (a) Rural Fire Protection District No. 14 requires approval from the Fire Chief for grades exceeding 6 percent;**
- (b) The maximum grade may be exceeded upon written approval from the fire protection service provider having responsibility;**

Staff: Condition 4 requires the driveway to be constructed to this standard.

8.6.6 (6) Provide a turnaround with a radius of 48 feet or greater at the end of any access exceeding 150 feet in length;

Staff: Condition 4 requires the driveway to be constructed to this standard.

8.6.7. (7) Provide for the safe and convenient passage of vehicles by the placement of:

- (a) Additional turnarounds at a maximum spacing of 500 feet along a private road; or**
- (b) Turnouts measuring 20 feet by 40 feet along a driveway in excess of 200 feet in length at a maximum spacing of 1/2 the driveway length or 400 feet whichever is less.**

Staff: Condition 4 requires the driveway to be constructed to this standard.

8.5.8. (8) An existing driveway currently being utilized by the habitable dwelling may be extended to a replacement dwelling without compliance with the roadway standards above. However, nothing in this exemption removes the requirements under the county's Fire Apparatus means of Approach Standards contained in MCC 29.012.

Staff: There is no existing dwelling on the tract. *This standard is not applicable.*

9.00 Off Street Parking and Loading

9.1 35.2285 Off-street parking and loading permitted as an accessory use shall be provided as required by MCC 36.4100 through 36.4215.

Staff: The proposed site plan shows enough area to meet the off-street parking requirements (Exhibit A.2). *The criterion is met.*

10.00 Single Family Dwellings Condition of Approval – Prohibition On Claims Alleging Injury From Farm or Forest Practices

10.1 MCC 35.2307 As a condition of approval of a single family dwelling, the landowner for the dwelling shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

Staff: Condition 6 requires that prior to County sign-off for the building permit, the property owner will provide a copy of the covenant that has been recorded at County Records (Exhibit B.12).

11.00 Transportation Standards

11.1 MCRR 4.000 Access to County Roads

4.200 Number: Reducing the number of existing and proposed access points on Arterials and Collectors and improving traffic flow and safety on all County roads will be the primary consideration when reviewing access proposals for approval. One driveway access per property will be the standard for approval. Double frontage lots will be limited to access from the lower classification street. Shared access may be required in situations where spacing standards cannot be met or where there is a benefit to the transportation system.

Staff: The subject tract is currently served by two driveways. There is an existing approved access off of SE Evans Road located adjacent to the south property line of the subject tract. The approved access is associated with a 10 foot wide driveway that provides access to the subject tract as well as to a dwelling located on the neighboring property to the east (834 SE Evans Road). There is a second non-approved driveway located 150 feet north of the approved access; the northern access is proposed to be removed (Exhibit A.1 and A.4). Condition 8 requires the closure of the non permitted northerly driveway.

11.2 4.400 Width: Driveway and Accessway widths shall conform to the dimensions laid out in the Design and Construction Manual.

Staff: The existing 10-foot wide driveway serves an existing dwelling on a different lot (Tax Lot 100 to the east). The proposed dwelling will utilize the same existing 10 foot wide driveway for a distance of 200 feet before branching off towards the proposed dwelling. For the first 200 foot shared portion of the driveway, the driveway width must be increased to 20 feet. Condition 5 requires any portion of a driveway on the subject tract that will serve 2 or more dwellings to be a minimum of 20 feet wide. *As conditioned, the criterion is met.*

11.3 5.000 Transportation Impact

5.100 To determine if a Transportation Impact is caused by a proposed development, the County Engineer will determine the number of new trips generated by a site by one of the following methods:

A. Calculations from the most recent edition of the Institute of Transportation Engineers' Trip Generation (ITE); or

B. A site development transportation impact study conducted by a professional engineer registered in the State of Oregon and accepted by the County.

5.200 The County Engineer will use the information obtained pursuant to sub-section 5.100 and/or the frontage length of the subject property to determine the pro-rata share of the requirements set forth in Section 6.000.

5.300 Except where special circumstances require the County Engineer to make an alternate determination, any new construction or alteration which will increase the number of trips

generated by a site by more than 20 percent, by more than 100 trips per day or by more than 10 trips in the peak hour shall be found to have a *Transportation Impact*. A minimum increase of 10 new trips per day is required to find a transportation impact.

Staff: The Multnomah County Road Rules defines a Transportation Impact as the affect of any new construction or alteration which will increase the number of trips generated by a site by more than 20 percent, by more than 100 trips per day or by more than 10 trips in the peak hour [MCRR 3.000]. A minimum increase of 10 new trips per day is required to find a transportation impact.

According to the ITE Manual, 8th Edition, a single family dwelling generates ten trips per day. The subject tract is not developed with housing; therefore, a transportation impact will be caused by the proposed development since trips generated by the site will be increased by more than 20 percent.

11.4 6.000 Improvement Requirements

6.100 Site Development: The owner of the site or the applicant for a proposed development, which is found to cause a Transportation Impact will be responsible for improvements to the right-of-way as follows:

A. Dedication Requirement***

Staff: The County standard right of way width for a Rural Collector facility is 60 feet. The applicant is required to dedicate 10 feet in order to achieve a proportional share of this standard (see Condition 12). This right of way will be used to improve the roadway to serve growing travel demand, which in part will be generated by this proposed action.

Evans Road is a County road with a Rural Collector Functional Classification. The applicant proposes to build a single-family residence on the tract and use an existing driveway to access the proposed development. The driveway will access a total of two single family residences.

Evans Road does not meet the County's standard for a Rural Collector Road. The County's standard for Rural Collector Roads includes two 12-foot wide paved travel lanes, 6-foot shoulders and drainage on each side. A right-of-way width of 60 feet is required for the Rural Collector road classification.

According to the Institute of Transportation Engineers, the proposed project will create 10 trips on a daily basis. These additional auto trips will increase the travel demand on the County's transportation system, including this roadway.

The applicant will be required to dedicate 10 feet along the site's frontage to bring the affected roadway right-of-way width up to the current County standards. The standard right-of-way width for a Rural Collector facility is 60 feet. The current right-of-way is 40 feet wide.

Estimates based on existing uses indicate that Evans road accommodates a daily volume of approximately 407 average daily trips (ADT). The proposed project will generate 10 daily trips or 10% of the total estimated ADT with the project. The proposed development will increase this daily traffic load by 2.5%. The proposed driveway will be shared and will service two single family dwellings. Therefore the daily traffic load of the two single family dwellings will be approximately 5%. The applicant is being asked to dedicate 10 feet of right-of-way along their

site's frontage, a distance of approximately 860 feet. Evans Road is approximately 10,291 feet in length and therefore has a frontage length of 20,582 feet. The applicant's required dedication represents 4% of this frontage length.

The right-of-way improvement requirement is roughly proportional to the traffic impacts of the proposed development. The applicant's required dedication of 10 feet of right-of-way is roughly proportional to the increase in trips generated by the proposed development. The applicant will be required dedicate 10 feet of right-of-way along their site's frontage. This dedication allows the County to provide the services necessary to maintain the function of the roadway, and provide adequate facilities.

11.5 B. Frontage Improvement Requirements

Staff: The driveway serving the site must have a 20-ft wide paved approach to SE Evans Road, a county road. This paved approach will be measured from the edge of pavement of SE Evans Road. It must not create any drainage problems along the County Road. This paved approach will help to protect the County Road from debris from the driveway, and will improve the safety of this access (see condition 13).

12.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary to establish a Heritage Tract Dwelling in the CFU-4 zone. This approval is subject to the conditions of approval established in this report.

13.00 Exhibits

'A' Applicant's Exhibits

'B' Staff Exhibits

'C' Procedural Exhibits

Exhibits are available for review in Case File T2-2010-776 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Completed General Application form	7/20/2010
A.2	1	Applicant's site plan	7/20/2010
A.3	1	Applicant's grading and erosion control plan	7/20/2010
A.4	2	Applicant's narrative	7/20/2010
A.5	1	Deed Record: Book 2079, Page 574 of the Multnomah County Records	7/20/2010
A.6	1	Deed Record: Book 1589, Page 281 of the Multnomah County Records	7/20/2010
A.7	3	City of Portland Certificate of Onsite Sewage Disposal	7/20/2010
A.8	1	Certification of Water Service	7/20/2010

A.9	1	Fire District Fire Flow Review form	7/20/2010
A.10	1	Fire District Access Review form	7/20/2010
A.11	5	House plans	7/20/2010
A.12	2	Stormwater certificates	10/24/2010
A.13	10	CFU Zone Development Standards Permit Application Form B, Type	8/10/2010
‘B’	#	Staff Exhibits	Date
B.1	2	A&T property information	7/20/2010
B.2	4	Pre-filing meeting notes	7/20/2010
B.3	1	1962 zoning map	10/27/2010
B.4	1	County zoning map	10/27/2010
B.5	1	Aerial photograph with 10-foot contours	10/27/2010
B.6	1	Slopes map	10/27/2010
B.7	2	Soils map and Productivity Ratings Chart	10/27/2010
B.8	1	Recent aerial print	10/27/2010
B.9	3	Email from Joanna Valencia, County Transportation Planner	8/19/2010
B.10	1	Email from Joanna Valencia, County Transportation Planner	11/9/2010
B.11	1	Agricultural Building Approval for existing barn	10/27/2010
B.12	1	Conditions and Restrictions Acknowledgement Form	10/27/2010
‘C’	#	Administration & Procedures	Date
C.1	1	Complete Letter	8/30/2010
C.2	2	Opportunity to Comment	8/30/2010