



Department of Environmental Services  
Transportation and Land Use Planning Division  
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**PUBLIC NOTICE and ADMINISTRATIVE DECISION**

**EXCEPTION TO FIRE SAFETY ZONE**

**Case File:** E 2-99

**Date Decision Issued:** March 1, 1999

**Proposal:** Applicant requests an exception to the secondary fire safety zone to place an accessory structure closer to the property boundary.

**Location:** 7608 SE Johannesen Road  
Tax Lot '400'; T1S R5E Section 19D  
R#995190420  
See Attachment A

**Applicant/Owner:** Patricia A. Lucas  
7608 SE Johannesen  
Corbett, OR 97019

**Site Size:** 5.9 acres

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

**Approval Criteria:** Multnomah County Code (MCC): 11.ES.2054-.2075, CFU-4

**Decision:** **Approve with Conditions** the proposed request for an exception to the secondary fire safety zone.

**Conditions of Approval**

1. This approval is based on the submitted material. The addition shall be constructed on the site in accordance with the design, size, and location shown and described in the application materials submitted by the applicant. Additional submittals and actions may be required of the applicant as noted in these Conditions of Approval.
2. The applicant shall remove all brush within 30 feet of the accessory building and continuously maintain the primary fire safety zone in a manner consistent with MCC .2074(5)(c)(i).

3. The applicant shall remove small trees and brush within the northern 130 feet of the building within 20 days of the date of issuance of this decision. Once the work is completed, the applicant shall call the case planner for an inspection.
4. The applicant shall continuously maintain the secondary fire safety zone in a manner consistent with MCC .2074(5)(c)(iii).
5. The chimney shall have a spark arrester acceptable to the building official.
6. Prior to obtaining building permit sign-off, the applicant shall submit to the County a “Minimum Design Standards for Residential Driveways” form signed by the Fire District Official.
7. **Within 30 days** from the date of issuance of this decision, the applicant shall meet with the Staff Planner, Virginia Dodson, at Multnomah County, for building permit sign-off. The applicant shall bring three (3) sets of site and building plans to the County for sign-off prior to submittal of the building permits to the Gresham Building Department. Failure to provide building plans within this 30 day time period will cause this case to be turned over to Code Enforcement. Please call (503) 248-3043 to make an appointment to meet with the case planner.
6. At the building permit sign-off, the applicant shall provide elevation drawings that show the type of material and material size of the exterior parts of the building (ie., siding, roofing, doors, etc.). The building plans inspector shall review these plans for compliance 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 code section is attached to this decision.

No additional land use action and/or permit requests shall be accepted, relating to the subject application, until such time as all required fees for the said application have been paid in full.

### **Findings of Fact**

(Formatting Note: Staff as necessary to address Multnomah County ordinance requirements provides Findings referenced here. Headings for each finding are underlined. Multnomah County Code requirements are referenced using a **bold** font. Written responses by the applicant, demonstrating compliance with code criteria, are *italicized*. Planning staff comments and analysis may follow applicant responses. Where this occurs, the notation “Staff” precedes such comments.)

#### **1. Project Description:**

The applicant wishes to obtain a building permit for an accessory structure that was built without any permits. The structure does not meet the fire safety zones for buildings in the CFU zone. The applicant has requested an exception to the fire safety zone standard.

#### **2. Site and Vicinity Characteristics:**

The applicant’s parcel is 5.9 acres. A driveway leads to an existing house footprint and the accessory building (shop). Beyond the barn is pasture and to the north is forested area.

#### **3. Multnomah County Code:**

##### **11.ES.2054 Commercial Forest Use (CFU-4) Accessory Uses**

**(D) 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:** An accessory building is accessory use to a single family home.

**11.ES.2058 Dimensional Requirements**

**(A) Except as provided in MCC .2060, .2061, .2062, and .2064, the minimum lot size shall be 80 acres.**

**Staff:** The applicant parcel is 5.9 acres. Based on old zoning maps, the site was zoned F2 at the time this parcel was created. The parcel is a lot of record as defined in .2062.

**(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**

**Staff:** According to the applicant's site plan, the building has a rear yard setback of approximately 500 feet, side yard setbacks of 174 and 120 feet, and a front yard setback of 180 feet. The barn is 14.5 feet high. The front lot line length is 400 feet. All setbacks are met except the south side yard setback of 120 feet. This is the reason for requesting an exception.

**(G) Agricultural buildings, as specified in ORS 455.315(2) and allowed under MCC.2048(C), may have minimum side and rear yard setbacks of 30 feet, but in no case shall any setback be less than the minimum primary fire safety zone required by MCC .2074(A)(5)(c)(ii).**

**Staff:** The accessory structure does not meet the definition of an agricultural building.

**11.ES.2074 Development Standards for Dwellings and Structures**

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

**(1) It has the least impact on nearby or adjoining forest or agricultural lands and satisfies the minimum yard and setback requirements of .2058(C) through (G);**

*Our structure does not have any impact on our forestland or our pastures. This barn was built in the middle of our property. We did not have to cut down any trees or alter our pastureland to build this structure. The building is sitting on land that was formerly used for a lean-to for use as a woodshed and part of the land was used for a garden.*

**Staff:** As stated above, the building meets all yard and setback requirements except one side yard setback. The building site appears to have minimum impact on the pasture land to the east.

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

*As stated in the above paragraph this building is not infringing on any forestland or pastureland. We do still periodically move our cattle into the pasture that is behind the shop and they still have as much room to graze as they had long before the shop was built.*

**(3) The amount of forest land used to site the dwelling or other structure, access road and**

**service corridor is minimized;**

*The land that was used to place this building was land that was already there but was used for other purposes (woodshed, garden). So placing this building on this particular part of our land did not have any effect on the forest or pasture. We did not have to build any new access to this building because there was already a road there*

**Staff:** Only the most northern part of the site is forested. No trees were removed to build this building.

- (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**

*The access road to the building is not 500 feet.*

- (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:**

*This land is within the boundaries of Multnomah County Fire District #14.*

- (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.2074(D) with permanent signs posted along the access route to indicate the location of the emergency water source;**

**Staff:** There is no water source on the property.

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

- (i) 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.**

*There are no bushes, no brush, nor wood around the building. There is pastureland around the back and sides of the building and a gravel driveway and apron on the front side.*

**Staff:** There are no trees within 30 feet of the building. The pastureland has been cut to less than 2 feet. There are some blackberry bushes and other small brush to the south of the building which should be cut back. The applicant shall remove all brush within 30 feet of the accessory building and continuously maintain the primary fire safety zone in a manner consistent with MCC .2074(5)(c)(i).

- (ii) 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:...**

*The land that the building is on is flat.*

- (iii) A secondary fire safety zone is a fire break 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 Dept. 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 .2075.**

**Staff:** There are several large trees, small trees and brush within the secondary fire safety zone north of the building. The safety zone south of this building has been reduced by 10 feet under MCC .2075. The applicant shall remove small trees and brush within the northern 130 feet of the building within 20 days of the date of issuance of this decision. Once the work is completed, the applicant shall call Virginia Dodson for an inspection. The applicant shall continuously maintain the secondary fire safety zone in a manner consistent with MCC .2074(5)(c)(iii).

- (iv) No requirement in (i), (ii), (iii) above may restrict or contradict a forest management plan approved by the State of Oregon Dept. of Forestry pursuant to the State Forest Practice Rules; and**

*No plans were infringed on with these fire zones.*

- (v) Maintenance of a primary and a secondary fire safety zone is required only to the extent possible within the area of an approved yard (setback to property line).**

*This land is maintained to assure that no fire spread will be aided.*

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

*The building site slope is less than 40%.*

**(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 home;**
- (2) If a mobile home, have a minimum floor area of 600 feet...**
- (3) Have a fire retardant roof; and**
- (4) Have a spark arrester on each chimney.**

*The building is not a dwelling or mobile home.*

**Staff:** The structure shall meet the applicable building code for an accessory structure as determined by the building bureau. The roof is made of metal and is thus a fire retardant. There is a wood stove within the building. The plans do not show the wood stove or chimney. The chimney shall have a spark arrester acceptable to the building official.

**(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, div. 10) or surface water (OAR 690, Div. 20) and not from a Class 11 stream as defined in the Forest Practices Rules.**

- (1) If the water supply is unavailable from public sources, or sources located entirely on the property, the applicant shall provide evidence that a legal easement has been obtained permitting domestic water lines to cross the properties of affected owners.**
- (2) Evidence of a domestic water supply means:**

*There is no water supply to this building.*

- (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.**
  - (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:**
  - (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 ½ the driveway length or 400 feet whichever is less.**

*The road to this building is a driveway that goes to a house. It meets the standards.*

**Staff:** It is unclear from the site plan and the applicant's statement whether the driveway meets the above criteria. Prior to obtaining building permit sign-off, the applicant shall submit to the County a "Minimum Design Standards for Residential Driveways" form signed by the Fire District Official.

#### **11.ES.2075 Exceptions to Secondary Fire Safety Zones and Forest Practices Setbacks**

- (A) The secondary fire safety zone and forest practices tract setbacks for dwellings and structures may be reduced pursuant to the provisions of .2075(B) when:**
- (1) The tract on which the dwelling or structure is proposed has an average lot width or depth of 330 feet or less,**

*The width of our lot is 330 feet.*

- (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**

*The secondary fire safety zone (on the south side of the building) is 90 feet and our building is constructed by Web Steel.*

**Staff:** The building plans submitted by the applicant do not provide information on the exterior of the building. At the building permit sign-off, the applicant shall provide elevation drawings that show the type of material and size of the exterior parts of the building (ie., wall siding, roofing, doors, etc.). The building plans inspector shall review these plans for compliance 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 code section is attached to this decision.

- (2) If the proposed secondary fire safety zone is less than 50 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, or**

**Staff:** Does not apply.

- (3) There shall be no combustible fences within 12 feet of the exterior surface of the dwelling or structure; and**

*There are no combustible fences around the exterior of our building.*

**Staff:** Although not specifically required, staff recommends that the property owner not store firewood adjacent to this accessory building as it is a fire hazard similar to a combustible fence.

- (4) A dwelling shall have a central station monitored alarm system if the secondary fire safety zone equivalents of MCC .2075(B)(1) are utilized, or**

**Staff:** Does not apply. The building is not a dwelling.

- (5) A dwelling shall have a central station monitored 13D sprinkler system if the secondary fire safety zone equivalents of MCC .2075(B)(2) are utilized.**

**Staff:** Does not apply.

- (6) All accessory structures within the fire safety zone setbacks required by MCC .2074, and all accessory structures within 50 of a dwelling, shall have a central monitored alarm system.**

*The house that is located within the same lot is greater than 50 feet from the shop.*

- (7) All accessory structures within 50 feet of a building shall:**

- (a) Have a central monitored alarm system;**
- (b) Have exterior walls constructed with materials approved for a minimum of one-hour-rated fire-resistive construction, heavy timber, log wall construction or constructed with noncombustible materials on the exterior side.**

*There is no structure within 50 feet of the shop.*

- (8) When a detached accessory structure is proposed to be located so that the structure or any portion thereof projects over a descending slope surface greater than 10 percent, the area below the structure shall have all underfloor areas enclosed to within 6 inches of the ground, with exterior wall construction in accordance with Section 504.5 of the International Fire Code Institute Urban-Wildland Interface Code Section 504 Class 1 Ignition Resistant Construction as adopted August, 1996, or as later amended, or underfloor protection in accordance with Section 504.6 of that same publication.**

*There is no detachment from the barn that is on a slope greater than 10%.*

## **Conclusion**

Based on the findings and other information provided above, the applicant has carried the burden necessary for the proposed exception. The applicant's request for an exception is approved subject to the Conditions of Approval established in this report.

**Multnomah County Department of Environmental Services  
Transportation and Land Use Planning Division**

By: \_\_\_\_\_  
Virginia Dodson, Planner  
For Kathy Busse, Planning Director  
Date: March 1, 1999

**NOTICE:**

*The Administrative Decision detailed above will become final unless an appeal is filed within the 10-day appeal period that starts the day after the notice is mailed. If the 10<sup>th</sup> day falls on a Saturday, Sunday, or a legal holiday, the appeal period extends through the next full business-day. If an appeal is filed, a public hearing will be scheduled before a County Hearings Officer pursuant to Multnomah County Code section 11.15.8290 and in compliance with ORS 197.763. To file, complete an Appeal of Administrative Decision for, and submit to the County Planning Division Office, together with a \$100.00 fee and supplemental written materials (as needed) stating the specific grounds, approval criteria, or standards on which the appeal is based. To review the application file(s), obtain appeal forms, or other instructions, call the Multnomah County Planning Division at (503) 248-3043, or visit our offices at 1600 SE 190<sup>th</sup> Avenue, Portland, Oregon, 97233(8:30am to 4:00pm).*

**The appeal period ends Monday, March 10, 1999, at 4:00pm.**