

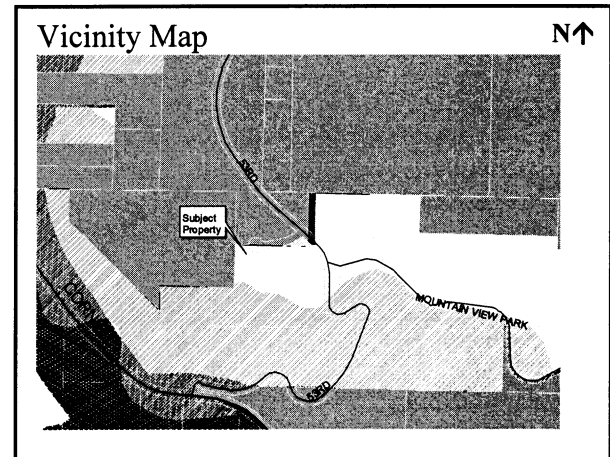
**MULTNOMAH COUNTY****LAND USE AND TRANSPORTATION PROGRAM**1600 SE 190TH Avenue Portland, OR 97233

PH: 503-988-3043 FAX: 503-988-3389

<http://www.multco.us/landuse>

Decision

Conditional Use Permit

Case File: T3-2011-1593**Hearings Officer:** Liz Fancher**Hearing Date, Time, & Place:****September 9, 2011, at 10:30 am**Room 103 at the Land Use Planning Division office
located at 1600 SE 190th Avenue, Portland, OR 97233.**Location:** 1431 NW 53rd Drive
TL 500, Sec 31AB, T1N, R1E
Tax Account #R590301360**Applicant(s):** Margaret and David Rickert **Property Owner(s):** Margaret and David Rickert**Summary:** The applicants request approval of a Conditional Use Permit to establish a Type B Home Occupation to operate a bed and breakfast in the existing dwelling on property located at 1431 NW 53rd Drive.**Base Zone:** Commercial Forest Use – 2 (CFU-2)**Overlay Zones:** Significant Environmental Concern for Wildlife Habitat (SEC-h), Significant Environmental Concern for Streams (SEC-s), Slope Hazard/Hillside Development (HD).**Site Size:** 8.19 Acres

Applicable Approval Criteria: Multnomah County Code (MCC):

33.0005 – Definitions:

- Type B Home Occupation
- Lot of Record

33.2210 – CFU-2 Zone Definitions

33.2275 – CFU-2 Zone Lot of Record Definition

33.2230(C) – Criteria for a Type B Home Occupation in the CFU-2 Zone

33.6300 through 33.6350 – Conditional Uses

33.6650 through 33.6660 – Home Occupations

33.2245 – Use Compatibility Standards in the CFU-2 Zone

33.2273 – CFU-2 Zone Access Standards

33.2285 and 33.4100 through 33.4215 – Off Street Parking and Loading

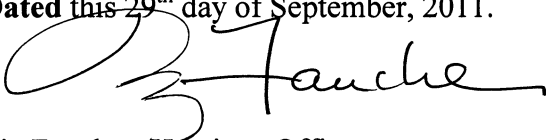
MCC 37 – Administration and Procedures

Copies of the referenced Multnomah County Code sections can be obtained by contacting the Multnomah County's Land Use and Transportation Program's office at 503-988-3043 or by visiting its website at <http://web.multco.us/land-use-planning>

Hearings Officer's Decision

The Hearings Officer approves the application request for a Conditional Use Permit for a Type B Home Occupation for a two guestroom bed and breakfast in the CFU-2 zone subject to compliance with the conditions of approval listed below.

Dated this 29th day of September, 2011.



Liz Fancher, Hearings Officer

Conditions of Approval

1. Approval of the conditional use permit is based on the submitted written application materials, site plan and the description of the approved project and its conditions contained in the text of this decision. No work shall occur under the authority of this permit unless described in the application materials or this decision. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
2. This land use permit expires two (2) years from the date the decision is final pursuant to MCC 37.0690(C) unless the applicant has initiated the use and has complied with all conditions of approval. The property owner may request an extension of the two-year period, if needed, as provided under MCC 37.0695. The request for a permit extension must be submitted prior to the expiration of the approval period.
3. After the decision is final, the property owner shall record the Notice of Decision cover sheet through the Conditions of Approval section of this decision with the County Recorder. Proof of

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

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

recording shall be made prior to guest occupancy. A copy of the recorded document shall be filed with the Land Use Planning office. Recording shall be at the applicant's expense [MCC 37.0670].

4. No parking of trucks, equipment, materials, structures or signs or the conducting of any business activity shall be permitted on any required parking space (pickup trucks exempt) [MCC 33.4125(B)]. No parking or maneuvering area other than the driveway is allowed in the required front yard of the bed and breakfast lot (30 feet between the adjoining road right-of-way and the house)[MCC 33.4195(A)]. No pavement other than allowed by MCC 33.4195(B) may be placed in the required front yard.
5. All areas used for parking and maneuvering of vehicles shall be surfaced with two inches of blacktop on a four-inch crushed rock base or six inches of Portland cement or other material providing a durable and dustless surface capable of carrying a wheel load of 4,000 pounds [MCC 33.4180 (A)(1)]. Prior to occupancy of the home by bed and breakfast guests, evidence of the completed improvements shall be provided to the County Land Use Planning Office (in the form of a parking area site plan and photographs) that the parking area improvements have been placed in a condition suitable for use. Alternatively, a Performance Bond in favor of Multnomah County equivalent to the cost of completing the parking area improvements may be filed with the Planning Director [MCC 33.4135(A)]. Any such bond shall include the condition that if the improvement has not been completed within one year of a date specified in the bond being the date of initiation of the use, the bond shall be forfeited. Any bond filed hereunder shall be subject to the approval of the Planning Director and the County Attorney [MCC 33.4135(B)].
6. The property owner shall maintain the existing trees adjacent to the parking and maneuvering area as shown on Exhibit B.5 (aerial photograph) as the landscaping required for the bed and breakfast's parking area. [MCC 33.4200/MCC 33.7055(C)(5)] Trees in the area shown on Exhibit B.5 around the parking area may only be removed or pruned back under either of the following circumstances: (1) to meet the primary fire break safety zone standard of a 15 foot space between crowns; or (2) to remove a dying or hazard tree, according to the following procedure: The property owner shall provide proof, such as photographs of the tree and documentary evidence, to the county planning program that the tree is dying or threatens the safety of humans, structures or the health of other trees. The county may require that an arborist prepare a report addressing the tree's health, documenting the threat presented by the tree, and the tree's location and species if there is a legitimate question whether the tree is dying or a hazard. Any tree removed because it is a dying or hazard tree shall be replaced with another tree of similar species at least six feet in height at the time of planting, at the same location and as soon as possible during the planting season unless the county finds that the screening provided by the landscaped buffer is not substantially harmed by the removal of the tree or that other landscaping is more appropriate for the given location.
7. If parking lot improvements result in the addition of more than 500 square feet of impervious surfaces, a completed Storm Water Certificate shall be submitted to the Land Use Planning office prior to bed and breakfast guest occupancy. Any required storm water system shall be installed prior to occupancy of the home by bed and breakfast guests.
8. Merchandise may not be sold from the premises [MCC 32.2230(C)(1)].
9. The applicants shall provide a minimum of two parking spaces for guests and shall maintain the approved parking area as shown on the approved site plan as required by MCC 34.4115. Parking shall be provided for occupants, guests and employees on site without charge as required by MCC

34.4125(A). The parking spaces shall comply with the dimensional standards of MCC 33.4175 and shall be marked as required by MCC 34.4180(C).

10. The noise, odor, smoke gases, fallout, vibration, heat or glare resulting from the approved bed and breakfast use must not be detectable at any property line [MCC 32.2230(C)(2)].
11. The existing curb along one side of the parking area shall remain at a height of 4 inches or more above the parking lot surface [MCC 33.4180(B)(2)].
12. The bed and breakfast shall not employ more than five employees [MCC 33.6660(B)].
13. No deliveries other than those normally associated with a single-family dwelling and made between the hours of 7 a.m. and 6 p.m. are allowed for the bed and breakfast operation.
14. No outdoor storage or display is allowed [MCC 33.6660(E)].
15. No signs other than street naming and property numbering signs are allowed [MCC 33.6660(F)].
16. No noise above 50 dba at the property lines is allowed [MCC 33.6660(G)].
17. No motor vehicle or motor repair or assembly is allowed [MCC 33.6660(H)].
18. The statement, in Exhibit B.4 shall be recorded with County Records prior to occupancy of the home by bed and breakfast guests. This statement confirms that the owner and successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices [MCC 33.2307].

Findings of Fact

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

1.00 Project Description:

The property owners propose to use their existing, owner-occupied dwelling as a Bed and Breakfast with two guest rooms using two existing upstairs bedrooms for overnight stays by guests. The use is proposed as a Type B Home Occupation.

2.00 Property Description:

The property is zoned Commercial Forest Use – 2 by Multnomah County. The property is developed with a single-family dwelling built in 1988. The property adjoins and has driveway access to NW 53rd Drive. While the property is located outside of the Portland city limits, the access driveway is located on a part of the owner's lot that is located within the City of Portland. The driveway enters the roadway in a location within the jurisdictional limits of the City of Portland.

3.00 Commercial Forest Use Criteria:

3.01 MCC 33.2215 USES

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC 33.2220 through 33.2240 when found to comply with MCC 33.2245 through 33.2310.

Finding: The scope of the proposed use does not include new development or structures. The provisions of the CFU-2 zone district that require findings of compliance for this use include that the use is allowable as a Conditional Use, and that it meet the additional standards in 33.2245 Use Compatibility, 33.2275 Lot of Record, and 33.2285 Off-Street Parking. The other review standards are made applicable to the request through standards associated with the conditional use.

A Bed and Breakfast enterprise, is allowable as a Type B home occupation in the CFU-2 zone district if it meets the standards for such uses in 33.2230 (C) below.

3.02 MCC 33.2230 CONDITIONAL USES

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

* * *

(C) Type B home occupation pursuant to all applicable approval criteria, including but not limited to MCC 33.6650 through 33.6660 and provided:

Finding: Section 4 of this report addresses the Home Occupation approval criteria of MCC 33.6650 through MCC 33.6660.

3.03.1 (1) That no sale of merchandise is made from the premise;

Finding: The applicant states, "The proposed Bed and Breakfast will not sell any merchandise." (Exhibit A.13). Compliance with this code section is a continuing obligation of the operator of the bed and breakfast inn. *A condition of approval has been imposed to assure compliance with this criterion.*

3.03.2 (2) That noise, odor, smoke, gases, fallout, vibration, heat or glare resulting from the activity is not detectable at any property line;

Finding: The bed and breakfast will consist of two guestrooms. The primary impact of the change of use will be on the interior of the existing dwelling. The existing dwelling is located near the center of the subject lot and over 100 feet from all property lines. The use of the dwelling as a two guest room bed and breakfast should not result in noise, odor, smoke, gases, fallout, vibration, heat or glare above that which is normally associated with a single family dwelling. Compliance with this code section is a continuing obligation of the operator of the bed and breakfast inn. *A condition of approval has been imposed to assure compliance with this criterion.*

3.03.3 (3) That the home occupation is operated substantially in the dwelling or other buildings normally associated with uses permitted in the zoning district; and

Finding: The bed and breakfast operation will be located entirely within the existing habitable dwelling, which is an allowed use in the CFU-2 zone. Two existing parking spaces adjacent to the dwelling are proposed for guest use (the dwelling will retain two existing residential spaces as well). *The criterion is met.*

3.03.4 (4) That the home occupation will not unreasonably interfere with other uses permitted in the CFU-2 zoning district.

Finding: The CFU-2 zoning district is a resource zone that primarily allows for the raising and harvesting of timber as well as cultivation of crops and the raising of livestock. There is no farming or forestry occurring on the subject property. The proposal involves the existing dwelling, parking area, and landscaping adjacent to the parking area. The owners of the subject property will continue to have the ability to harvest timber and/or farm the majority of the property. The existing dwelling on the property does not interfere with farming and forestry in the CFU-2 zone on adjacent properties because it is located 100 feet or more from adjacent properties. On one side, it adjoins the City of Portland. The use of the existing dwelling as a two guestroom bed and breakfast will not interfere with the permitted farming and forestry uses permitted in the CFU-2 zone. *The criterion is met.*

3.04 MCC 33.2245 USE COMPATIBILITY STANDARDS

Specified uses of MCC 33.2225(C), (D) and (E) and MCC 33.2230 (A), (B), and (C) may be allowed upon a finding that:

(A) The use will:

- (1) Not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands;
- (2) Not significantly increase fire hazard, or significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel; and
- (B) A statement has been recorded with the Division of Records that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices.

Finding: The proposed bed and breakfast will occur entirely within an existing single family dwelling on the property and will therefore not affect farming and forestry practices in the vicinity, nor will it materially change the fire hazard over and above that which exists for a typical single-family dwelling. The finding under 3.03.4 above indicates that the ability to conduct farm and forest practices on surrounding properties will not be affected by the proposed use. A condition of approval requires the acknowledgement statement (Exhibit B.4) to be recorded with County Records prior to guest occupancy of the bed and breakfast. *The criterion is met.*

3.05 MCC 33.2275 LOT OF RECORD

(A) In addition to the Lot of Record definition standards in MCC 33.0005, 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:

* * *

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

* * *

MCC 33.0005 DEFINITIONS.

* * *

...Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) complies with the criteria for the creation of new lots or parcels described in MCC 33.7785. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

Finding: The property was determined to be a Lot of Record in a previous land use case for a Hillside Development Permit – Case T2-07-067. That decision found that the property satisfied all applicable zoning laws when it was created by deed in 1973.

3.06 MCC 33.2285 OFF-STREET PARKING AND LOADING

Off-street parking and loading permitted as an accessory use shall be provided as required by MCC 33.4100 through 33.4220.

Finding: Off-street parking is addressed in Section 6 of this decision. The findings in that section demonstrate that the use meets the applicable standards.

4.00 Home Occupations

4.01 MCC 33.6650- DEFINITIONS

(A) Employee – One full or part time participant, resident or non-resident, in the business shall constitute one employee.

(B) Customers – Any person visiting the site that is not an employee who is associated with the home.

Finding: The home occupation definitions above define residents as employees and persons occupying the rooms used for guests as customers. This information is relevant to the finding in 4.02

MCC 33.6660 Criteria for Approval

The approval authority shall find that the following standards are met:

(A) The standards found in MCC 33.6315

Finding: The standards in MCC 33.6315 are the conditional use approval criteria and are addressed in Section 5 of this decision.

4.02 (B) The home occupation does not employ more than 5 employees.

Finding: The application says that “[t]he B and B would be managed by the owners of the property who are also in residence. There would be no other employees.” (Exhibit A.13). County Assessment and Taxation records (Exhibit B.1) list Margaret and David Rickert as the two owners of the property. The Rickerts would not be employees of the bed and breakfast inn. At the hearing, the Rickerts indicated that they would like to have the ability to hire employees to assist with the business. While the work related to the business would not merit five full-time employees, the type of work is varied so that it would be logical to hire a number of part-time employees. The limit established by the code, therefore, is appropriate. Compliance with this limit is a continuing obligation of the operator of the bed and breakfast inn. *A condition of approval has been imposed to assure compliance with this criterion.*

4.03 (C) The site has on-site parking as per MCC 33.4100 to accommodate the total number of employees and customers.

Finding: MCC 33.4100 requires two spaces for a single family dwelling and one space per guestroom for lodging. The applicant’s site plan (Exhibit A.15) shows two guest parking stalls and two residential parking stalls. The off street parking and loading standards are further addressed in Section 6 of this report.

4.04 (D) No deliveries other than those normally associated with a single family dwelling and between the hours of 7 a.m. – 6 p.m.

Finding: The applicant states, "No commercial deliveries (beyond normal household 7 a.m – 6 p.m. USPS/UPS/FedEx) are expected." Compliance with this code section is a continuing obligation of the operator of the bed and breakfast inn. *A condition of approval has been imposed to assure compliance with this criterion.*

4.05 (E) No outdoor storage or display.

Finding: The applicant states, "There is no need for outdoor storage." Compliance with this code section is a continuing obligation of the operator of the bed and breakfast inn. *A condition of approval has been imposed to assure compliance with this criterion.*

4.06 (F) No signage (including temporary signage and those exempted under MCC 33.7420) with the exception of those required under the applicable street naming and property numbering provisions in Multnomah County Code.

Finding: No signs are proposed. Compliance with this code section is a continuing obligation of the operator of the bed and breakfast inn. *A condition of approval has been imposed to assure compliance with this criterion.*

4.07 (G) No noise above 50 dba at the property lines.

Finding: The bed and breakfast is not anticipated to result in noise above 50 dba at property lines. Compliance with this code section is a continuing obligation of the operator of the bed and breakfast inn. *A condition of approval has been imposed to assure compliance with this criterion.*

4.08 (H) No repair or assembly of any motor vehicles or motors.

Finding: The applicant states, "No motor vehicle repair is planned." (Exhibit A.13). Compliance with this code section is a continuing obligation of the operator of the bed and breakfast inn. *A condition of approval has been imposed to assure compliance with this criterion.*

4.09 (I) The application has been noticed to and reviewed by the Small Business Section of the Department of Environmental Quality.

Finding: The applicant states, "The DEQ has stated that the proposed type of business does not fall under their area of concern." *The criterion is met.*

4.10 (J) Each approval issued by a hearings officer shall be specific for the particular home occupation and reference the number of employees allowed, the hours of operation, frequency and type of deliveries, the type of business and any other specific information for the particular application.

Finding: The proposal is for up to two guestrooms to be operated within the existing home year round to be run by the two existing property owners with the assistance of no more than five employees.

4.11 (K) No structure is proposed to be constructed that would not otherwise be allowed in the zoning district.

Finding: No new structures are proposed.

5.00 Conditional Use Approval Criteria

5.01 MCC 33.6315 Conditional Use Approval Criteria

(A) A Conditional Use shall be governed by the approval criteria listed in the district under which the conditional use is allowed. If no such criteria are provided, the approval criteria listed in this section shall apply. In approving a Conditional Use listed in this section, the approval authority shall find that the proposal:

(1) Is consistent with the character of the area;

Finding: The area consists of small forested lots of 5 to 10 acres in size near Portland's Forest Park. Several of the lots contain single-family dwellings. The proposed use of the existing dwelling as a small Bed and Breakfast in a secluded forested setting is consistent with the character of the area. *The criterion is met.*

5.02 (2) Will not adversely affect natural resources;

Applicant: "The proposed B and B would have no additional impact on the natural resources (water resources, wildlife habitat, forest management) than if the house were inhabited by a family of 4-6 (for which it is designed). Using this home in this purpose will not impact the scenic nature of this area or affect the recreational opportunities of others."

Finding: The hearings officer agrees with the applicant. The use of two existing bedrooms for overnight guests will not result in greater impact on natural resources than if all of the bedrooms were fully occupied by residents. *The criterion is met.*

5.03 (3) Will not conflict with farm or forest uses in the area:

(a) Will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(b) Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

Finding: The existing dwelling is located over 100 feet from the closest neighboring property. This will minimize impacts to farm and forest practices occurring on neighboring properties. The property owners control the farm and forest practices on the subject property. The use of the existing dwelling as a two guestroom bed and breakfast will not interfere with farming and forestry uses in the area because it is a house located at least 100 feet from the nearest property that may have farm and forestry occurring and because the owners of the subject property can implement farming and forestry on the majority of the property without affecting the house or vice versa. *The listed criteria are met.*

5.04 (4) Will not require public services other than those existing or programmed for the area;

Finding: The public services required for this site are road access, water, electrical power, etc. Use of two existing bedrooms should not add a need for additional public services because the dwelling is already served. *This criterion is met.*

5.05 (5) Will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife or that agency has certified that the impacts will be acceptable;

Finding: The property is located outside of designated big game winter habitat (Exhibit B.2). *The criterion is met.*

5.06 (6) Will not create hazardous conditions; and

Finding: No existing hazardous conditions associated with the dwelling have been identified. Use of two existing parking spaces and bedrooms does not add any potential to create hazardous conditions where none exists. *The criterion is met.*

5.07 (7) Will satisfy the applicable policies of the Comprehensive Plan.

Finding: The Comprehensive Plan policies in the West Hills Rural Area Plan are implemented by the West Hills Rural Plan Area ordinance and are addressed in the findings of this report. *The criterion is met.*

6.00 Off-Street Parking and Loading

6.01 MCC 33.4105 GENERAL PROVISIONS

In the event of the erection of a new building or an addition to an existing building, or any change in the use of an existing building, structure or land which results in an intensified use by customers, occupants, employees or other persons, off-street parking and loading shall be provided according to the requirements of this Section. For nonconforming uses, the objectives of this section shall be evaluated under the criteria for the Alteration, Modification, and Expansion of Nonconforming Uses.

Finding: The proposed bed and breakfast approval will allow an intensified use by bringing customers to the dwelling in vehicles. Therefore, the adequacy of parking must be determined as part of the review.

6.02 MCC 33.4115 Continuing Obligation

The provision for and maintenance of off-street parking and loading facilities without charge to users shall be a continuing obligation of the property owner. No building or any other required permit for a structure or use under this or any other applicable rule, ordinance or regulation shall be issued until satisfactory evidence in the form of a site development plan, plans of existing parking and loading improvements, a deed, lease, contract or similar document is presented demonstrating that the property is and will remain available for the designated use as a parking or loading facility.

Finding: The applicant has submitted a site plan indicating the use of two existing parking spaces adjacent to the existing residence for guest parking in addition to the two existing residential spaces (Exhibit A.15). Compliance with this code section is a continuing obligation of the operator of the bed and breakfast inn. *Conditions of approval have been imposed to assure compliance with this criterion.*

6.03 MCC 33.4125 Use of Space

(A) Required parking spaces shall be available for the parking of vehicles of customers, occupants, and employees without charge or other consideration.

(B) No parking of trucks, equipment, materials, structures or signs or the conducting of any business activity shall be permitted on any required parking space.

Finding: The applicable provisions of this section ensure that needed parking spaces remain available. The applicant has submitted a site plan indicating the use of two existing parking spaces adjacent to the existing residence for guest parking in addition to the two existing residential spaces (Exhibit A.15). Compliance with these code sections is a continuing obligation of the operator of the bed and breakfast inn. *Conditions of approval have been imposed to assure compliance with this criterion.*

6.04 MCC 33.4130 Location of Parking and Loading Spaces

(A) Parking spaces required by this Section shall be provided on the lot of the use served by such spaces.

Finding: The applicable standard of this section is the requirement to provide parking spaces on the lot. The guest parking will be located on the same property as the existing single-family dwelling. *The criterion is met.*

6.05 MCC 33.4135 Improvements Required

(A) Required parking and loading areas shall be improved and placed in condition for use before the grant of a Certificate of Occupancy under MCC 33.0525, or a Performance Bond in favor of Multnomah County equivalent to the cost of completing such improvements shall be filed with the Planning Director.

(B) Any such bond shall include the condition that if the improvement has not been completed within one year after issuance of the Certificate of Occupancy, the bond shall be forfeited.

Any bond filed hereunder shall be subject to the approval of the Planning Director and the County Attorney.

Finding: The applicant has submitted a site plan indicating the use of two existing parking spaces adjacent to the existing residence for guest parking in addition to the two existing residential spaces (Exhibit A.15). Improvements will include paving, most likely with pavers, and the possible installation of a storm-water system. The improvements will need to be installed prior to guest occupancy or a bond will be required. *A condition of approval has been imposed to assure compliance with the requirements of this criterion.*

6.06 MCC 33.4145 Joint Parking or Loading Facilities

(A) In the event different uses occupy the same lot or structure, the total off-street parking and loading requirements shall be the sum of the requirements for each individual use.

Finding: The proposed bed and breakfast adds a second use to the dwelling, a home occupation. The applicant is proposing to utilize two of the four existing parking spaces for the added use. A single-family dwelling requires two parking spaces and lodging requires one parking space per guestroom. The four parking spaces adjacent to the existing single-family dwelling meet the total minimum parking requirement for the two uses. *The criterion is met.*

6.07 MCC 33.4165 Design Standards: Scope

(A) The design standards of this section shall apply to all parking, loading, and maneuvering areas except those serving a single or two-family residential dwelling or mobile home on an individual lot.

(B) All parking and loading areas shall provide for the turning, maneuvering and parking of all vehicles on the lot. After July 26, 1979 it shall be unlawful to locate or construct any parking or loading space so that use of the space requires a vehicle to back into the right-of-way of a public street.

Finding: As shown on the applicant's site plan (Exhibits A.14 and A.15), the parking, loading, and maneuvering areas are located on the same property as the single-family dwelling. The parking and maneuvering areas are adjacent to the existing single-family dwelling over 300 feet away from the nearest right of way. *The criteria are met.*

6.08 MCC 33.4170 ACCESS

(A) Where a parking or loading area does not abut directly on a public street or private street approved under MCC 33.7700 et seq., the Land Division Chapter, there shall be provided an unobstructed paved drive not less than 20 feet in width for two-way traffic, leading to a public street or approved private street. Traffic directions therefore shall be plainly marked.

(B) Parking or loading space in a public street shall not be counted in fulfilling the parking and loading requirements of this section. Required spaces may be located in a private street when authorized in the approval of such private street.

Finding: The parking area is not located on or adjacent to any right of way or public street. *The criteria are not applicable.*

6.09 MCC 33.4175 Dimensional Standards

(A) Parking spaces shall meet the following requirements:

(1) At least 70% of the required off-street parking spaces shall have a minimum width of nine feet, a minimum length of 18 feet, and a minimum vertical clearance of six feet, six inches.

(2) Up to 30% of the required off-street parking spaces may have a minimum width of eight-and-one-half feet, a minimum length of 16 feet, and a vertical clearance of six feet if such spaces are clearly marked for compact car use.

(3) For parallel parking, the length of the parking space shall be 23 feet.

(4) Space dimensions shall be exclusive of access drives, aisles, ramps or columns.

(B) Aisle width shall be not less than:

(1) 25 feet for 90 degree parking,

(2) 20 feet for less than 90 degree parking, and

(3) 12 feet for parallel parking.

(4) Angle measurements shall be between the center line of the parking space and the center line of the aisle.

(C) Loading spaces shall meet the following requirements:

(1)

District	Minimum Width	Minimum Depth
All	12 Feet	25 Feet

(2) Minimum vertical clearance shall be 13 feet.

Finding: The applicant's site plan and narrative confirms that the two guest parking stalls will meet the above criteria. The requirements of this criterion must be met by the spaces that will be provided by the owners prior to operation of the bed and breakfast inn. *A condition of approval has been imposed to assure compliance.*

6.10 MCC 33.4180 Improvements

(A) Surfacing

(1) All areas used for parking, loading or maneuvering of vehicles shall be surfaced with two inches of blacktop on a four inch crushed rock base or six inches of portland cement or other material providing a durable and dustless surface capable of carrying a wheel load of 4,000 pounds.

Finding: A condition of approval requires confirmation that the above surfacing improvements for the parking and maneuvering area will comply with this code section. Proof must be provided prior to guest occupancy. *As conditioned, the criterion is met.*

6.11 (B) Curbs and Bumper Rails

(1) All areas used for parking, loading, and maneuvering of vehicles shall be physically separated from public streets or adjoining property by required landscaped strips or yards or in those cases where no landscaped area is required, by curbs, bumper rails or other permanent barrier against unchanneled motor vehicle access or egress.

(2) The outer boundary of a parking or loading area shall be provided with a bumper rail or curbing at least four inches in height and at least three feet from the lot line or any required fence.

Finding: The parking and maneuvering area is located over 100 feet from all property lines. As a result, subsection (1) does not apply. The existing parking and maneuvering area is delineated by existing vegetation, a building (garage), a retaining wall/hillside and curb.

The applicant submitted evidence that the curbing is at least four inches tall. The retaining wall/hillside and the garage serve the function of a curb. They prevent vehicles from driving outside of the required parking area. As a result, the hearings officer has determined that no additional curbing is required as long as the 4' curb height for the existing curb is maintained or exceeded when the parking area is surfaced or improved to meet code standards. *This criterion is met. A condition of approval requires continued compliance with the curb height of four inches.*

6.12 (C) Marking – All areas for the parking and maneuvering of vehicles shall be marked in accordance with the approved plan required under MCC 33.4120, and such marking shall be continually maintained.

Finding: A condition of approval has been imposed to assure compliance. *As conditioned, this criterion will be met.*

(D) Drainage – All areas for the parking and maneuvering of vehicles shall be graded and drained to provide for the disposal of all surface water on the lot.

Finding: A condition of approval has been imposed to require a completed storm water certificate if any impervious surfaces (greater than 500 square feet) are proposed as part of any parking area improvements. *As conditioned, this criterion will be met.*

6.13 MCC 33.4185 Lighting

Any artificial lighting which may be provided shall be shielded or deflected so as to not shine into adjoining dwellings or other types of living units, and so as not to create a hazard to the traveling public on any street.

Finding: No new lighting is proposed. *The criterion does not apply.*

6.14 MCC 33.4195 Design Standards: Setbacks

(A) Any required yard which abuts upon a street lot line shall not be used for a parking or loading space, vehicle maneuvering area or access drive other than a drive connecting directly to a street.

(B) A required yard which abuts a street lot line shall not be paved, except for walkways which do not exceed 12 feet in total width and not more than two driveways which do not exceed the width of their curb cuts for each 150 feet of street frontage of the lot.

Finding: The parking and maneuvering area is located over 100 feet from the nearest property line. No parking or loading and no paving is proposed in the required front yard (30' deep). *As conditioned, these criteria will be met.*

6.15.1 MCC 33.4200 Landscape and Screening Requirements

(A) The landscaped areas requirements of MCC 33.7055 (C) (3) to (7) shall apply to all parking, loading or maneuvering areas which are within the scope of design standards stated in MCC 33.4165(A).

MCC 33.7055

(C) Required Landscape Areas

The following landscape requirements are established for developments subject to design review plan approval:

(3) The following landscape requirements shall apply to parking and loading areas:

(a) A parking or loading area providing ten or more spaces shall be improved with defined landscaped areas totaling no less than 25 square feet per parking space.

Finding: This criterion does not apply as only two parking spaces are required for the bed and breakfast inn.

(b) A parking or loading area shall be separated from any lot line adjacent to a street by a landscaped strip at least 10 feet in width, and any other lot line by a landscaped strip at least 5 feet in width.

Finding: The parking area is separated from the nearest street by over 300 feet of dense forest. The area shown on Exhibit B.5 that includes the parking area also includes a landscaped area. This is the required "landscape strip." The strip is at least 10 feet wide between the street and the house and at least five feet wide between the lot and all other property lines.

(c) A landscaped strip separating a parking or loading area from a street shall contain:

1. Street trees spaces as appropriate to the species, not to exceed 50 feet apart, on the average;

2. Low shrubs, not to reach a height greater than 3'0", spaced no more than 5 feet apart, on the average; and

3. Vegetative ground cover.

Finding: The landscape strip provides a mix of trees, shrub and ground cover sufficient to comply with the requirements of this code section.

(d) Landscaping in a parking or loading area shall be located in defined landscaped areas which are uniformly distributed throughout the parking or loading area.

Finding: This criterion does not apply. As stated earlier, the requirement applies to lots of ten or more spaces only.

(e) A parking landscape area shall have a width of not less than 5 feet.

Finding: The landscape area exceeds this minimum.

6.15.2 (4) Provision shall be made for watering planting areas where such care is required.

Finding: The natural vegetation surrounding the parking area is native and does not require supplemental watering. *The criterion is met.*

6.15.3 (5) Required landscaping shall be continuously maintained.

Finding: A condition of approval has been imposed to require protection of trees adjacent to the parking area. *As conditioned, the criterion is met.*

6.15.4 (6) Maximum height of tree species shall be considered when planting under overhead utility lines.

Finding: No new trees are proposed. *The criterion is not applicable.*

6.15.5 (7) Landscaped means the improvement of land by means such as contouring, planting, and the location of outdoor structures, furniture, walkways and similar features.

Finding: No new landscaping is proposed.

6.16 MCC 33.4205 Minimum Required Off-Street Parking Spaces

(A) Residential Uses

(1) Single Family Dwelling – Two spaces for each dwelling unit.

(2) Two Family Dwelling – Two spaces for each dwelling unit.

(3) Motel or Hotel – One space for each guest room or suite.

Finding: The proposal requires one parking space per guestroom and two spaces for the residence. The applicant has proposed the use of four parking spaces. *The criterion is met.*

7.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for a Conditional Use Permit for a Type B Home Occupation for a two guestroom bed and breakfast in the CFU-2 zone. This approval is subject to the conditions of approval established in this report.

Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

Exhibits are available for review in Case File T3-2011-1593 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	04/19/2011
A.2	2	Applicant’s Proposal Description	04/19/2011
A.3	2	Applicant’s Floor Plans showing existing rooms	04/19/2011
A.4	1	Site Photos and dwelling interior photos.	04/19/2011
A.5	6	Applicant’s evidence of habitable dwelling. Includes photographs of roof, heat source, septic tank, running water, bathing facility, toilet, laundry room, interior lights. Also includes permitting history.	04/19/2011
A.6	6	Certificate of Onsite Sewage Disposal	04/19/2011
A.7	1	Police Services Review	04/19/2011
A.8	1	School District Review	04/19/2011
A.9	1	Certificate of Water Service	04/19/2011
A.10	1	Fire District Review Form	04/19/2011
A.11	1	Fire District Access Review Form	04/19/2011
A.12	1	Email to Applicant from Portland Bureau of Transportation	06/15/2011
A.13	13	Applicant’s Narrative	06/15/2011
A.14	1	Applicant’s Site Plan	06/15/2011
A.15	1	Applicants Parking Plan	06/15/2011
‘B’	#	Staff Exhibits	Date
B.1	3	A&T Property Information	N/A
B.2	2	County Wildlife Habitat Map	N/A
B.3	1	Storm Water Certificate Form	N/A
B.4	1	Acknowledgement of Farming and Forestry Practices Covenant Form	N/A
B.5	1	Aerial Site Photo showing parking and maneuvering area and adjacent vegetation	N/A

[illegible]