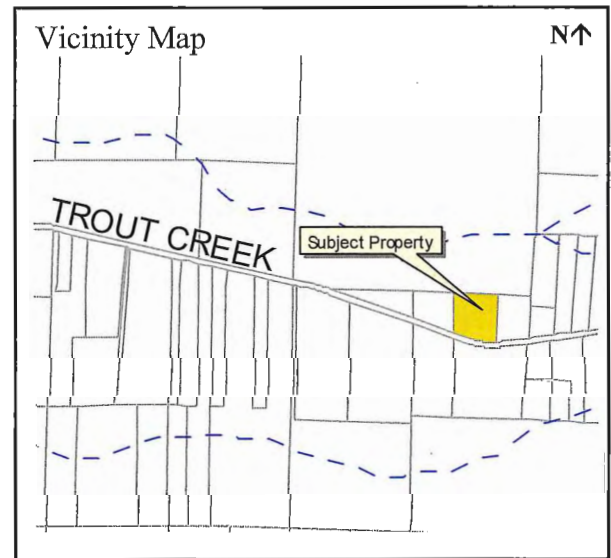


1600 SE 190th Avenue, Portland Oregon 97233-5910 • PH. (503) 988-3043 • Fax (503) 988-3389

NOTICE OF DECISION

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

Case File: T2-2013-3185
Permit: New Forest Dwelling (Template)
Location: 43495 SE Trout Creek Road
Tax Lot 00400, Section 17D,
Township 1South, Range 5 East, W.M
R995170460
Applicants: Jeffery L. Smith
Owners: Jeffrey L. Smith & Cindy M. Smith
Base Zone: Commercial Forest Use -4 (CFU-4)

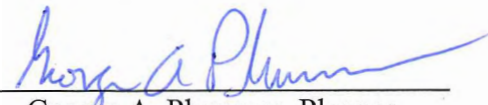


Summary: Request for a New Forest Dwelling (Template Dwelling) permit review approval for a single family dwelling and accessory building on the property in the Commercial Forest use - 4 (CFU - 4) Zone.

Decision: Approved with Conditions

Unless appealed, this decision is effective July 25, 2014, at 4:00 PM.

Issued by:

By: 
George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: Friday, July 11, 2014

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 George Plummer, Staff Planner at 503-988-3043, ext. 29152.

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 July 25, 2014, at 4:00 PM.

Applicable Approval Criteria: Multnomah County Code (MCC) and Multnomah County Road Rules (MCRR): MCC 35.2200 et. al: CFU-4 Zone, MCC 35.2240: Template Dwelling, MCC 35.2261 Development Standards for Dwellings and Structures, MCC 35.2275 Lot of Record, MCRR 4.000 et.al: Access, MCRR 5.000 et. al: Transportation Impact, and MRCC 6.000 et. al: Improvement Requirements.

Copies of the referenced Multnomah County Code (MCC) and Multnomah County Road Rules (MCRR) 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> or <http://web.multco.us/transportation-planning>.

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 pursuant to MCC 37.0690 as applicable. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0695, 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 Land Use Planning signoff for the building permit, the property owners shall submit documentation demonstrating whether or not that the property meets Oregon Department of Forestry (ODF) stocking requirements. If the ODF determines that the tract does not meet stocking requirements, County Land Use Planning will notify the County Assessor that the land is not being managed as forest land. [MCC 35.2240(A)(6)]
2. Prior to Land Use Planning signoff for the building permit, the property owners shall record with County Records a statement 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 35.2240(A)(8)
3. The property owners shall maintain Fire Safety Zones on the subject property as described below [MCC 35.2256(D)]:
 - (a) Primary Fire Safety Zone

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) 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.
4. The property owners shall ensure that the dwelling meets the following:
 - (a) Comply with the standards of the applicable building code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes;
 - (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) Have a fire retardant roof; and
 - (d) Have a spark arrester on each chimney. [MCC 35.2261(C)]
5. Prior to Land Use Planning signoff for the building permit, the property owners 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 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 property owners shall submit the well constructor's report to the county upon completion of the well. [MCC 35.2261(D)]

6. Prior to Land Use Planning signoff for the building permit, the property owners shall apply for a right-of-way Access Permit for a driveway access onto Morgan Road (Contact Alan Young 503-988-35820). [MCRR 4.000]
7. Prior to use of the new driveway, the property owners shall clear vegetation on the site to maintain the 320-foot site distance view from the driveway access point along SE Trout Creek Road as long as the driveway is used. [MCRR 4.500]
8. Prior to Land Use Planning signoff for the building permit, the property owners shall file a deed restriction committing the property owners to participate in future right-of-way improvements (Contact Ken Hoffman at (503) 988-5050 Ext. 22527 to complete the deed restrictions). [MCRR 6.100]

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.

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 George Plummer, Staff Planner at (503) 988-3043 ext. 29152 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 \$61.00 will be collected. In addition, an erosion control inspection fee of \$82.00 may be required.

Findings of Fact

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. PROJECT DESCRIPTION

Staff: A request for a New Forest Dwelling (Template Dwelling) permit review approval for a single family dwelling (manufactured home placement) and accessory building on the property in the Commercial Forest use - 4 (CFU – 4) Zone

2. PROPERTY DESCRIPTION & HISTORY

Staff: The subject property is a vacant parcel located adjacent to and north of SE Trout Creek Road which provides access to the property through a new driveway. The property has a private access driveway crossing it that serves another property. The driveway will not be used as access for the property. The property has a shallow slope of about three to five percent in the proposed dwelling location. The property is 5.28 acres in size.

3. COMMERCIAL FOREST USE – 4 NEW FOREST DWELLING

3.1. Allowed Uses

MCC 35.2220(T)(1): Accessory Structures - Other structures or uses listed below when customarily accessory or incidental to any use permitted or approved in this district located within 100 feet of the dwelling.

(e) Storage sheds;

MCC 35.2220(T)(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.

Staff: The proposal includes a 1728 square foot storage shed. Storage sheds are allowed outright unless they don’t meet this standard. The proposed shed will be more than 100 feet from the dwelling so it is included in review in the following section of this decision.

3.2. Review Uses

MCC 35.2225: The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter:

* * *

(B) The following dwellings:

* * *

(2) A Template Dwelling pursuant to all applicable approval criteria, including MCC 35.2225 but not limited to MCC 35.2240(A);

(L) Structures or uses customarily accessory or incidental to any use permitted or approved in this district, which do not meet the “accessory structures” standard in MCC 35.2220 Allowed Uses.

Staff: The application request is for a Template Dwelling. Findings for the Template Dwelling review criteria listed in MCC 35.2240(A) are below under Section 3.3 of this decision. Additional findings for development standards review for the dwelling and accessory building are in the following section of this decision.

3.3. Template Dwelling

MCC 35.2240(A): A template dwelling may be sited on a tract, subject to the following:

3.3.1. MCC 35.2240(A)(1): The lot or lots in the tract shall meet the lot of record standards of MCC 35.2275.

Staff: A Hearings Officer found the subject property to be a lot of record in the appeal of Case T2-03-026 (Exhibit B.5). *This criterion is met.*

3.3.2. MCC 35.2240(A)(2): The tract shall be of sufficient size to accommodate siting the dwelling in accordance with the development standards of MCC 35.2256 and 35.2261.

Staff: The subject property is large enough to accommodate the proposed dwelling and meet the forest practices setbacks (Exhibit A.2). It is also large enough for the on-site sewage disposal and to meet the storm water disposal standards. *This criterion is met.*

3.3.3 MCC 35.2240(A)(3) The tract shall meet the following standards:

* * *

(c) If the tract is predominantly composed of soils which are capable of producing above 85 cf/ac/yr of Douglas Fir timber; and

- 1.** The lot upon which the dwelling is proposed to be sited and at least all or part of 11 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject tract parallel and perpendicular to section lines; and

2. At least five dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings.
- (d) Lots and dwellings within urban growth boundaries shall not be counted to satisfy (a) through (c) above.
 - (e) There is no other dwelling on the tract,
 - (f) No other dwellings are allowed on other lots (or parcels) that make up the tract;
 - (g) Except as provided for a replacement dwelling, all lots (or parcels) that are part of the tract shall be precluded from all future rights to site a dwelling; and
 - (h) No lot (or parcel) that is part of the tract may be used to qualify another tract for the siting of a dwelling;
 - (i) 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(A), any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the criteria for a new dwelling.
 - (j) Pursuant to the definition of "Date of Creation and Existence" in MCC 35.0005, lots, parcels and tracts that are reconfigured after November 4, 1993 cannot be counted as meeting the "other lawfully created lots" existing on January 1, 1993 standard in MCC 35.2240(A)(3)(a), (b), and (c): 3, 7, and 11 lots respectively.
 - (k) "Within" as used in the context of (a)2., (b)2. and (c)2. shall mean that all of the dwellings or any part of the dwellings are in the 160-acre square.

Staff: The "tract" one property. The property is predominantly composed of soils 9B and 9C (Cazadero silty loam) which are capable of producing above 85 cf/ac/yr of Douglas Fir timber (Exhibit B.4).

The applicant has provided documents verifying six dwellings were lawfully established prior to January 1, 1991 (Exhibit A.10, A.11, A.18 and Exhibit B.3). These six dwelling are located within the 160 acre template centered on the subject property and are listed below:

- 1) 43712 SE Trout Creek Rd. (3/21/73)
- 2) 43601 SE Trout Creek Rd. (9/16/81)
- 3) 43547 SE Trout Creek Rd. (9/30/80)
- 4) 43211 SE Trout Creek Rd. (4/22/87)
- 5) 43400 SE Trout Creek Rd. (7/11/90)

The applicant has submitted a copy of Case CU 0-8 Hearings Officer decision (Exhibit A.20) within which the Hearings Officer found the following nine lots to be lawfully created lots existed on January 1, 1993:

- 1) R995170280 (43800 SE Trout Creek Rd.)
- 2) R995170300 (43712 SE Trout Creek Rd.)
- 3) R995170160 (43900 SE Trout Creek Rd.)
- 4) R995170170 (43905 SE Trout Creek Rd.)
- 5) R995170250 (43547 SE Trout Creek Rd.)
- 6) R995170370 (43950 SE Trout Creek Rd.)
- 7) R995170340 (43601 SE Trout Creek Rd.)
- 8) R995170510 (43400 SE Trout Creek Rd.)

9) R995170230 (44001 SE Trout Creek Rd.)

These nine lots are located within the 160 acre template centered on the subject property.

The two parcels at 43220 and 43211 SE Trout Creek Road were created July 7, 1986 by recording a deed (Book 1920, Page 1512 for 43220 SE Trout Creek Rd.) as an exempt minor partition (Exhibit A.14 and A.15). The property at 43211 SE Trout Creek Road was created as a remainder parcel when that deed was filed for the property at 43210 SE Trout Creek Road. The two properties qualified to be divided as an exempt minor partition through the Land Division Code section under MCC 11.45.100 and 110 (Exhibit B.8) and because they met Multiple Use Forest Zone code under MCC 11.15.2182(B)(2) (Exhibit B.9) as separated lots of records with a County maintained road intersecting the parent parcel. The parcels were divided along the road. Thus the following two parcels qualify as the two additional lots to make 11 lots within the located with the 160 acre template centered on the subject property and were lawfully created lots existed on January 1, 1993.

10) R995170210 (43220 SE Trout Creek Rd.)

11) R995170470 (43211 SE Trout Creek Rd.)

None of the 11 lots and 5 dwellings utilized to meet this template test are located in a urban growth boundary.

The subject property was created in 1985 (Case T2-03-026 decision) and is a vacant property. The property was found to be a Lot of Record in prior case (T2-03-026) included as Exhibit B.5 (see Finding 3.7 of this decision). There has been no reconfiguration of the lot after November 4, 1993. None of the 11 lots used to meet template criteria were reconfigured after November 4, 1993. *These criteria are met.*

- 3.3.4. MCC 35.2240(A)(4) The dwelling will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife, or that agency has certified that the impacts of the additional dwelling, considered with approvals of other dwellings in the area since acknowledgment of the Comprehensive Plan in 1980, will be acceptable.**

Staff: The proposed dwelling is located outside big game winter habitat area as defined by the Oregon Department of Fish and Wildlife as shown on Exhibit B.10. *This criterion is met.*

- 3.3.5. MCC 35.2240(A)(5) Proof of a long-term road access use permit or agreement shall be provided if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the Bureau of Land Management, or the United States Forest Service. The road use permit may require the applicant to agree to accept responsibility for road maintenance;**

Staff: The property will be accessed via SE Trout Creek Road a county maintained road. *This criterion is not applicable.*

- 3.3.6. MCC 35.2240(A)(6) A condition of approval requires the owner of the tract to 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 planning department shall notify the county assessor of the above condition at the time the dwelling is approved;
 - (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;
 - (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 determines that the tract does not meet those requirements, the department 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: The applicant states that Mike Haskin, Oregon Department of Forestry (ODF), has confirmed that there are a sufficient number of trees on the property to demonstrate the property meets ODF stocking requirements. A condition of approval will require the property owners submit documentation that demonstrates whether or not the property meets ODF stocking requirements. If ODF determines that the tract does not meet stocking those requirements, County Land Use Planning will notify the County Assessor that the land is not being managed as forest land. The Assessor may then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax pursuant to ORS 321.372. *This criterion is met through a condition.*

3.3.7. MCC 35.2240(A)(7) The dwelling meets the applicable development standards of MCC 35.2256 and 35.2261;

Staff: Findings for MCC 35.2256 are provided in Section 3.5. Findings for MCC 35.2261 are provided in Section 3.6 of this decision. *These standards are met or conditioned to be met.*

3.3.8. MCC 35.2240(A)(8) A statement has been recorded with the Division of Records 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;

Staff: A condition of approval will require a covenant to be filed with County Records 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 (Exhibit B.10). *This criterion is met through a condition.*

3.3.9. MCC 35.2240(A)(9) Evidence is provided, prior to the issuance of a building permit, that the covenants, conditions and restrictions form adopted as "Exhibit A" to the Oregon Administrative Rules (OAR), Chapter 660, Division 6 (December, 1995), or

a similar form approved by the Planning Director, has been recorded with the county Division of Records;

(a) The covenants, conditions and restrictions shall specify that:

1. All lots (or parcels) that are part of the tract shall be precluded from all future rights to site a dwelling; and
2. No lot (or parcel) that is part of the tract may be used to qualify another tract for the siting of a dwelling;

(b) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of Multnomah County. That release may be given if the tract is no longer subject to protection under Statewide Planning Goals for forest or agricultural lands;

(c) Enforcement of the covenants, conditions and restrictions shall be as specified in OAR 660-06-027 (December, 1995).

Staff: This criterion is not applicable because this application includes only one property.

3.4. Use Compatibility Standards

MCC 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 subject property is clustered in a group of similar sized properties which are used for a combination of residential and small lot forestry. With the clustering of the residential development in the area, with one additional dwelling, there should be no significant impact on wildlife or the character of the rural area. The property is served by Corbett Fire District which as reviewed the proposed development indicating that proposed development is in compliance with the fire apparatus standards. The Fire standard requires a Class A or non-combustible roof and defensible space of 30 feet around the building. The property will be accessed from SE Trout Creek Road a road maintained by County Transportation. The proposed development will not significantly impact open space, public facilities, wildlife habitat, and rural community character. *This criterion is met.*

3.5. Forest Practices Setbacks and Fire Safety Zones

3.5.1. 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

Table 1 Use

Use	Forest Practice Setbacks		Fire Safety Zones
Description of use and location	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)
Template Dwelling	30 feet	130 feet	Primary &

			Secondary required
--	--	--	-----------------------

Finding: The site plan included as Exhibit A.2 show that the

3.5.2. MCC 35.2256(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 with-in 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...

(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 35.2110.

(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 slope in the area surrounding the buildings is less than 10 percent. A condition will require that the property owners maintain Primary and Secondary Fire Safety Zones as described in MCC 35.2256(D)(1) and (2). *This standard is met through a condition.*

3.6. 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):

3.6.1. MCC 35.2261(A) For the uses listed in this subsection, the applicable development standards are limited as follows:

* * *

(3) Accessory buildings.

(a) Accessory buildings within 100 feet of the existing dwelling: Shall meet the development standards of MCC 35.2261(C);

- (b) Accessory buildings located farther than 100 feet from the existing dwelling:
Shall meet the development standards of MCC 35.2261(B)&(C);**

Staff: The proposed accessory building will to be about 110 feet from the dwelling thus must meet MCC 35.2261(B)&(C) which is demonstrated in the findings below.

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

Staff: Findings that demonstrate the new dwelling and accessory building meet the standards listed under (1) and (3) are provided below. *This standard is met.*

- 3.6.2.1. (1) The structure shall satisfy the following requirements:**
- (a) To meet the Forest Practices Setback, the structure shall be located a minimum of 30-feet from a front property line adjacent to a county maintained road and 130-feet from all other property lines;**
 - (b) The structure shall be located in a cleared area of at least 10,000 square feet that meets the tree spacing standards of a primary fire safety zone;**
 - (c) The entirety of the development site is less than 30,000 square feet in total cleared area, not including the driveway;**
 - (d) The structure is sited within 300-feet of frontage on a public road and the driveway from the public road to the structure is a maximum of 500-feet in length;**
 - (e) The local Fire Protection District verifies that their fire apparatus are able to reach the structure using the proposed driveway; or**

Staff: The dwelling and the accessory building meet the minimum of 30 feet setback from the front property line adjacent to a county maintained road and meet the minimum of 130 feet from all other property lines as shown on the submitted site plan (Exhibit A.2). The proposed cleared area will exceed 10,000 square feet and is less than 30,000 square feet. The proposed dwelling and accessory buildings are located within 250 feet from the road meeting the “within 300 feet of a public road standard.” The driveway is about 320 feet long meeting the 500-foot maximum driveway length standard. The applicant submitted a Fire District Review form verifying that the district fire apparatus are able to reach the structure using the proposed driveway. *These standards have been met.*

- 3.6.2.2. (3) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:**
- (a) Access roadways shall be approved, developed and maintained in accordance with the requirements of the structural fire service provider that serves the property. Where no structural fire service provider provides fire protection service, the access roadway shall meet the Oregon Fire Code requirements for fire apparatus access.**
 - (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 fire apparatus access standards of the Oregon**

Fire Code with permanent signs posted along the access route to indicate the location of the emergency water source.

Staff: The applicant submitted a Fire District Review form verifying that the district fire apparatus are able to reach the structure using the proposed driveway. There is no stream on the property. *These standards have been met.*

3.6.3. 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: These standards will be required as conditions. *This standard is met through conditions.*

3.6.4. 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: A condition will require that prior to Land Use Planning signing off for a Building Permit the property owners shall provide verification from Oregon Water Resources Department and from the well installer that a well has been established on the property. *This standard is met through a condition.*

3.7. 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:

Staff: The property was determined to be a lot of record through Case T2-03-026 Hearing Officer Appeal Decision. *This criterion is met.*

4.00 Transportation Standards

4.1. Access to County Roads

4.1.1. MCRR 4.100 *Required Information:* Applicants for a new or reconfigured access onto a road under County Jurisdiction may be required to provide all of the following:

- A. Site Plan;**
- B. Traffic Study-completed by a registered traffic engineer;**
- C. Access Analysis-completed by a registered traffic engineer;**
- D. Sight Distance Certification from a registered traffic engineer; and**
- E. Other site-specific information requested by the County Engineer**

Staff: The applicant has proposed to construct a new access onto SE Trout Creek Road which is under County Jurisdiction. The road is classified as a rural local road. The new access is shown on the applicant's site plan at 100 feet from the east property line (Exhibit A.1). However, County Transportation has determined that the driveway location must be located 180 feet west of the east property line shown on Exhibit B11. All required information necessary to approve this use with conditions has been submitted.

4.1.2. MCRR 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 property will be served by one driveway.

4.1.3. MCRR 4.300 *Location:* All new access points shall be located so as to meet the access spacing standards laid out in the Design and Construction Manual.

Staff: For a road classified as a rural local road, there are no spacing standards for a rural local road.

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

Staff: For a single family dwelling use, a new driveway must be 12 to 25 feet wide. The new driveway will be 14 feet wide.

4.1.5. MCRR 4.500 *Sight Distance:* All new access points to roads under the County's jurisdiction must have a minimum sight distance equal to the standards in the

Design and Construction Manual and AASHTO's A Policy on Geometric Design of Highways and Streets.

Staff: Sight distance appears to be limited at the SE Trout Creek Road driveway access. The applicant has submitted for the review of the County Transportation Division a sight distance certification from a registered traffic engineer, which provides an assessment of sight distance at the intersection in question. The analysis used a driveway location at 180 feet from the east property line. The provided assessment finds that sight distance to the west would be unrestricted with clearing of vegetation on the site. The provided assessment finds sight distance to the east to be 370 feet which exceeds the both DCM Stopping Sight Distance standard of 320 feet and the AASHTO Stopping Sight Distance standard of 300 feet. A condition of approval will require clearing of vegetation on the site to maintain the 320-foot site distance. *This standard is met through a condition.*

4.2. Transportation Impact

MCRR 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.

MCRR 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.

MCRR 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 10 trips per day. The property is currently vacant. 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.

4.3. Improvement Requirements

MCRR 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. No Dedication Required

Staff: The County standard right of way width for a rural local road is 50 feet. The existing right of way width for SE Trout Road is 60 feet wide. *No dedication is required.*

B. Frontage Improvement Requirements

Staff: Given the impact of increased traffic from the new dwelling use (see Finding 4.2) a condition will require filing deed restrictions for the property with County Records committing the property owner to participate in cost of future right-of-way improvements when those improvements are implemented. A non-remonstrance agreement, or “deed restriction” will require that the property participate in standard road improvements along the site’s SE Trout Creek Road frontage that are not completed as a part of the site’s required interim improvements. A condition will require the non-remonstrance agreement, or “deed restriction.”

The driveway serving the site must have a 20-ft length paved approach to SE Trout Creek Road, a county road. This paved approach will be measured from the edge of pavement of SE Trout Creek 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 new driveway, and will improve the safety of this access. A \$1,000 deposit will be required for the paved approach. Please contact Alan Young at (503) 988-3582 regarding this requirement. A condition will require the an application for a access permit be submitted prior to the zoning signoff for the building permit and that driveway serving the site must have a 20-ft length paved approach to SE Trout Creek Road. *These standards are met through a condition.*

7.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the New Forest Dwelling (Template Dwelling) Permit to establish a single family dwelling in the CFU-4 zone. This approval is subject to the conditions of approval established in this report.

8.00 Exhibits

- ‘A’ Applicant’s Exhibits
- ‘B’ Staff Exhibits

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	Application Form	11/22/13
A.2	1	Site Plan	11/22/13
A.3	8	Table of Contents and Narrative	11/22/13

A.4	1	Appeal Decision of Hearing for Case T2-03-026 finding property is a Lot of Reocrd	11/22/13
A.5	7	Proof of Ownership including land contract recorded as Instrument Number 2013-138650	11/22/13
A.6	1	Certificate of Water Service form completed by the applicant	11/22/13
A.7	2	Fire Service Agency Review signed by District Fire Chief	11/22/13
A.8	9	Certificate of On-Site Sewage Disposal with site plan attached, both sign by City of Portland Sanitarian	11/22/13
A.9	1	Storm Water Certification signed by Craig C. LaVielle P.E.	11/22/13
A.10	7	Building Permit Cards for four dwellings within template	11/22/13
A.11	3	Building Permit Cards for five dwellings	11/22/13
A.12	4	Deeds for property at 43547 SE Trout Creek Road	11/22/13
A.13	3	Deeds for property at 43712 SE Trout Creek Road	11/22/13
A.14	3	Deeds for property at 43220 SE Trout Creek Road	11/22/13
A.15	4	Deeds for property at 43211 SE Trout Creek Road	11/22/13
A.16	3	Deeds for property at 43601 SE Trout Creek Road	11/22/13
A.17	3	Deeds for property at 43725 SE Trout Creek Road	11/22/13
A.18	27	Addendum to Narrative addressing lawfully established dwelling criteria with Building Permit document for six dwellings attached	01/06/14
A.19	2	Addendum to Narrative addressing lawfully created lots criteria with	01/06/14
A.20	14	Case CU 0-8 excerpts and selected exhibits	01/06/14
A.21	42	Additional deeds of nearby properties	01/06/14
A.22	2	Template on an aerial photo	01/06/14
A.23	2	Addendum to Narrative addressing site distance	01/06/14
A.24	13	Trout Creek Road Site Distance Analysis	3/24/14
'B'	#	Staff Exhibits	Date
B.1	2	A&T Property Information	6/23/14
B.2	1	A&T Tax Map with Subject Property Highlighted	6/23/14
B.3	1	2012 Aerial Photo of Subject Property and adjacent properties with six lawfully dwelling circled and number	6/24/14
B.4	1	Soil Productivity Ratings & Classification for Douglas Fir Yields	NA
B.5	10	Case T2-03-026 Hearing Officer Appeal Decision	NA

B.6	1	2012 Aerial Photo with the 11 Lot of Record labeled (1-11)	NA
B.7	1	Land Division Code MCC 11.45.100 and 11.45.120 in effect in 1986	NA
B.8	10	Zoning Code MCC 11.15.2162 -.2194 in effect in 1986	NA
B.9	1	Wildlife Habitat Map	NA
B10	1	Covenant statement acknowledging 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	NA