

**MULTNOMAH COUNTY****LAND USE AND TRANSPORTATION PROGRAM**1600 SE 190TH Avenue Portland, OR 97235

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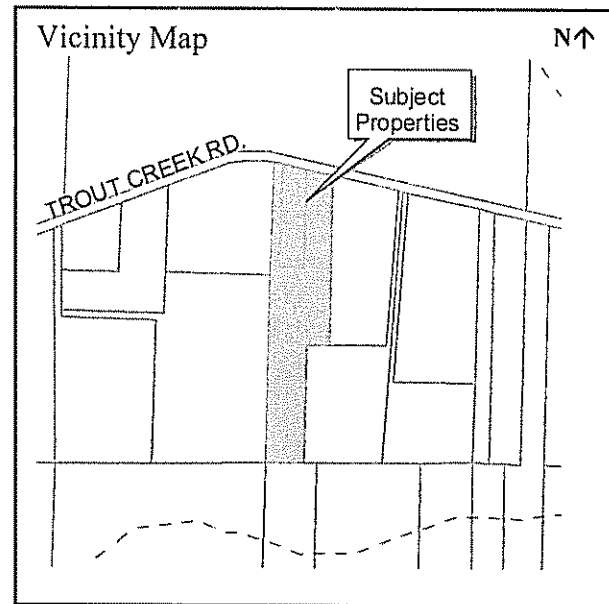
http://www.co.multnomah.or.us/dbcs/LUT/land_use

DECISION OF HEARINGS OFFICER

Conditional Use Permit for Heritage Tract Dwelling

Case File: T3-05-012**Hearings Officer:** Liz Fancher**Hearing Date, Time, & Place:**

Thursday, November 10, 2005 at 9:00 am, in Room 103 at the Land Use Planning Division office located at 1600 SE 190th Avenue, Portland, OR 97235



Location: 41720 SE Trout Creek Road,
Tax Lot 500, Section 18A, 1South 5East & TL 700, Sec. 18, 1S5E
Tax Account #R995180430 & R995180160

Applicant: Dan Hooley
PO Box 344
Corbett, OR 97019

Property Owner: Daniel M. Hooley &
Deanne J. Hooley
PO Box 344
Corbett, OR 97019

Summary Applicant requests approval of a conditional use permit for a heritage tract dwelling within the Commercial Forest Use – 4 Zone district. This review includes CFU-4 Development Standards Site Review for the dwelling and an accessory pole barn, with an exception to the 130 foot west side yard setback for the dwelling, reducing it to 95 feet.

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

Site Size: 19.80 acres

Applicable Approval Criteria: Multnomah County Code (MCC):

Administration & Procedures: Chapter 37: Administration and Procedures

General Provisions: MCC 35.0005(L)(13): Definitions - Lot of Record and
MCC 35.0005(L)(3) Lawfully Established Dwelling

Commercial Forest Use – 4: MCC 35.2230(C): Conditional Use – Heritage Tract Dwelling; MCC 35.2240(B): Heritage Tract Dwelling; MCC 35.2245: Use Compatibility Standards, MCC 35.2260: Dimensional Requirements; MCC 35.2220(U): Allowed Uses, Accessory Uses; MCC 35.2275: Lot of Record; and MCC 35.2305: Development Standards for Dwellings and Structures.

Comprehensive Plan Policies

Policy 14: Development Limitations; Policy 37: Utilities; and Policy 38: Facilities

Hearings Officer's Decision:

The Conditional Use Permit for the proposed Heritage Tract Dwelling and site review for the dwelling and accessory structure with an exception to the 130 foot west side yard setback for the dwelling, reducing it to 95 feet are **APPROVED** subject to the following conditions of approval.

Recommended 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. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). The applicant must develop the property as promised in his land use application. 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. Pursuant to MCC 37.0690, this land use decision is void/expires four years from the date the decision is final if the development action is not initiated within that time period. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0690. Such a request must be made in writing prior to expiration of the decision.
3. The property owner shall maintain a primary and a secondary fire safety zone on the subject tract [MCC 35.2305(A)(5)].
 - A. A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure. Trees within this safety zone shall be spaced with greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height.

B. A secondary fire safety zone is a fire break extending a minimum of 100 feet in all directions around the primary safety zone on the subject property. 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. Maintenance of the secondary fire safety zone is required only on land surrounding the dwelling that is owned or controlled by the property owner.

4. The proposed dwelling and accessory structure shall comply with the standards of the applicable building code. Prior to zoning sign off for building plan check, the applicant or their representative shall provide documentation on the building plans that the proposed dwelling and the pole barn comply with the following [MCC 35.2305(B)]:
 - A fire retardant roof; and
 - A spark arrester on each chimney.
5. Prior to starting construction work on of the dwelling and the pole barn, the property owner or their representative shall obtain the required building department permits for the type of construction proposed. It is the property owner's responsibility to confirm that the work performed under the building permit shall be completed with a final inspection [MCC 35.2305(B)(1)].
6. 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 [MCC 35.2310(B)(1)].
7. There shall be no combustible fences within 12 feet of the exterior surface of the dwelling or structure [MCC 35.2310(B)(3)].
8. The dwelling shall have a central station monitored alarm system [MCC 35.2310(B)(4)].
9. A statement shall be 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.
10. The applicant shall record with the Division of Records, prior to obtaining a building permit, a consolidation deed that consolidates the two parcels that make up the subject property into a single lot. The deed shall include the following language: "The property conveyed on this deed consists of two parcels. The purpose of this deed is to consolidate the parcels into a single parcel and tract so that the property owner can qualify to build and maintain a heritage tract dwelling on the property. The use of the property for a dwelling is conditioned upon the two parcels remaining a single parcel. If the real property described in this deed is subsequently divided or conveyed as separate parcels, the legal authorization to maintain the dwelling on this property shall become null and void. This restriction applies to all subsequent purchasers of the property described on this deed." The continued legal existence of the deed language is a continuing condition of approval of this application.

NOTE: Once the Hearings Officer's decision is final and all conditions of approval have been met, application for building permits may be made with the City of Portland, Building Bureau. When ready for zoning sign-off for plan check to obtain a building permit, the applicant shall call the Staff Planner, George A. Plummer at (503) 988-3043, for an appointment for zoning review plan check and to sign the

building permit form. Please note, Multnomah County must review and sign off the building permit form and plans before the applicant submits building plans to the City of Portland. Six (6) sets the plans and site plan of the building area are needed for building permits signed off.

Dated this 14th day of December 2005.


A handwritten signature in black ink, appearing to read "Liz Fancher", written over a horizontal line.

Liz Fancher, Hearings Officer

THIS DECISION IS THE COUNTY'S FINAL DECISION IN THIS MATTER. THE DECISION IS FINAL WHEN MAILED. THE DECISION MAY BE APPEALED TO THE OREGON LAND USE BOARD OF APPEALS WITHIN THE TIME FRAME ALLOWED BY LAW. YOU MUST FOLLOW THE STATE LAWS THAT APPLY TO FILING APPEALS IN ORDER TO PERFECT AN APPEAL.

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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. The hearings officer has accepted the staff comments and applicant comments retained below as findings of fact that support the approval granted. The Hearings Officer has also added her own findings.

1. PROPOSAL

The applicant is requesting approval of a conditional use permit for a heritage tract dwelling to legalize an existing dwelling. The building permit had expired for this dwelling and it was not inspected (except the foundation) thus it was not legally established (see Section 3.3 of this report). The applicant would also like to do an addition to the existing dwelling including an attached garage. The applicant is requesting an exception for the west side yard reducing it to 95 feet. The applicant is also proposing a pole barn for agricultural uses and personal storage. The barn is proposed to be located near the driveway and the pasture area about 200 feet from the front of the property. The applicant is considering applying for a Health Hardship Temporary Permit for manufactured home for his mother and addresses that issue occasionally in his submittal. However, he has not applied for the Health Hardship Temporary permit at this time.

2. PROPERTY DESCRIPTION & VICINITY

Staff: The subject site is located within the Commercial Forest Use- 4 Zone District on the south side of Trout Creek Road. The tract is made up of two tax lots: the smaller one at 2.2 acre (TL 500, Sec. 18A, 1 South 5 East, #R995180430) has a dwelling located on it and a larger one at 11.80 acres (TL 700, Sec. 18, 1S5E, #R995180160) surrounds the 2.2 acre tax lot on three sides (Exhibit 2.2 and 2.4).

An existing dwelling on the property was not established legally because the building permit was canceled due to lack of work progress and/or inspection requests. On the site plan, the applicant indicates that the property is relatively flat with less than five percent slope (Exhibit 1.3). The 2002 aerial photo showing 10 foot contours (Exhibit 2.5) and a staff site visit on October 24, 2005 confirm the shallow slope. The property is predominately in forest management with the exception of Tax Lot 500 which includes the existing development area and some pasture land. The predominant species of trees on the tract are Douglas fir and other mixed conifers - Western Red Cedar and Western Hemlock, as well as native hardwoods - (Big-Leaf Maple and Alder (Exhibit 1.9).

Properties in the vicinity along Troutdale Road are in mixed uses including residential, forestry and agriculture (Exhibit 2.5). The properties not abutting the road to the north and south are predominately in forest management uses. The properties along the south side of the road range in size from about two acres to about 15 acres. The properties to the north of the road and to the south not abutting the road are generally about 20 to 40 acres in size.

3. ADMINISTRATION & PROCEDURES

3.1. Summary Of Decision Making Processes

MCC 37.0530(C): Type III decisions involve the greatest amount of discretion and evaluation of subjective approval criteria, yet are not required to be heard by the Board. Applications evaluated through this process primarily involve conditional uses and some land divisions applications. The process for these decisions is controlled by ORS 197.763. Notice of the application and Hearings Officer hearing is published and mailed to the applicant, recognized neighborhood association and property owners 750 feet of the subject tract. Notice must be issued at least 20 days pre-hearing, and the staff report must be available at least 7 days pre-hearing. The Hearings Officer shall accept into the record all testimony and evidence relevant to the matter, prior to the close of the hearing. The Hearings Officer decision is the County's final decision and is appealable to LUBA within 21 days of when the decision is final. The decision is final the day the signed Hearings Officer decision is mailed pursuant to 37.0660(D).

Staff: The application has followed the procedures for a Type III land use decision. The application was received on August 23, 2005 (Exhibit 1.1). It was declared complete as of the date it was submitted (Exhibit 2.13). On October 21, 2005 notice was published in the Oregonian. On October 20, 2005 a Notice of Public Hearing was mailed to all property owners within 750 feet, recognized neighborhood associations, the applicant and the property owner (Exhibit 2.14).

3.2. Initiation of Action

MCC 37.0550: 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: The proposed project is located on a tract made up of Tax Lot 500, Section 18A, 1 South 5 East (Tax Account #R995180430) and Tax Lot 700, Sec. 18, 1S5E (R995180160) (Exhibit 2.1).

Assessment & Taxation records show that the land is owned by Daniel M. Hooley and Deanne J. Hooley. Mr. Hooley signed the application form as the property owner (Exhibit 1.1). This criterion has been met.

3.3. Code Compliance and Applications

MCC 37.0560: 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.

(A) A permit or other approval, including building permit applications, may be authorized if:

- (1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or**
- (2) It is necessary to protect public safety; or**
- (3) It is for work related to and within a valid easement over, on or under an affected property.**

Staff: A building permit data card the County has on file indicates that a building permit was issued on December 31, 1973 for the dwelling located on the tract (Exhibit 2.10). However, the card also indicates that only the foundation inspection was completed. The card also notes that the building permit expired and was canceled. Thus the dwelling on the property is in violation of building code requirements and is not a lawfully established dwelling pursuant to MCC 35.0005(L)(3). Lawfully established dwelling is defined as a dwelling that was constructed in compliance with the laws in effect at the time of establishment. The laws in effect shall include zoning, land division and building code requirements. Compliance with Building Code requirements shall mean that all permits necessary to qualify the structure as a dwelling unit were obtained and all qualifying permitted work completed. This application is to establish a dwelling right on the property so a building permit can be issued to finish and remodel the existing dwelling as well as to construct an addition. This decision will meet the requirements of MCC 37.0560(A)(1) to bring the property into compliance.

4. COMMERCIAL FOREST USE – 4 LOT OF RECORD PROVISIONS

4.1. Lot of Record Definition

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.)

Applicant: *The fourteen acres tract was established in 1971 according the zoning laws of the time, and purchased by Wayne Hooley Jr., on September 15, 1971, from the previous owner, George Pulliam. Please find copies of the enclosed recorded deeds.*

Staff: The applicant has submitted a copy of contract recorded at County Records on September 15, 1971 in Book 813 on Pages 1205 and 1206 (Exhibit 1.4) for the purchase of the tract as one parcel. The property was within the Agricultural (F2) Zone District in 1971 (Exhibit 2.6). The F2 District allowed a two acre minimum (Exhibit 2.7). Since the property was 14 acres, it met the zone district requirement when it was created.

The applicant has submitted a copy of a warranty deed recorded at County Records on December 8, 1975 in Book 1076 on Page 1095 and 1096 (Exhibit 1.5) which created the 2.2 acre property described as Tax Lot 500, Section 18A, 1 South, 5 East (R995180430) this deed created the 11.80 property described as Tax 700, Section 18, 1 South, 5 East (R995180160) as a default remainder parcel without a new deed description. The property was within the Agricultural (F2) Zone District on December 8, 1975 (Exhibit 2.6). The F2 District on that date allowed a two acre minimum parcel size (Exhibit 2.8). With one property at 2.2 acres and the other at 11.8 acres both properties met the zone district requirements when they were created.

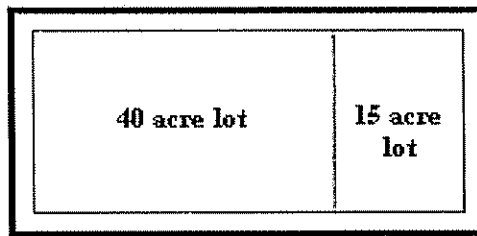
The applicant has submitted a copy of a warranty deed recorded at County Records on May 4, 2005 under instrument number 2005-079375 (Exhibit 1.6). The deed describes both properties in one description.

4.2. CFU-4 Lot of Record

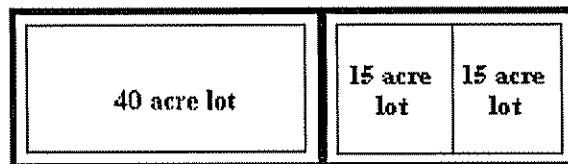
MCC 35.2275(A) In addition to the *Lot of Record* definition standards in MCC 35.0005, for the purposes of this district a Lot of Record is either:

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

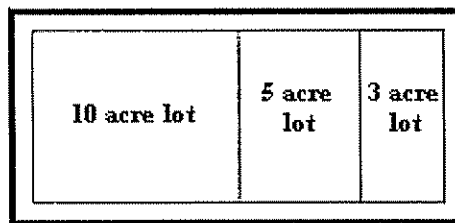
1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area.
2. There shall be an exception to the 19 acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record.
3. Three examples of how parcels and lots shall be aggregated are shown below with the solid thick line outlining individual Lots of Record:



Example 1:
One 55 acre Lot of Record



Example 2:
One 40 acre Lot of Record and
one 30 acre Lot of Record



Example 3:
One 18 acre Lot of Record

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception, urban, or Columbia River Gorge National Scenic Area zones (e.g. MUA-20, RR, RC, R-10, GGA-40), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or
- (3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

Hearings Officer: The subject property is a tract that is made up of two lawfully created parcels that are both under 19 acres in size. The parcels were created in 1975. The two parcels, together, are a single Lot of Record. A warranty deed was filed at County Records on May 4, 2005 under instrument number 2005-079375 (Exhibit 1.6) describing both properties in one description. This deed was not, however, sufficient to combine the two properties into a single lot as ORS 92.017 provides that lawfully created lots and parcels maintain their separate lot or parcel status unless the lot or parcel lines are vacated or the lot or parcel is further divided. As a result, the Hearings Officer has required that the applicant file a deed that expressly states that its purpose is to consolidate the two parcels into a single parcel. This consolidation is required by State law which requires that all parcels that make up a heritage tract be combined.

5. COMMERCIAL FOREST USE – 4 HERITAGE TRACT DWELLING PROVISIONS

5.1. Conditional Uses

MCC 35.2230: The following uses may be permitted when found by the approval authority to satisfy the applicable standards of this Chapter:

* * *

(C) A Heritage Tract Dwelling pursuant to the provisions of MCC 35.2240 (B), 35.2245 (B) and 35.2305.

Staff: Applicant applied for a conditional use permit for a heritage tract dwelling. The provisions of MCC 35.2240 (B), MCC 35.2245(B) and MCC 35.2305 have been addressed in findings in the following sections of this report.

5.2. Heritage Tract Dwelling Criteria

A heritage tract dwelling may be sited, subject to the following:

5.2.1. MCC 35.2240(B)(1)(a) On a tract: That is not developed with a single family residence, and

Applicant: *The property has an illegally established single family dwelling that is to be remodeled and updated to codes that are pertinent.*

Staff: A building permit data card the County has on file indicates that the dwelling located on the tract was issued a building permit (Exhibit 2.10). However, the card also indicates that only the foundation inspection was completed. The card also notes that the building permit expired and was canceled. The dwelling on the property is in violation of building code requirements. Thus this property does not have a legally established dwelling. This application is to establish a dwelling right on the property so that a building permit can be issued to finish and remodel the existing dwelling as well as an addition to the dwelling. This criterion has been met.

5.2.2. MCC 35.2240(B)(1) (b) That is not capable of producing 5,000 cubic feet per year of commercial tree species based on soil type, and

Applicant: *The property is not able to produce 5000 cubic feet per year of commercial tree species based on soil type and site index numbers. Please find enclosed copy of report from the Department of Forestry.*

Staff: The applicant has submitted a letter from Jeff Hepler, Stewardship Forester, Oregon Department of Forestry addressing production capabilities for the property (Exhibit 1.9). Mr. Hepler states:

“The bulk of the property is Cazadero Silty Clay Loam soil with a Doug Fir 100-year site index of 165. The remaining portion of the property is Aschoff Cobbly Loam soil with a Doug Fir 100-year site index of 140. This would place the productivity in the low site II to high site III range. Productivity could be expected to be from 120 -180 cubic feet per acre.”

Even if this property produced at the highest rate of 180 cubic feet per acre at 14 acres, the production would be only 2520 cubic feet per year for the property. Given this rate of production is under the 5000 cubic feet per year threshold, the property meets this criterion.

5.2.3. MCC 35.2240(B)(1)(c) That is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock. The road shall not be:

Applicant: *The access road is 400 feet from the existing house to a dedicated public right of way which is Trout Creek Road.*

Staff: The property abuts Trout Creek Road which is a County maintained right of way. This criterion has been met.

5.2.4. MCC 35.2240(B)(1)(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;

Applicant: *The deed was recorded September 15, 1971. Please find enclosed copies of recorded deeds.*

Staff: The applicant has submitted a contract recorded at County Records on September 15, 1971 in Book 813 on Pages 1205 and 1206 (Exhibit 1.4) for the purchase of the tract as one parcel by Wayne, Jr. and Elizabeth H. Hooley.

A warranty deed recorded at County Records on December 8, 1975 in Book 1076 on Page 1095 and 1096 (Exhibit 1.5) created the 2.2 acre property described as Tax Lot 500, Section 18A, 1 South, 5 East (R995180430) thus creating the 11.80 property described as Tax 700, Section 18, 1 South, 5 East (R995180160) as a default remainder parcel without a new deed description. Both of these properties remained in the ownership of Wayne, Jr. and Elizabeth H. Hooley. This criterion has been met.

5.2.5. MCC 35.2240(B)(1)(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;

Applicant: *The lot was lawfully created and was not reconfigured in any way after it was established*

Hearings Officer: The tract consists of lots and parcels that were lawfully created, as determined earlier in this decision. The tract qualifies for a dwelling under the standards in MCC 35.2240(B). The tract was not reconfigured after November 4, 1993 to enable it to meet the criteria for a new dwelling.

5.2.6. MCC 35.2240(B)(1)(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: *The property has been owned by Wayne Hooley Jr. since September 15, 1971, until May 2005, when it was transferred into my name, Daniel Martin Hooley, shortly before his death, May 13, 2005. It has stayed in the same configuration and family ownership since 1971. Please find enclosed copy of will that establishes the fact that I, Daniel Martin Hooley, am Wayne Hooley Jr's son.*

Staff: Staff concurs with the applicant's statement. The owner was the Wayne Jr. and Elizabeth Hooley (Exhibit 2.1) and the property was transferred their son Daniel Hooley (Exhibits 1.7 and 1.6), thus the property meets the same ownership requirement as defined under MCC 35.2240(B)(1)(f)3. This criterion is met.

5.2.7. MCC 35.2240(B)(1)(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: *It has stayed in the same configuration and family ownership since 1971. Please find enclosed copy of will that establishes the fact that I, Daniel Martin Hooley, am Wayne Hooley Jr's son.*

Staff: A check of old County Assessment records indicates that no other adjacent properties were owned by the Hooleys. This criterion is met.

5.2.8. MCC 35.2240(B)(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 tract is not within a habitat of big game comprehension planning area because it is within a residential area of homes and farms.*

Staff: The Comprehensive Plan Big Game Habitat Map shows the subject property is not located within an area designated as habitat for big game (Exhibit 2.9).

5.2.9. MCC 35.2240(B)(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 property is two tax lots for the purpose of a Veterans Administration loan. These lots will be consolidated to their original single tax lot status*

Hearings Officer: A warranty deed was recorded at County Records on May 4, 2005 under instrument number 2005-079375 (Exhibit 1.6). This deed describes both properties in one description but does not act to consolidate the two properties as ORS 92.017 provides that the parcels that are lots of record remain legal lots. The mere description of two parcels of land on a single deed with a single legal description is not sufficient to consolidate lots. The Hearings Officer is unaware of any legal means by which the legal lot lines that exist between the two parcels can be removed as the parcels were created by deeds. The law allows for the vacation of subdivisions but there is no express provision that allows for the vacation of lots or parcels created by deed.

The Multnomah County Counsel has recommended that this issue be addressed by allowing the applicant to file what they refer to as a "Consolidation Deed." This deed will place future purchasers of the lot on notice of the land use requirement that the land be treated as a single parcel in future land use reviews. Since the property owner is relying on the combination of the parcels to obtain an entitlement to legalize and expand the home on the subject property it seems likely that the consolidation provisions of this law will be upheld in future land use actions and that the parcels will be effectively consolidated into a tract.

Condition of Approval 10 requires the applicant to file a consolidation deed to require that the lots be treated as a single parcel in future land use reviews. Condition 10 also requires the applicant to include language in the deed to make it clear that the tract may not be divided or separated back into its component tracts as long as the heritage tract dwelling remains on any part of the tract. With the imposition of this condition, the application complies with MCC 35.2240(B)(3).

5.2.10. MCC 35.2240(B)(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: *The property has met the minimum stocking requirements required by the Department of Forestry. Please find the enclosed copy of the report from the Department of Forestry.*

Staff: The applicant has submitted a letter from Jeff Hepler, Stewardship Forester, Oregon Department of Forestry addressing production capabilities for the property (Exhibit 1.9). Mr. Hepler states:

“The parcel does exceed the Forest Practices Act minimum stocking standards for the entire property except the 1 acre area around the structures. The stand consists of Douglas fir and other mixed conifers (Western Red Cedar, Western Hemlock) as well as native hardwoods (Big-Leaf Maple, Alder).”

The submitted letter demonstrates that the applicant has met this criterion.

5.2.11. MCC 35.2240(B)(5) The dwelling meets the applicable standards of MCC 35.2305.

Applicant: *Yes, the dwelling meets applicable development standards. Please see section 35.2305.*

Staff: The findings of compliance with MCC 35.2305 can be found in the following sections of this staff report. The applicant has submitted a site plan showing a designated home site and the driveway (Exhibit 1.3). The criteria under MCC 35.2305 that affect building construction techniques are recommended as conditions. As conditioned, this criterion has been met.

5.3. CFU -4 Use Compatibility Standards

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.

Finding: The proposed dwelling is in an area where there are dwellings on similar sized properties surrounding the subject property (Exhibit 2.5). The public facilities include the roads, schools and fire protection. These facilities will not experience a significant impact from a single family dwelling. The property is not in the big game habitat area. The dwelling located in an area of dwelling clustered near the road with large undeveloped areas of forest habitat away from the road. Given this pattern habitat impact of an additional dwelling amongst the others should be minor. The dwelling fits into the rural character of the area, with several nearby dwellings on

similar sized properties near the road and large undeveloped forest parcel further away from the road. These standards are met.

6. CFU-4 ALLOWED USES

- 6.1. MCC 35.2020(U): Allowed Uses Other structures or uses determined by the Planning Director to be customarily accessory or incidental to any use permitted or approved in this district.**

Staff: The applicant is proposing a 32 by 24 foot pole barn to be accessory to the dwelling for agricultural and personal storage uses (Exhibit 1.18). According to the site plan the size of the barn is smaller than the dwelling (Exhibit 1.3). The proposed accessory building is customarily accessory and incidental to the proposed dwelling. This standard is met.

7. COMMERCIAL FOREST USE – 4 DIMENSIONAL REQUIREMENTS

- 7.1. 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: *The house to be remodeled is ninety-four feet from the west line. All other property lines are over 130 feet. All property lines are over 130 feet from the new barn site, as well as the health hardship mobile home. Please review site plan. None of the structures will be over thirty-five feet in height. The front lot line is 400 feet.*

Staff: The site shows that the proposed dwelling meets the forest practices setback for the front, rear and east side (Exhibit 1.3). The site plan shows the dwelling located at 94 foot from the west property line. This 94 foot setback does not meet the 130 foot forest practices setback. The tract meets the requirements listed under MCC 35.2310 (A) for an exception to the forest practices setback as demonstrated by findings in Section 9 of this report. The site plan shows that the accessory structure meets the forest practices setbacks. Applicant refers to a health hardship dwelling which he has not applied for at this time. The height of the proposed dwelling will be reviewed when the applicant requests a building permit signoff.

- 7.2. **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.**

Staff: Trout Creek Road is designated a Rural Local classification on the Multnomah County's Functional Classification of Trafficways map. The specified right-of-way width for a Rural Local is 50 feet in width. The existing right-of-way is about 60 feet. County Transportation staff has reviewed the proposed project and has indicated that no dedications are needed at this time (Exhibit 2.11). This criterion is not applicable at this time.

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

Applicant: *None of the structures will be over thirty-five feet in height.*

Staff: The height of the proposed accessory structure is under 35 feet and will be confirmed at building permit sign off (Exhibit 1.18).

8. CFU-4 DEVELOPMENT STANDARDS FOR DWELLINGS AND STRUCTURES

MCC 35.2305 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:

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

Staff: These standards are addressed in the following findings.

- 8.1.1. **MCC 35.2305(A)(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 existing dwelling, that is to be remodeled, as well as the new barn and the new manufactured home, will be situated away from the forest in such a way as to not affect any operation there of.*

Staff: When the applicant refers to the existing dwelling, he is referring to the dwelling that is not legally established for which this conditional use request addresses. He also mentions a new manufactured home, which he may apply to place as a "health hardship" dwelling in the future. This application does not include the "health hardship" manufactured home. The 2002 aerial photo of the vicinity, included as Exhibit 2.5, shows that along Trout Creek Road, the properties in this vicinity tend to be cleared for about the 500 foot depth from the road and are forested further than that away from the road. The exception to this is the subject tract which has a forested area along the eastern half of the front of the property as well as being forested toward the back. It appears that the adjacent properties to the west along the road and the property north of the road are managed with farm uses of pastureland or hay crops. The properties along the road to the east appear to be managed as pasture land or hay crops near the road while the rear of the properties is

in forest. All of these properties have dwellings located in the cleared areas along the road. The properties to the back of the subject tract, to the west back and east back are managed as forest lands with a dwelling on all of them. The dwelling will meet the forest practices setback except for the west side yard which will be 94 feet. The dwelling is located towards the front of the property, about 450 feet from the road, as is the proposed accessory structure at about 195 feet from the road. The development on the property is 100 feet from a small forested area on adjacent property to the west and more than 200 feet from forested areas on other adjacent properties. Given the distances and the low impact residential small farm uses for the adjacent properties closest to the dwelling, the dwelling and the proposed accessory structure are located in areas on the property that minimize impact to forest and farm practices on adjacent lands. This standard is met.

8.1.2. MCC 35.2305(A)(2) Adverse impacts on forest operations and accepted farming practices on the tract will be minimized;

Applicant: *The existing dwelling, that is to be remodeled, as well as the new barn and the new manufactured home, will be situated away from the forest in such a way as to not affect any operation there of.*

Staff: The proposed dwelling and accessory structure are located toward the front of the property minimizing impacts on the forested back portion of the property (Exhibits 1.3 and 2.4). The dwelling is located in an area that transitions from pastureland to forested area. The accessory barn is proposed to be located adjacent to the pastureland and along the access driveway. Due to the proposed locations, the existing farmland uses and the forest land are not adversely impacted by the proposed development.

8.1.3. MCC 35.2305(A)(3) The amount of forest land used to site the dwelling or other structure, access road, and service corridor is minimized;

Applicant: *The existing dwelling, that is to be remodeled, as well as the new barn and the new manufactured home, will be situated away from the forest in such a way as to not affect any operation there of. The access road is already in and does not affect any of the forests on the property. The access road is less than the 500 feet maximum.*

Staff: The proposed dwelling will be located in the previous development area on the property. No forest land will be used to establish this dwelling as a legal dwelling (Exhibit 2.4). The accessory structure will result in the loss of a small amount of the pastureland. The access road will not change and will be used for residential, farm and forest access. No forest land will be used for the proposed development. This standard is met.

8.1.4. MCC 35.2305(A)(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 access road is less than the 500 feet maximum.*

Staff: The access driveway to the dwelling is approximately 450 feet long (Exhibit 1.3 and 2.4). This criterion has been met.

8.1.5. MCC 35.2305(A)(5) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:

- (a) The proposed dwelling will be located upon a tract within a fire protection district or the dwelling shall be provided with residential fire protection by contract;**
- (b) Access for a pumping fire truck to within 15 feet of any perennial water source 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;**
- (c) Maintenance of a primary and a secondary fire safety zone on the subject tract.**
 - 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.**
 - 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

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

Applicant: *The dwelling is within the Aims Fire Department boundaries. The primary fire safety zone of thirty feet for all proposed buildings will be maintained with trees being pruned up to eight feet and shrubs pruned down to two feet in height. The ground is flat and has a slope of less than ten percent around the building site.*

Staff: The applicant has submitted a Fire District Access Review and a Fire District Review Fire Flow Requirement forms signed by Thomas Layton, Fire Chief, Multnomah County RFPD #14

(Exhibit 1.13). Mr. Layton approved the access and stated that a Class A or non-combustible roof will be installed and a defensible space of 30 feet around the house be maintained. There is no perennial water source on the property. A condition of approval can require that the property owner maintain the fire safety zones on the property. No requirement in this decision will restrict or contradict a forest management plan. The slope for this property is relatively minor, less than 5 percent.

8.1.6. 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 health hardship manufactured home will meet all codes applicable, and will be more than 600 square feet, with a fire retardant roof and a spark arrester on the chimney.*

Staff: The applicant is referring to a health hardship dwelling that is not part of this review. Number (2) is not applicable for this review. A condition of approval can require item numbers (1), (3) and (4) be met.

8.1.7. 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 II 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: *The property has a well that is more than adequate for all the purposes planned for the property. Please find the enclosed water report*

Staff: The applicant submitted a State of Oregon Water Well Report (Exhibits 1.14, 1.15, and 1.16). This criterion has been met.

- 8.1.7. 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:
- (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;
 - (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;
 - (3) Provide minimum curve radii of 48 feet or greater;
 - (4) Provide an unobstructed vertical clearance of at least 13 feet 6 inches;
 - (5) Provide grades not exceeding 8 percent, with a maximum of 12 percent on short segments, except as provided below:
 - (a) Rural Fire Protection District No. 14 requires approval from the Fire Chief for grades exceeding 6 percent;
 - (b) The maximum grade may be exceeded upon written approval from the fire protection service provider having responsibility;
 - (6) Provide a turnaround with a radius of 48 feet or greater at the end of any access exceeding 150 feet in length;
 - (7) Provide for the safe and convenient passage of vehicles by the placement of:
 - (a) Additional turnarounds at a maximum spacing of 500 feet along a private road; or
 - (b) Turnouts measuring 20 feet by 40 feet along a driveway in excess of 200 feet in length at a maximum spacing of 1/2 the driveway length or 400 feet whichever is less.

Staff: These items are listed on the Fire District Access Review form for the Fire District to review (Exhibit 1.13). Thomas Layton, Fire Chief, Multnomah County RFPD #14 initialing and indicating that, "The proposal is in compliance with the adopted Fire District standards or the standards of the Multnomah County Code Section 29.012 which ever is more stringent. This criterion has been met.

9. CFU-4 EXCEPTIONS TO SECONDARY FIRE SAFETY ZONES AND FOREST PRACTICES SETBACKS

- 9.1. MCC 35.2310 (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 350 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.

Applicant: *The tract averages 320 feet in width The buildings are to be clustered around a legally existing foundation of a dwelling built in 1974.*

Staff: The width of the subject properties varies from 390 feet for a portion of the property in the front to 240 feet for the portion in the back (Exhibit 2.2). The front property line, along Trout

Creek Road, slants at an angle, thus the length of the measurement from the front property line to the back property line decreases from the west to the east. The average length of this measurement from the front of the property to the back is 1850.8 feet. The front portion of the property, that is 390 feet wide, consists of 1104.8 feet of this length or 59.7 percent of the length. The back portion, that is 240 feet wide, consists of 746 feet of the length of the line or 40.3 percent of the length. Thus 59.7 percent of the property length is 390 wide and 40.3 is 240 feet wide. The average width of the property is 329.6 feet. The tract meets the provisions of MCC 35.2310(A)(1) with an average lot width of 350 feet or less allowing the secondary fire safety zone and forest practices tract setbacks for dwellings and structures to be reduced pursuant to the provisions of 35.2310 (B). This standard is met for an exception to the secondary fire safety zone and forest practices tract setbacks for dwellings and structures

9.2. 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.**
- (6) All accessory structures within the fire safety zone setbacks required by MCC 35.2305, and all accessory structures within 50 of a dwelling, shall have a central monitored alarm system.**

* * *

Staff: The dwelling is proposed to be located at 94 feet from the property west property line (Exhibit 1.3). With the primary fire safety zone at 30 feet that leaves 64 feet for the secondary fire safety zone. The proposed location for the dwelling meets MCC 35.2310 (B)(1), thus must 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. This requirement can be included as a condition of approval. A condition of approval can include the requirements under MCC 35.2310 (B)(3) and (4) that no combustible fences are built within 12 feet of the exterior surface of the dwelling and the dwelling have a central station monitored alarm system. These standards can be met through conditions. The proposed accessory structure meets the fire safety zone setbacks.

10. COMPREHENSIVE PLAN POLICIES

10.1. 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.**

Staff: Based on the contour information shown on the site plan, 2002 aerial photo with contours and a site visit by staff, the slopes on the property are less than five percent (Exhibit 1.3 and 2.5). Given the shallow slopes on the property, there is no potential for severe erosion problems related to the development. The subject parcel is not located within an area of 100 year flood plain based upon the County's GIS mapping system. Soils on the site are Cazadero silty clay loam 9B (Exhibit 1.8). The *Soil Survey of Multnomah County* indicates that, "this soil series consists of deep well drained soils." Given the property's shallow slopes the land is not subject to slumping, earth slides or movement. This property does not have any known areas of development limitations due to the factors listed in this policy. This policy is met.

10.2. Policy 37: Utilities

10.2.1. 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.**

Staff: The applicant has indicated that the site is served by an existing on-site well (Exhibit 1.14 and 1.16). In addition, he has submitted a State of Oregon Water Well Report (Exhibit 1.15). The applicant has submitted in the Certification of On-Site Sewage Disposal form signed by Philip Crawford, Sanitarian, City of Portland and it indicates that the property can be served by an on-site septic system (Exhibit 1.11). City of Portland contract with DEQ to provide on-site septic system permit reviews. These policies are met.

10.2.2. Policy 37: 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.**

Staff: The applicant has submitted a Storm Water Certificate stamped and signed by Frank A Dick PE indicating that construction of an on-site storm water drainage control system (Exhibit 1.10). He also affirmed that “[t]he rate of the storm water runoff attributed to the development (during the 10 year/24 hour storm) will be no greater than that which existed prior to development as measured from the property lines or from a point of discharge into a watercourse.” These policies are met.

10.2.3. Policy 37: 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.**

Staff: The property is served by electrical supply lines and telephone communication lines. There are adequate energy and communication facilities available to serve the site at this time. These policies are met.

10.3. Policy 38: It is the County's Policy to coordinate and encourage involvement of applicable agencies and jurisdiction in the land use process to ensure:

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.**

Staff: The applicant has submitted Fire District Access Review (Exhibit 1.13 and a Fire District Review Fire Flow Requirement (Exhibit 1.14) forms signed by Thomas Layton, Fire Chief, Multnomah County RFPD #14 indicating there is adequate water pressure and flow for fire fighting purposes. These policies have been met.

11. EXHIBITS

11.1. Exhibits Submitted by the Applicant:

- Exhibit 1.1: Application form submitted 8/23/05 (1 page);
- Exhibit 1.2: Applicant’s narrative submitted 8/23/05 (5 pages);
- Exhibit 1.3: Site Plan submitted 8/23/05 (2 pages);
- Exhibit 1.4: A copy of a contract recorded at County Records on September 15, 1971 in Book 813 on Pages 1205 and 1206 submitted 8/23/05 (2 pages);
- Exhibit 1.5: A copy of a warranty deed recorded at County Records on December 8, 1975 in Book 1076 on Page 1095 and 1096 submitted 8/23/05 (2 pages);

- Exhibit 1.6: A copy of a warranty deed recorded at County Records on May 4, 2005 under instrument number 2005-079375 submitted 8/23/05 (2 pages);
- Exhibit 1.7: Last Will and Testament of Wayne Hooley, Jr. submitted 8/23/05 (3 pages);
- Exhibit 1.8: Soil classifications for the property from Oregon Department of Forestry submitted 8/23/05 (6 pages);
- Exhibit 1.9: Letter from Jeff Hepler, Stewardship Forester, Oregon Department of Forestry submitted 8/23/05 (1 page);
- Exhibit 1.10: Storm Water Certificate signed and stamped by Frank A Dick. PE submitted 8/23/05 (1 page)
- Exhibit 1.11: Certificate of On-Site Sewage Disposal signed by Philip Crawford, Sanitarian, City of Portland submitted 8/23/05 (3 pages);
- Exhibit 1.12: Fire District Review Fire Flow Requirements form signed by Thomas Layton, Fire Chief, Multnomah County RFPD # 14 submitted 8/23/05 (6 pages);
- Exhibit 1.13: Fire District Access Review form signed by Thomas Layton, Fire Chief, Multnomah County RFPD # 14 submitted 8/23/05 (3 pages);
- Exhibit 1.14: Certification of Water Service complete for a well by the applicant submitted 8/23/05 (1 page);
- Exhibit 1.15: A copy of State of Oregon Well Report submitted 8/23/05 (1 page);
- Exhibit 1.16: A copy of a Well Agreement dated December 6, 1975 recorded with County Records in book 1076 on pages 1097 and 1098 submitted 8/23/05 (2 pages);
- Exhibit 1.17: Building Permit card, receipt and inspection cards for foundation submitted 8/23/05 (2 pages).
- Exhibit 1.18: Pole building plans and elevation photos representing the proposed pole barn submitted (3 pages).

11.2. Exhibits Provided by the County

- Exhibit 2.1: County Assessment Records for the subject property (1page);
- Exhibit 2.2: Current County Assessment Maps for the subject property and vicinity (2 pages);
- Exhibit 2.3: Current County Zoning Map with subject property labeled (1 page);
- Exhibit 2.4: 2002 Aerial Photo showing subject property (1 page);
- Exhibit 2.5: 2002 Aerial Photo showing topography of the vicinity (1 page);
- Exhibit 2.6: 1962 County Zoning Map showing subject property (1 page).
- Exhibit 2.7: 1968 Zoning Ordinance 100 Section 2.00 Districts minimum lot sizes (1 page);
- Exhibit 2.8: 1974 Zoning Ordinance 100 Section 2.00 Districts minimum lot sizes (1 page);
- Exhibit 2.9: Comprehensive Plan Wildlife Habitat (Big Game Map) (1 page);
- Exhibit 2.10: Building Permit Card File record for the dwelling on the subject property from 12/31/73 with notes on the back noting expired and canceled (1 page);
- Exhibit 2.11: Memo dated July 21, 2005 from Alison Winter, county Transportation Planning Specialist (1 page);
- Exhibit 2.12: Posting Signs form for notice signs (1 page);
- Exhibit 2.13: Completeness letter dated and mailed September 14, 2005 (1 page);
- Exhibit 2.14: Notice of Public Hearing sent October 20, 2005 (2 pages).

11.3 Exhibits Filed At or After the Hearing

- Exhibit H.1: County Aerial Photograph with property lines for lots superimposed (1 page);
- Exhibit H.2: Sign-In Sheet for Land Use Hearing on November 10, 2005

Exhibit H.2: Memorandum dated November 21, 2005 from George Plummer to Liz Fancher with Memorandum to George Plummer from Chris Crean, Asst. County Attorney dated November 16, 2005.