



**MULTNOMAH COUNTY**  
**LAND USE AND TRANSPORTATION PROGRAM**  
1600 SE 190<sup>TH</sup> Avenue Portland, OR 97233  
PH: 503-988-3043 FAX: 503-988-3389  
[http://www.co.multnomah.or.us/dbcs/LUT/land\\_use](http://www.co.multnomah.or.us/dbcs/LUT/land_use)

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## DECISION OF HEARINGS OFFICER

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### Conditional Use Permit for a Heritage Tract Dwelling

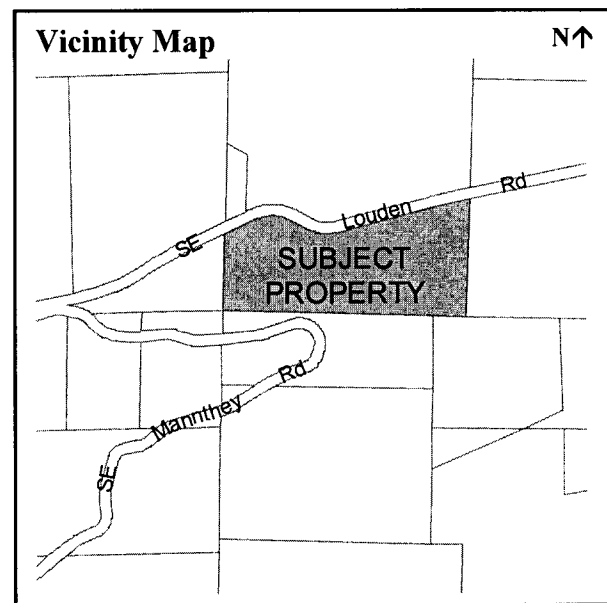
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**Case File:** T3-05-001

County Hearings Officer: Liz Fancher

**Hearing Date, Time, & Place:**

**Friday, May 13, 2005, at 9:00 am** in Room 103 at the Land Use Planning Division office located at 1600 SE 190th Avenue, Portland, OR 97233.



**Location:** SE Louden Road  
TL 300, Sec 5C, T1S, R5E, W.M.  
Tax Account #R99505-0350

**Applicant:** Jeffrey R. Campbell,  
Timber Net, Inc.

**Owner:** Curtis A. Madson, Jr.

**Summary:** Conditional Use Permit for a Heritage Tract Dwelling.

**Zoning:** Commercial Forest Use – 4 (CFU-4)

**Site Size:** 15.6 acres

**Approval**

**Criteria:** Multnomah County Code (MCC): Chapter 37: Administration and Procedures; MCC 35.2200 - 35.2310: Commercial Forest Use - 4; and MCC 35.6300 - 35.6350: Conditional Uses; East of Sandy River Policy 21; and Comprehensive Framework Policies: 14, 37, and 38.

## **Hearings Officer's Decision**

**Approval** of the Conditional Use Permit request for a Heritage Tract Dwelling based upon the findings drafted by County staff, below, and subject to compliance with the following conditions 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 or modified by the conditions of approval. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. Pursuant to MCC 37.0690(B), this land use permit expires four years from the date the decision is final if; (a) development action has not been initiated; (b) building permits have not been issued; or (c) final survey, plat, or other documents have not been recorded, as required. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0690 (B). A request for permit extension may be required to be granted prior to the expiration date of the permit.
3. Within 30 days of this decision becoming final, the applicant shall record with the County the Notice of Decision. Proof of recording shall be made prior to issuance of any zoning approvals for development and filed with the Land Use Planning Division. Failure to sign and record the Notice of Decision within the prescribed period shall void the decision. [MCC 37.0670]
4. Prior to building permit sign-off by Multnomah County or the commencement of any development authorized by this permit, the applicant shall obtain a Minimal Impact Project review or Grading and Erosion Control (GEC) Permit, whichever applies. In addition, the applicant shall provide a stormwater certificate from an Oregon Registered Professional Engineer certifying that the rate of stormwater runoff attributed to the new development will be no greater than that which existed prior to the development as measured from the property line or from the point of discharge into a water course. [MCC 29.330 - 29.348]
5. Prior to building permit sign-off by Multnomah County or the commencement of any development authorized by this permit, the applicant shall demonstrate that the dwelling complies with the applicable dimensional requirements. [MCC 35.2260(C)]
6. Prior to building permit sign-off by Multnomah County or the commencement of any development authorized by this permit, the applicant shall provide a contour map showing the topography and slope percentages adjacent to the proposed dwelling and will demonstrate that the primary and secondary fire safety zones are included in the development plans and meet the applicable dimensional requirements for primary and secondary fire safety zones. Where slopes exceed ten percent adjacent to the dwelling, the width of the primary fire safety zone will be extended down slope of the dwelling in accordance with MCC 35.2305(A)(5)(c). [MCC 35.2305(A)(5)]
7. Prior to building permit sign-off by Multnomah County, the applicant shall provide evidence that the dwelling will:
  - a. Have a fire retardant roof,
  - b. Have a spark arrester on each chimney,

- c. Be constructed in accordance with the International Fire Code Institute Urban – Wildland Interface Code Section 505 Class 2 Ignition Resistant Construction, as adopted August 1996, or later as amended,
- d. Have a central-station-monitored alarm system, and
- e. Not include combustible fences within 12 feet of the exterior surface of the dwelling.

[MCC 35.2305(B) and 35.2310(B)]

- 8. Prior to building permit sign-off by Multnomah County or the commencement of any development authorized by this permit, the applicant shall demonstrate that the access meets each of the driveway standards in MCC 29.012(D) or MCC 35.2305(D), whichever is more stringent, for minimum gross vehicle weight, surface material, minimum width, minimum curve radii, minimum vertical clearance, maximum grades, minimum turnaround radius, and the required number and size of turnouts. [MCC 29.012(D) or MCC 35.2305(D)]
- 9. Prior to building permit sign-off by Multnomah County, a covenant shall be recorded with the County Recorder in which the current property owner, on behalf of himself, his heirs, legal representatives, assigns, and lessees, acknowledges that the property is situated in or adjacent to forest-zoned land and, as such, may be subject to common and accepted forest practices. [MCC 35.2255]

**This is the County's final decision. It is subject to appeal as provided by State law.**

**Dated** this 27<sup>th</sup> day of May 2005.



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Liz Fancher, Hearings Officer

***Building Permit Note:** Once this decision is final and all applicable conditions have been met, application for a Building Permit may be made with the City of Gresham. When ready to have the zoning review conducted for the Building Permit, the applicant shall call the Staff Planner, Chuck Beasley, at (503) 988-3043, for an appointment to review and approve the conditions and sign off on the Site Plan and building plans. Please note, Multnomah County must conduct the zoning review sign-off of the Site Plan and building plans before the applicant submits them to the City of Gresham. Four (4) sets each of the Site Plan and building plans are needed for the zoning review sign-off for the Building Permit.*

## **Findings of Fact**

**Note:** Written findings are contained herein. The Multnomah County Code criteria and Comprehensive Plan Policies are in **bold** font. The applicant's statements are identified below as "**Applicant.**" Staff comments and analysis are identified as "**Staff**" and address the applicable criteria. Staff comments may include a conclusion statement in *italic*.

### **1 Project Description**

**Staff:** The applicant is proposing a Heritage Tract Dwelling on property zoned Commercial Forest Use – 4 (CFU-4).

The Site Plan submitted by the applicant shows that the proposed dwelling is to be located at the northeast corner of the property near Loudon Road (Exhibit 5A). The proposed home development site is shown to cover approximately one-third acre, and to be surrounded by a primary and secondary fire safety zone. The home site is shown to be 100 feet from the front property line, 130 feet from the nearest side property line, and 400 feet from the back property line. Two possible sanitary drainfield locations are also shown on the Site Plan.

The proposed development area is located outside of the Significant Environmental Concern – Streams (SEC-s) overlay zone that passes through the southeastern corner of the property.

### **2 Site and Vicinity Characteristics**

**Staff:** The 15.56-acre subject property fronts SE Loudon Road at approximately milepost 3. It is undeveloped and heavily wooded (see site photographs in Exhibit F). It is zoned CFU-4 and has an overlay zone across the southeast corner of the property that is part of the SEC buffer zone for Buck Creek. Buck Creek flows through the properties directly south of the subject property; eventually flowing into the Sandy River.

Properties in the vicinity of the subject property are also zoned CFU-4, and are used for a mix of forest and farm operations. Many properties also have single-family dwellings.

### **3 Administration & Procedures**

#### **3.1 Proof Of Ownership**

##### **MCC 37.0550 Initiation of Action**

**Except as provided in MCC 37.0760, Type I - IV applications may only be initiated by written consent of the owner of record or contract purchaser. PC (legislative) actions may only be initiated by the Board of Commissioners, Planning Commission, or Planning Director.**

**Staff:** Multnomah County Assessment and Taxation records show the owner of record is

Curtis Madson, Jr. (Exhibit A). Curtis Madson authorized Jeffrey Campbell, TimberNet, Inc., to submit the application for the Heritage Tract Dwelling on his behalf (Exhibits 11A and 12A). *This criterion is met.*

### **3.2 Type III Application Public Noticing Requirements**

#### **3.2.1 MCC 37.0620 Hearings Notice**

**Notice for all public hearings for Type III, IV or an appeal of a Type II application shall conform to the requirements of this section. At least 20 days prior to the hearing, the County shall prepare and send, by first class mail, notice of the hearing to all owners of record, based upon the most recent Multnomah County records, of property within 750 feet of the subject tract and to any County-recognized neighborhood association or identified agency whose territory includes the subject property. The County shall further provide notice at least 20 days prior to a hearing to those persons who have identified themselves in writing as aggrieved or potentially aggrieved or impacted by the decision prior to the required mailing of such notice. The County shall also publish the notice in a newspaper of general circulation within the County at least 20 days prior to the hearing.**

**Staff:** A Notice of Hearing was mailed to the applicant, property owner, and property owners within 750 feet of the subject property on April 20, 2005. To date, no persons have identified themselves in writing as aggrieved or potentially aggrieved or impacted by the decision. A Notice of Hearing was published in the Oregonian on April 22, 2005. *These criteria are met.*

#### **3.2.2 MCC 37.0630 Posting Notice Requirements**

**MCC 37.0630(A) The County shall supply all of the notices which the applicant is required to post on the subject property, and shall specify the dates the notices are to be posted.**

**MCC 37.0630(B) The applicant must place the notice along the frontage of the subject property. If a property's frontage exceeds 300 feet, the applicant shall post one copy of the notice for each 300 feet or fraction thereof, not to exceed four signs. Notices shall be posted within 10 feet of the right of way and shall be clearly visible to pedestrians and motorists. To the extent practicable, all signs shall be equally spaced. Notices shall not be posted within the public right of way nor on trees. The applicant shall remove all signs within 10 days following the event announced in the notice.**

**Staff:** Notices to be posted on the subject property were provided to the applicant on April 22, 2005, along with instructions on the dates the notices are to be posted and their spacing along the property frontage (Exhibit B). For the subject property, four notices are to be posted because the property frontage along SE Loudon Road is approximately 1,400 feet long. *This criterion is met.*

### 3.3 MCC 37.0560 Code Compliance and Applications

**Except as provided in subsection (A), the County shall not make a land use decision, or issue a building permit approving development, including land divisions and property line adjustments, for any property that is not in full compliance with all applicable provisions of the Multnomah County Land Use Code and/or any permit approvals previously issued by the County.**

**Applicant:** The subject property is currently in full compliance with all applicable provisions of the Multnomah County Land Use Code.

**Staff:** There are no known land use violations on the property. *This criterion is met.*

## 4 **Lot of Record**

### 4.1 MCC 35.0005 Definitions

#### MCC 35.0005(L)

##### (13) Lot of Record

**Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof which when created and when reconfigured (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws. 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 Record 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.**

**Applicant:** The parcel was lawfully created by sales contract dated March 30, 1977 and then recorded in the book of records, book 1167 page 2019, with Multnomah County on March 30, 1977. The Sales Contract is included as exhibit 1A.

**Staff:** Based on the recorded sales contract dated March 30, 1977 (Exhibit 1A) and the current warranty deed that has the same property description as the sales contract (Exhibit 1B), the property meets the definition of a Lot of Record pursuant to MCC 35.0005(L)(13)(b)2.

#### **4.2 MCC 35.2275 CFU-4, Lot of Record**

##### **4.2.1 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, or**

**(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..., or**

**(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.**

**Staff:** Based on staff review of historic Multnomah County Assessment and Taxation records, the subject property was a lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990. *This criterion is met; the subject property is a Lot of Record.*

- 4.2.2 **MCC 35.2275(C) A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 35.2290, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district..**

**Staff:** The subject property is 15.56 acres; less than the 80-acre minimum lot size for new parcels. This staff report reviews the compliance of the proposed Heritage Tract Dwelling with the applicable requirements of this use in a CFU-4 district, and finds that it is in compliance with these criteria. *This criterion is met.*

## **5 Commercial Forest Use – 4**

### **5.1 MCC 35.2230 Conditional Uses**

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

- 5.1.1 **MCC 35.2230(C) A Heritage Tract Dwelling pursuant to the provisions of MCC 35.2240 (B), 35.2445 (B) and 35.2305.**

**Staff:** See findings for MCC 35.2240(B), 35.2445(B), and 35.2305 under Items 5.2, 5.3, and 5.6, respectively.

### **5.2 MCC 35.2240 Template and Heritage Tract Dwellings**

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

#### **(1) On a tract:**

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

**Applicant:** No dwelling is currently located on the site.

**Staff:** As confirmed by a site visit by County staff, there is no development on the subject tract. The tract is limited to the subject parcel (see Item 4.2.1). *This criterion is met.*

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

**Applicant:** According to the United States Department of Agriculture Natural Resource Conservation Service soils information for Multnomah County, included as exhibit 2A, 2B and 2C, the tract consists of following soil types. 1.) 3E, Ascoff cobbly loam, with slopes from 30 to 60%, capable of producing a potential yield of 120-140 CF/Acre. 2.) 5B, Bull Run Silt loam with slopes from 3-8%, capable of producing 145-170 CF/Acre. 3.) 9E, Cazadero silty clay loam, with slopes from 30-60%, capable of producing 145-165 CF/Acre. The total area of the tract is 15.56 acres. Multiplying the maximum yield of the highest producing soil, 5B, on the tract by the total number of acres, we get a maximum



yield of,  $15.56 \times 170 \text{ CF/AC} = 2645.2$  cubic feet per year of trees. This is less than 5000 cubic feet.

**Staff:** The Multnomah County GIS-generated soil map confirms the soils evidence provided by the applicant is correct for the subject property (Exhibit C). Based on these soils and the Productivity Ratings and Classifications for Douglas Fir Yields for each of these soils (Exhibit 2B), staff concurs that the subject property is not capable of producing 5,000 cubic feet per year of commercial tree species. *This criterion is met.*

**5.2.3**                    **(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.**

**Applicant:** Loudon Rd is a county maintained paved roadway. The property will take access from Loudon Rd. The tract of property fronts Loudon Rd.

**Staff:** Staff concurs; the subject property is within 1,500 feet of Loudon Road which is a County road with a Rural Local functional classification. *This criterion is met.*

**5.2.4**                    **(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; and**

**Applicant:** Included with this application as Exhibit 1A is a copy of the sales contract from Multnomah County Records, Book of records, book 1167 page 2019, dated March 30, 1977.

**Staff:** As shown in Exhibit 1A, the deed of creation for the subject property was recorded with the County Recorder prior to January 1, 1985. *This criterion is met.*

**5.2.5**                    **(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; and**

**Applicant:** The tract has not had any reconfiguration after November 4, 1993.

**Staff:** See findings in Item 4. The subject property is a Lot of Record as defined in MCC 35.0005(L)(13). The current deed shows that it has not been reconfigured since it was created in 1977 (Exhibit 1B). *This criterion is met.*

**5.2.6 (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.**

**Applicant:** Included with this application as Exhibit 1A and 1B are the sales contract and warranty deed for the acquisition of the tract by the current owner Curtis Madson, Jr. Exhibit 1A, the sales contract, in the book of records of Multnomah County, book 1167 page 2019, is dated and recorded March 30, 1977. Exhibit 1B, the warranty deed, in the book of records for Multnomah County, book 2255 page 1214, given in fulfillment of the land sales contract recorded March 30, 1977 in book 1167 page 2019.

**Staff:** From the deeds and Assessment and Taxation record (Exhibits 1A, 1B, and A), the current owner, Curtis Madson, acquired the subject tract through a sales contract recorded on March 30, 1977 and has continued to be the owner. *This criterion is met.*

**5.2.7 (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.**

**Applicant:** No dwelling exists on another lot or parcel that was part of the tract.

**Staff:** Multnomah County Assessment and Taxation records for 1992 and 1994 indicate that the current owner did not own another parcel that was part of a tract with the subject parcel in November 1993, and no dwelling existed on the subject parcel on that date. *This criterion is met.*

**5.2.8 (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.**

**Applicant:** The site is not within big game habitat.

**Staff:** Staff concurs; the Multnomah County Wildlife Habitat Map shows the subject property is not within a Sensitive Big Game Habitat area (Exhibit D). *This criterion is met.*

- 5.2.9**            **(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.**

**Applicant:** The tract consists of a single lot.

**Staff:** As found in Item 4.2.1, the subject tract includes only one parcel. *This criterion is met.*

- 5.2.10**            **(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;**

**(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 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;**

**Applicant:** A letter is attached showing that the tract currently meets the minimum acceptable stocking standards of Oregon's Forest Practice Rules and is attached as Exhibit 3A.

**Staff:** Correspondence from Northwest Forestry Services (Exhibit 3A) states that the average basal area of trees 11 inches DBH and larger on the subject property is 133 square feet per acre and thus it meets the minimum stocking standards of Oregon's Forest Practices Act. If the dwelling is approved, the Planning Staff will forward a copy of the letter to the County Assessor with the decision. *This criterion is met.*

**5.2.11 (5) The dwelling meets the applicable standards of MCC 35.2305.**

**Staff:** See findings under MCC 35.2305 (Item 5.6).

**5.3 MCC 35.2245 Use Compatibility Standards**

**5.3.1 MCC 35.2245(B) Single family dwellings as specified in MCC 35.2230 (A), (B) and (C) may be allowed upon a finding that they will not significantly impact open space, public facilities, wildlife habitat, and rural community character.**

**Applicant:** There are no known parks or open spaces nearby the property. Developments in the immediate area are generally homes, farms, and ranches on parcels of a few acres or more. One home site on 15.56 acres is in line with the character of the area. Power, telephone, and water run along Loudon Road.

**Staff:** There are no known public open spaces near the subject property and, thus, the single-family dwelling is found to not significantly impact open space. Public facilities in the vicinity of the property include Loudon Road and public utilities in the road right-of-way. The single-family dwelling will use these public facilities but is not expected to have a significant effect on these facilities (see Item 6.3). The proposed dwelling will be approximately 150 feet outside of the 300-foot Buck Creek SEC-s buffer zone and, thus, is found to not have a significant impact on the wildlife habitat along the creek. A single-family dwelling on a 15.56-acre lot is found to be compatible with the rural community character of the other large lot residential uses near the property. *These criteria are met.*

**5.4 MCC 35.2255 Single Family Dwellings Condition of Approval - Prohibition on Claims Alleging Injury From Farm or Forest Practices**

**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:** A recommended condition of approval requires a covenant be recorded with the Multnomah County Recorder in which the current property owner, on behalf of himself, his heirs, legal representatives, assigns, and lessees, acknowledges that the property is situated in or adjacent to forest-zoned land and as such may be subjected to common and accepted forest practices (see Condition of Approval 9). *With the recommended condition of approval, this criterion is met.*

**5.5 MCC 35.2260 Dimensional Requirements**

**5.5.1 MCC 35.2260(A) Except as provided in MCC 35.2265, 35.2270, 35.2275, and 35.2280, the minimum lot size shall be 80 acres.**

**Staff:** The subject site is 15.56 acres size and has been determined to be a Lot of Record under MCC 35.2275 (see Item 4.2). *This criterion is met.*

- 5.5.2 MCC 35.2260(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the size of such lot.**

**Applicant:** This criterion is not applicable at this time.

**Staff:** *This criterion is not applicable.*

- 5.5.3 MCC 35.2260(C) Minimum Forest Practices Setback Dimensions from tract boundary – Feet:**

Road Frontage	Other Front	Side	Rear
60 from centerline of road from which access is gained	130	130	130

**Maximum Structure Height - 35 feet**

**Minimum Front Lot Line Length - 50 feet.**

**Forest practices setback dimensions shall not be applied to the extent they would have the effect of prohibiting a use permitted outright. Exceptions to forest practices setback dimensions shall be pursuant to MCC 35.2310, as applicable, but in no case shall they be reduced below the minimum primary fire safety zone required by MCC 35.2305 (A) (5) (c) 2.**

**Applicant:** Setback of the structure, building envelope, is located approximately, but at least 110 feet from the centerline of Loudon Rd. the road from which access is gained, the northern property line. Setback of the building envelope on the eastern side is located approximately, but at least 130 feet from the property boundary. The western boundary is at least 950 feet from the building envelope and the southern boundary is at least 350 feet from the building envelope. The house to be built will have a maximum structure height of 35 feet. The front lot line length is greater than 1324 feet along Loudon Rd.

**Staff:** The applicant has submitted a Site Plan (Exhibit 5A) showing a building envelope for the future dwelling. The building envelope meets the above setback requirements. No specific building footprint or elevations have been proposed. A recommended condition of approval is included requiring that, prior to zoning approval of any development, the applicant demonstrates that the applicable dimensional requirements are met (see Condition of Approval 5). *With the recommended condition of approval, this criterion is met.*

- 5.5.4 MCC 35.2260(D) The minimum forest practices setback requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.**

**Applicant:** The abutting road, Louden Rd, has a 60 foot right of way width and is adequate to serve the area.

**Staff:** Louden Road is a County road with a Rural Local functional classification. The existing right-of-way of Louden Road is 60 feet; no additional right-of-way is required at this time (Exhibit E). Therefore, the right-of-way is sufficient to serve the area and the minimum forest practices setback does not need to be increased. *This criterion is not applicable.*

**5.5.5 MCC 35.2260(E) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirements.**

**Applicant:** No accessory structures have been proposed as part of this application. The site plan, exhibit 5, shows a building envelope for a dwelling only.

**Staff:** No accessory structures have been proposed as part of this application. The Site Plan (Exhibit 5A) shows a building envelope for a dwelling only. *This criterion is not applicable at this time.*

**5.5.6 MCC 35.2260(F) Yards for the alteration, replacement or restoration of dwellings under MCC 35.2220 (D) and (E) and 35.2225 (B) need not satisfy the development standards of MCC 35.2305 if originally legally established to a lesser standard than that required by MCC 35.2305, but in no case shall they be less than those originally established.**

**Applicant:** This application is not for alteration, replacement or restoration of a dwelling.

**Staff:** Staff concurs. *This criterion is not applicable.*

**5.5.7 MCC 35.2660(G) Agricultural buildings, as specified in ORS 455.315 (2) and allowed under MCC 35.2220 (C), may have minimum side and rear yard setbacks of 30 feet, but in no case shall any setback be less than the minimum primary fire safety zone required by MCC 35.2305 (A) (5) (c) 2.**

**Applicant:** There are no agricultural buildings proposed with this application.

**Staff:** *This criterion is not applicable.*

**5.6 MCC 35.2305 Development Standards for Dwellings and Structures**

**Except as provided for the alteration, replacement or restoration of dwellings under MCC 35.2220 (D) and (E) and 35.2225 (B), all dwellings and structures located in the CFU district after January 7, 1993 shall comply with the following:**

**MCC 35.2305(A) The dwelling or structure shall be located such that:**

**5.6.1 (1) It has the least impact on nearby or adjoining forest or agricultural lands and satisfies the minimum yard and setback requirements of 35.2260 (C)**

**through (G);**

**Applicant:** The building envelope area satisfies the minimum yard setback requirements as addressed in 35.3360 (C) through (G).

**Staff:** Properties near the subject property are zoned CFU-4 and appear to be used for forest, farm, and residential uses (Exhibit G). The nearest development to the proposed dwelling is a single-family dwelling on the lot immediately east of the property. The proposed building envelope meets the minimum setback criteria contained in MCC 35.2260, and is located near the public road. This location minimizes the dwelling's potential impact on farm and forest uses because it provides distance between the dwelling and farm and forest uses on lots to the south and west. Also, Loudon Road provides a buffer between the dwelling and farm and forest uses to the north. *This criterion is met.*

**5.6.2 (2) Adverse impacts on forest operations and accepted farming practices on the tract will be minimized;**

**Applicant:** The proposed building envelope and driveway access minimizes the amount of forestland used to site the dwelling. The building envelope is placed as close to the property boundaries as required by the setback requirements, reducing the length of access required. The building envelope is placed so that the primary and secondary fire safety zones are minimized, placement of the building envelope elsewhere would require larger safety zones due to the slope of the ground. The septic drain field is placed to minimize additional forestland being taken out of production.

**Staff:** Currently, the subject tract is used for forest practices. The Site Plan (Exhibit 5A) shows the proposed dwelling is to be located within a building envelope of approximately 100 feet by 150 feet (one-third acre), and is to have a 30-foot wide primary fire safety zone and a 100-foot wide secondary fire safety zone. The amount of forested area in which trees will be permanently removed or thinned for the home site, sanitary drainfield, and fire safety zones is approximately 2.3 acres. The remaining 13.3 acres will remain available for forest practices. *This criterion is met.*

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

**Applicant:** The proposed building envelope and driveway access minimizes the amount of forestland used to site the dwelling. The building envelope is placed as close to the property boundaries as required by the setback requirements, reducing the length of access required. The building envelope is placed so that the primary and secondary fire safety zones are minimized, placement of the building envelope elsewhere would require larger safety zones due to the slope of the ground. The septic drain field is placed to minimize additional forestland being taken out of production.

**Staff:** Staff concurs. *This criterion is met.*

**5.6.4 (4) 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**

**Applicant:** The proposed driveway access is less than 500 feet in length.

**Staff:** The Site Plan (Exhibit 5A) shows the proposed driveway is less than 500 feet in length. *This criterion is not applicable.*

**(5) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:**

- 5.6.5**                    **(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;**

**Applicant:** The tract is within Fire District #14. A fire district review is enclosed as Exhibits 4A and 4B.

**Staff:** The subject property is within the service area of the Multnomah County Rural Fire District #14. *This criterion is met.*

- 5.6.6**                    **(b) Access for a pumping fire truck to within 15 feet of any perennial water source on the lot. The access shall meet the driveway standards of MCC 35.2305 (D) with permanent signs posted along the access route to indicate the location of the emergency water source;**

**Applicant:** There is no perennial water source on the property, this criterion is not applicable.

**Staff:** *This criterion is not applicable.*

**(c) Maintenance of a primary and a secondary fire safety zone on the subject tract.**

- 5.6.7**                    **1. 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.**

**Applicant:** A primary fire safety zone can be maintained in all directions and was taken into consideration in the placement of the building envelope.

**Staff:** The Site Plan shows a 30-foot primary fire safety zone. As a recommended condition of approval, prior to zoning clearance for any development, the applicant shall demonstrate that the primary fire safety zone is included in the development plans for the dwelling (see Condition of Approval 6). *With the recommended condition of approval, this criterion is met.*



5.6.8

**2. 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	Not required
Less than 20	50
Less than 25	75
Less than 40	100

**Applicant:** The slopes to the north, east and west are less than 10% slope. To the south of the building envelope, the topography moderately sloped, in general, less than 20%, with some rolling topography that can approach 35% slopes for short distances of 10-20 feet. The proposed building envelope is placed to minimize the fire safety zones.

**Staff:** The subject property generally slopes downward from Loudon Road to the southern property line (Exhibit H). Based on Multnomah County GIS contour information, slopes on the property range from 10 to 35 percent, with the flatter slopes occurring in the northeastern corner of the property where the dwelling is proposed. The proposed building envelope has slopes of approximately 10 percent. Slopes immediately north, east, and west of the building envelope appear to have slopes of 5 to 10 percent. Slopes immediately south of the building envelope appear to have slopes of 10 to 15 percent; but as noted by the applicant, there are small areas of 10 to 20 feet that can approach 35 percent slope. Where the slope exceeds 10 percent, the primary fire safety zone will need to be increased 50 to 100 feet down slope of the dwelling, depending on the actual slope next to the structure. A recommended condition of approval has been included requiring that the width of the primary fire safety zone be extended where necessary to meet these code criteria (see Condition of Approval 6). The Site Plan will be required to include more detailed contour information for the area adjacent to the structure, and must show that the width of the primary fire safety zone adjacent to the structure complies with this criterion. *With the recommended condition of approval, this criterion is met.*

5.6.9

**3. 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 MCC 35.2260 (F) and 35.2310.**

**Applicant:** In the secondary fire safety zone described above, Applicants will work with the State of Oregon Department of Forestry and the local Rural Fire Protection District to

meet the goals in the secondary fire safety zone.

**Staff:** The Site Plan (Exhibit 5A) shows the secondary fire safety zone measures 100 feet to the south, east, and west of the primary fire safety zone, but only 70 feet to the north side of the primary fire safety zone. This is less than the 100-foot minimum secondary fire safety zone requirement of this code criterion. However, pursuant to MCC 35.2310, a reduction in the minimum secondary fire safety zone is allowed under certain circumstances. See findings under Item 5.7 which address this criterion, and find that the exception criteria are met with the recommended condition.

**5.6.10                    4. No requirement in 1., 2., or 3. 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**

**Applicant:** Applicant will consult with a Department of Forestry representative and obtain an approved forest management plan.

**Staff:** The subject property is not included in a forest management plan approved by the State or Oregon Department of Forestry. *Thus, this criterion is not applicable.*

**5.6.11                    5. Maintenance of a primary and a secondary fire safety zone is required only on land surrounding the dwelling that is owned or controlled by the home owner.**

**Applicant:** All primary and secondary fire safety zones will be able to be maintained within the property boundary line for the proposed building envelope.

**Staff:** The Site Plan shows the primary and secondary fire safety zones are within the property on which the dwelling is proposed. *This criterion is met.*

**5.6.12                    (d) The building site must have a slope less than 40 percent.**

**Applicant:** Slopes within the building envelope are less than 10%.

**Staff:** Based on a review of Multnomah County GIS contour information and a site visit, staff concurs with the applicant's finding that the slopes at the building site are less than 40 percent. *This criterion is met.*

**5.6.13                    MCC 35.2305(B) 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.**

**Applicant:** The above criterion will be met in application for building permit.

**Staff:** A recommended condition of approval has been included requiring that the single-family dwelling meet the above roof and spark arrester criteria (see Condition of Approval 7). *With the recommended condition, this criterion is met.*

**5.6.14 MCC 35.2305(C) 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 11 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.**

**Applicant:** Water will be provided by the Corbett Water District. A completed Certification of Water Service is included as Exhibit 6A.

**Staff:** As shown in Exhibit 6A, the dwelling will be served by the Corbett Water District. *This criterion is met.*

**5.6.15 MCC 35.2305(D) A private road (including approved easements) accessing two or more dwellings, or a driveway accessing a single dwelling, shall be designed, built, and maintained to:**

**Applicant:** An onsite inspection was conducted by Multnomah County and a right-of-way permit is approved with condition of bring access up to country standards, included as exhibit 10A. A \$1000 security deposit was made with Multnomah County for improvements to the access, paving.

**Staff:** See findings for MCC 35.2305(D)(1) to (7) below.

**5.6.16 (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;**

**Applicant:** No bridges or culverts are required by Multnomah County Right-of-Way department to access building envelope.

**Staff:** The submitted driveway permit indicates that no bridges or culverts are required for the proposed driveway (Exhibit 10A). As a recommended condition of approval, prior to zoning approval of any development, the applicant shall provide evidence that the driveway is designed in accordance with MCC 35.2305(D), including meeting the GVW standards (see Condition of Approval 8). *With the recommended condition, this criterion is met.*

**5.6.17 (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;**

**Applicant:** An all-weather surface of at least 12 feet in width will be provided for access to the building envelope.

**Staff:** As a recommended condition of approval, prior to zoning approval of any development, the applicant shall provide a Site Plan showing that the driveway is designed in accordance with MCC 35.2305(D), including meeting the 12-foot minimum width requirement (see Condition of Approval 8). *With the recommended condition, this criterion is met.*

**5.6.18 (3) Provide minimum curve radii of 48 feet or greater;**

**Applicant:** Driveway access will meet this standard.

**Staff:** As a recommended condition of approval, prior to zoning approval of any development, the applicant shall provide a Site Plan showing the driveway meets the minimum curve radii requirement (see Condition of Approval 8). *With the recommended condition, this criterion is met.*

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

**Applicant:** An unobstructed vertical clearance of at least 13 feet 6 inches will be maintained for the access.

**Staff:** As a recommended condition of approval, prior to zoning approval of any development, the applicant shall provide a Site Plan showing the driveway is designed in accordance with MCC 35.2305(D), including meeting the clearance requirement (see Condition of Approval 8). *With the recommended condition, this criterion is met.*

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

**5.6.20 (a) Rural Fire Protection District No. 14 requires approval from the Fire Chief for grades exceeding 6 percent;**

**Applicant:** Fire district access review has been completed and is included as exhibit 4A.

**Staff:** As a recommended condition of approval, prior to zoning approval of any development, the applicant shall provide a Site Plan showing the driveway is designed in accordance with MCC 35.2305(D), including meeting the maximum grade restrictions of the Rural Fire Protection District #14 (see Condition of Approval 8). *With the recommended condition, this criterion is met.*

**5.6.21 (b) The maximum grade may be exceeded upon written approval from the fire protection service provider having responsibility;**

**Applicant:** Does not apply.

**Staff:** As a recommended condition of approval, prior to zoning approval of any development, the applicant shall provide a Site Plan showing the driveway is designed in accordance with MCC 35.2305(D), including meeting the maximum grade restrictions of the Rural Fire Protection District #14 (see Condition of Approval 8). *With the recommended condition, this criterion is met.*

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

**Applicant:** This criterion can be met with the proposed driveway access and building envelope.

**Staff:** As a recommended condition of approval, prior to zoning approval of any development, the applicant shall provide a Site Plan showing the driveway is designed in accordance with MCC 35.2305(D), including meeting the minimum turn radius requirements (see Condition of Approval 8). *With the recommended condition, this criterion is met.*

**5.6.23 (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.**

**Applicant:** A turnout, measuring 20 feet by 40 feet, will placed on the driveway access at approximately 100 feet. In addition, the house will be provided with automatic sprinklers if over 3599 square feet of total area.

**Staff:** The Site Plan shows that the driveway will be approximately 200 feet long and is to

have a turnout at approximately 100 feet. As a recommended condition of approval, prior to zoning approval of any development, the applicant shall provide a Site Plan showing the driveway is designed in accordance with MCC 35.2305(D), including meeting the turnout requirements (see Condition of Approval 8). *With the recommended condition, this criterion is met.*

**5.7      MCC 35.2310 Exceptions to Secondary Fire Safety Zones and Forest Practices Setbacks**

**5.7.1      (A) The secondary fire safety zone and forest practices tract setbacks for dwellings and structures may be reduced pursuant to the provisions of 35.2310(B) when:**

- (1) The tract on which the dwelling or structure is proposed has an average lot width or depth of 330 feet or less, or**
- (2) The dwelling or structure is proposed to be located within 130 feet of the centerline of a public or private road serving two or more properties; or**
- (3) The proposed dwelling or structure is proposed to be clustered with a legally existing dwelling or structure.**

**Staff:** The Site Plan shows the building envelope is to be located approximately 100 feet from the edge of the Loudon Road right-of-way, and Loudon Road has a 60-foot right-of-way width. Thus, the building envelope will be approximately 130 feet from the centerline of a public road serving two or more properties. *This criterion is met.*

**5.7.2      MCC 35.2310(B) Exceptions to secondary fire safety zones and forest practices setbacks shall only be granted upon satisfaction of the following standards:**

- (1) If the proposed secondary fire safety zone is between 50 and 100 feet, the dwelling or structure shall be constructed in accordance with the International Fire Code Institute Urban– Wildland Interface Code Section 505 Class 2 Ignition Resistant Construction as adopted August, 1996, or as later amended, or**
- (2) If the proposed secondary fire safety zone is less than fifty feet, the dwelling or structure shall be constructed in accordance with the International Fire Code Institute Urban-Wildland Interface Code Section 504 Class 1 Ignition Resistant Construction as adopted August, 1996, or as later amended, and**
- (3) There shall be no combustible fences within 12 feet of the exterior surface of the dwelling or structure; and**
- (4) A dwelling shall have a central station monitored alarm system if the secondary fire safety zone equivalents of MCC 35.2310 (B) (1) are utilized, or**
- (5) A dwelling shall have a central station monitored 13D sprinkler system if**

**the secondary fire safety zone equivalents of MCC 35.2310 (B) (2) are utilized. Exception: Expansions of existing single family dwellings as allowed by MCC 35.2220 (D) shall not be required to meet this standard, but shall satisfy the standard of MCC 35.2305 (B) (3) above.**

**Staff:** The secondary fire safety zone is shown to be 70 feet wide on the north side of the building envelope. Therefore, MCC 35.2310(B)(1), (3), and (4) apply. As a recommended condition of approval, prior to zoning approval of any development, the applicant shall provide a site plan and building plans that demonstrate that the criteria in MCC 35.2310(1), (3), and (4) have been met: the dwelling shall be constructed in accordance with the International Fire Code Institute Urban – Wildland Interface Code Section 505 Class 2 Ignition Resistant Construction as adopted August, 1996, or as later amended, there shall be no combustible fences within 12 feet of the exterior surface of the dwelling, and the dwelling shall have a central station-monitored alarm system (see Condition of Approval 7). *With the recommended condition, this criterion is met.*

## **6 Comprehensive Framework Plan Policies**

### **6.1 East of Sandy River Policy 21**

**Protect significant streams in the East of Sandy River Rural Area by prohibiting new residential development within 150 feet of a stream centerline and limiting new roads, stream crossings, additions to existing dwellings of up to 400 square feet be exempt from setback requirements. All related ground disturbing activities within the 150 foot stream setback shall be confined to the period between May 1 and October 1 in any year.**

**Applicant:** There are no significant streams on the subject property. Multnomah County has an overlay, included as exhibit 7A, that encroaches onto the property 300 feet at its greatest point. The disturbed area created by the development of the driveway access, building envelope, and septic drain field location are outside this critical overlay as shown on the site plan, Exhibit 5.

**Staff:** Staff concurs. *This criterion is met.*

### **6.2 Policy 14: Development Limitations**

**The County's policy is to direct development and land form alterations away from areas with development limitations except upon a showing that design and construction techniques can mitigate any public harm or associated public cost and mitigate any adverse effects to surrounding persons or properties. Development limitations areas are those which have any of the following characteristics:**

- A. Slopes exceeding 20%;**
- B. Severe soil erosion potential;**
- C. Land within the 100 year flood plain;**

- D. A high seasonal water table within 0-24 inches of the surface for 3 or more weeks of the year;**
- E. A fragipan less than 30 inches from the surface;**
- F. Land subject to slumping, earth slides or movement.**

**Applicant:** The subject property does have slopes that exceed 20%. The proposed driveway access, building envelope and septic drain field area specifically located to minimize development in areas where the slope exceeds 20%.

Some of the soils, as identified in the Multnomah County Soils Survey are identified as having soil erosion potential. The placement of the development minimizes the impact on the soils subject to erosion. Where necessary, silt fencing and water barring can be utilized to further reduce potential erosion.

No part of the subject property lies within the 100 year flood plain.

The subject property is not affected by a high seasonal water table within 0-24 inches of the surface for three or more weeks of the year.

No fragipan is identified on the subject property on the Multnomah County Soil Survey. Soil identification and description included as exhibits 2A, 2B, and 2C.

No evidence of slumping, earth slides or movement on the subject property.

**Staff:** Based on Multnomah County GIS maps, staff has confirmed that the proposed development will occur on the flattest portion of the subject property where slopes are generally less than 20 percent. *Policy 14.A is met.*

To address the erosive soils on the property, the proposed development will need to incorporate erosion control measures into its design and construction. As a recommended condition of approval, prior to zoning approval of any development on the subject property, the property owner will need to obtain a GEC Permit or Minimal Impact Review, whichever applies, pursuant to MCC 29.330 - 29.348 (see Condition of Approval 4). *With the recommended condition, Policy 14.B is met.*

Multnomah County GIS mapping confirms that the subject property is not within a 100-year flood plain. Also, the Multnomah County Soil Survey confirms that, at the location of the proposed development on the property, there is no seasonal high water table, nor any fragipan conditions or earth instabilities that would limit development. Therefore, policies 14.C to 14.F do not apply.

### **6.3 Policy 37: Utilities**

#### **6.3.1 Water and Disposal Systems**

- A. Shall be connected to a public sewer and water system, both of which have adequate capacity; or**



- B. Shall be connected to a public water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system on the site; or**
- C. Shall have an adequate private water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system; or**
- D. Shall have an adequate private water system, and a public sewer with adequate capacity.**

**Applicant:** The subject property will be connected to a public water system, see exhibit 6A, Certification of Water Service provided by the Corbett Water District. The subject property has passed the land feasibility study for primary and secondary standard septic subsurface sewage disposal system see exhibit 9A.

**Staff:** Staff concurs. *This policy is met.*

### **6.3.2 Drainage**

- E. Shall have adequate capacity in the storm water system to handle the run-off; or**
- F. The water run-off shall be handled on the site or adequate provisions shall be made; and**
- G. The run-off from the site shall not adversely affect the water quality in adjacent streams, ponds, lakes or alter the drainage on adjoining lands.**

**Applicant:** There is sufficient area on the subject property for water run-off to be handled on site. The single family dwelling proposed by this application will not increase water run-off significantly. A storm water system can be designed by a licensed engineer to handle the water on-site and could be submitted as part of application for a building permit.

**Staff:** As a recommended condition of approval, prior to zoning approval of any development on the subject property, the property owner will need to obtain a Minimal Impact Review or GEC Permit, whichever applies, pursuant to MCC 29.330 - 29.348 (see Condition of Approval 4). In accordance with MCC 29.333(C) or 29.345(A)(1)(d), whichever applies, the property owner will need to provide certification that runoff for the 10-year 24-hour storm event is no greater than that which existed prior to development at the property line or point of discharge into a watercourse. This may require development of a stormwater management system. *With the recommended condition, this policy is met.*

### **6.3.3 Energy and Communications**

- H. There shall be an adequate energy supply to handle the needs of the proposal and the development level projected by the plan; and**

**I. Communications facilities are available.**

**Applicant:** Telephone lines run along Loudon Road and will be able to service the proposed home site.

**Staff:** Staff concurs. *This policy is met.*

**6.4 Policy 38: Facilities**

**It is the County's Policy to coordinate and encourage involvement of applicable agencies and jurisdiction in the land use process to ensure:**

**6.4.1 Fire Protection**

**B. There is adequate water pressure and flow for fire fighting purposes; and**

**C. The appropriate fire district has had an opportunity to review and comments on the proposal.**

**Applicant:** The Fire Chief for Multnomah County RFPD #14 has completed an onsite inspection of the subject property and has signed off on the Fire District Review-Fire Flow Requirement form, included as exhibit 4A and Fire District Access Review form, included as Exhibit 4A.

**Staff:** The applicant has obtained signed Fire District Reviews for Access and Fire-Flow from the Multnomah County Rural Fire Protection District #14 (Exhibits 4A and 4B). The Fire District has indicated that the proposal is in compliance with the applicable access standards. In addition, the Fire District has indicated that there will be adequate fire flow from the public water line. *This policy is met.*

**7 Conclusion**

Considering the findings and other information provided herein, this application for a Heritage Tract Dwelling, as conditioned, satisfies applicable Multnomah County Code requirements and Comprehensive Framework Plan policies, and conditional approval is recommended.

## Exhibits

Exhibits referenced in this decision, but not attached, are found in the case file, located at the Land Use Planning office; John B. Yeon Building, 1600 SE 190<sup>th</sup> Avenue, Gresham, Oregon.

Exhibit No.	No. of Pages	Exhibit
<i>Exhibits Submitted by Applicant</i>		
1A	1	Sales Contract
1B	1	Warranty Deed
2A	1	Aerial Soils Information
2B	1	Soils Unit Symbols and Names; Productivity Rating
2C	8	Soils Survey and Narrative Description
3A	1	Stocking Standard Inventory Letter
4A	3	Fire District Access Review
4B	6	Fire District Review – Fire Flow Requirements
5A	1	Site Plan
6A	2	Certification of Water Service
7A	1	Multnomah County Stream Overlay
8A	1	Multnomah County Map with Topographical Overlay
9A	1	Land Feasibility Study
10A	6	Multnomah County Right-of-Way Access Permit
11A	1	Letter of Authorization
12A	1	General Application Form
<i>Exhibits Provided by County</i>		
A	1	Current Multnomah County Assessment and Taxation Record
B	2	Hearing Notice Sign Instruction to Applicant
C	1	Multnomah County Soils Map
D	1	Multnomah County Wildlife Habitat Map
E	4	Memorandum and Email from Multnomah County Transportation Division
F	1	Site Photographs
G	1	2002 Aerial Photograph
H	1	Multnomah County GIS Contour Map
<i>Exhibits Submitted at the Hearing</i>		
H-1	1	Sign-In Sheet
H-2	1	Aerial Photograph of subject property showing tax lots
<i>Additional Exhibits</i>		
A.1	14	Pre-Application Meeting Notes
A.2	9	Notice of Public Hearing with mailing list
A.3	1	Letter from Beverly Bruesch, Planner, to Jeffrey Campbell at TimberNet, Inc.
A.4	1	E-mail from Beverly Bruesch, Planner, to JERCA@aol.com

A.5	4	E-mail from Alison T. Winter to Beverly Bruesch with Memorandum dated 4/8/2003 from Matthew Larsen, Transportation Planning Specialist
A.6	9	Copies of tax maps, zoning maps