



MULTNOMAH COUNTY
LAND USE PLANNING DIVISION
1600 SE 190TH Avenue Portland, OR 97233
(503) 248-3043 FAX: (503) 248 -3389

DECISION OF LAND USE HEARINGS OFFICER

Case File: CU 5-99
Hearings Officer: Liz Fancher
Hearing Date: November 17, 1999

PROPOSAL: A request for Conditional Use approval for a Type B Home Occupation to use an area 10' x 13' in size of the residential dwelling/ garage for a one chair salon on the subject parcel. The applicant proposes no more than two clients at a time would come to the site. The applicant has provided a site plan of the existing single-family dwelling and a floor plan of the area to be used for the proposed hair salon. The subject parcel is zoned Multiple Use Agriculture (MUA-20). A Pre-Application Meeting, PA 26-99, was held on September 29, 1999 for the proposal.

LOCATION: 8240 SE Kane Road.
South 1/2 of Lot 75, Botefuhr Tracts, Section 23, T1S, R3E, W.M.
R#09260-4130.
See attached map.

APPLICANT/

PROPERTY OWNER: Marva and Tim Belanger (referred to collectively as the "applicant")
8240 SE Kane Road
Gresham, OR 97080

HEARINGS OFFICER'S DECISION:

Approval with Conditions of the proposed Conditional Use, **CU 5-99**, for the use of a portion (10' x 13') of the existing single-family residence, for a Type B Home Occupation (one-chair beauty salon) on a 2.4-acre tract in an MUA-20 zoning district.

APPROVAL CRITERIA:

ZONING ORDINANCE REQUIREMENTS:

MCC 11.15.0010 - Definition of Home Occupation
MCC 11.15.2122 – Multiple Use Agriculture (MUA-20)
MCC 11.15.7105 – Conditional Uses (CU)
MCC 11.15.7455 - Home Occupation Conditional Use

COMPREHENSIVE PLAN POLICIES:

- 13 Air, Water and Noise Quality
- 14 Developmental Limitations
- 22 Energy Conservation
- 37 Utilities
- 38 Facilities
- 40 Development Requirements

CONDITIONS OF APPROVAL:

1. A **Grading and Erosion Control (GEC) permit** will be required for any volume of soil or earth disturbed, stored, disposed of, excavated, moved, or used as fill greater than 50 cubic yards.
2. Approval of this Conditional Use for a Home Occupation shall expire two years from the date the Decision is final unless "substantial construction" has taken place in accordance with MCC 11.15.7110 (C)(3) or the subject proposal is completed as approved.
3. When ready to have land use or building permits signed-off, the applicant shall contact the Staff Planner, Tricia R. Sears, at (503)-248-3043, **for an appointment** to review and sign the plans. The applicant shall submit three (3) copies of the required plans. Multnomah County will keep one (1) copy and two (2) copies will be returned to the applicant for processing with the City of Gresham.
4. 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 this application has been paid in full.
5. Approval of this application is granted upon the condition that the use be conducted in accordance with all use regulations imposed by the County's zoning code. These regulations include, but are not limited to, the requirements that the use not generate noise above 50 dba at the property lines, have no outdoor signage, no outdoor storage or displays, no repair or assembly of vehicles or motors and delivery vehicle type and hour restrictions.
6. The applicant shall properly dispose of all chemical products used in the operation of the home business in compliance with all applicable environmental regulations.
7. **This approval is based on the submitted material.** The proposed Home Occupation for the one chair salon (a 10' x 13' area) in the existing single-family dwelling shall be constructed and operated (applicant's listed business hours are Monday through Saturday between 8:00 AM and 6:00 PM with no more than 10 clients in one day) in accordance with the design, size, and location shown and described in the application materials submitted by the applicant in case files CU 5-99 and PA 26-99. Additional submittals and approvals may be required of the applicant as noted in these Conditions of Approval.

DECISION FORMAT:

This decision is written using the Staff Report as the base document. The decision lists the applicable criteria and contains finding that support the decision and the imposition of the above conditions of approval. The decision lists Applicant's response to an approval criterion following the notation "Applicant." Planning staff comments and analysis follow the Applicant's responses to the criteria. Hearings Officer findings and conclusions of law follow the staff comments. All such findings are findings of the hearings officer unless noted otherwise. The hearings officer has ~~stricken~~ those words and

sentences in the applicant and staff findings that are not adopted by reference. Where the hearings officer has added words to applicant or staff findings, the new text is shown in *italics*.

FINDINGS AND CONCLUSIONS:

Summary:

Applicant:

Applicant's *Marva Belanger* intends to use a room, approximately 10' x 13' (see Exhibit 8), as a one chair hair salon business. *The* salon is to be operated by Marva Belanger, owner, who is appropriately licensed by the State of Oregon to conduct such business. The salon room is to be created by framing an area within one of the three garage bays of a new single-family dwelling currently under construction. The dwelling will be the principal residence of the applicants.

The maximum expected volume of clientele on any given day is ten, with fewer on average. No more than two clientele are expected on site at any one time. The maximum possible operating hours of the business are between 8:00 AM to 6:00 PM, Monday through Saturday, typical hours would be less. The salon business will serve several clientele in the area reducing their need to travel farther distances into the City. The nearest adjacent property driveways to the home occupation site driveway are approximately 160' to the North and 200' to the South.

The County of Multnomah, Oregon is therefore respectfully requested to approve a conditional land use permit to allow the herein described home occupation business.

Staff:

The applicant's request is for a proposed Type B Home Occupation on the subject parcel located at 8240 SE Kane Road (R#09260-4130). The subject parcel is zoned Multiple Use Agriculture (MUA-20).

The applicant proposes to use an area approximately 10' x 13', for a total of 130 square feet, within the garage of the house, for a one chair salon business. The site plan submitted by the applicant illustrates the proposed location of the one chair salon within the single-family dwelling. The site plans are attached as Exhibits #1 and #2. The applicant received building permit approval for the single-family residence located at 8240 SE Kane Road on June 2, 1999. A special comment was placed on the building permit for the area labeled on the applicant plans as "Salon"; the Staff Planner wrote "Future Salon with Approval".

Staff notes the applicant has addressed the criteria of MCC 11.15.7120, the Conditional Use criteria. The applicant has addressed Comprehensive Plan Policies 13, 14, 22, 37, 38, and 40. The applicant has submitted completed copies of the Certification of Private On-Site Sewage Disposal, Certification of Water Service, Fire District Review, Police Services Review, and a copy of the Land Feasibility Study (LFS 28-99). The Type B Home Occupation request is made through a Conditional Use application. Because the applicant proposes to use a portion of a structure constructed after March 14, 1998, the applicant's proposal exceeds the parameters of the Type A Home Occupation. Please see the Home Occupation definition and the Home Occupation criteria included within this document.

Alan Young (503-248-3582) in the Right-of-Way Division stated that no additional requirements are applicable to the site at this time for the Conditional Use application.

The Pre-Application Meeting for the proposal, PA 26-99, was held on September 29, 1999. The applicant submitted the application for the Conditional Use on September 29, 1999. The application was deemed complete on October 27, 1999. Staff visited the site on November 5, 1999.

Multnomah County Code

MCC 11.15.0010 Definitions

Home Occupation

- (A) A type A home occupation is one where the residents use their home as a place of work. Type A home occupations may have up to one non-resident employee or customer on the premises at any one time in addition to the resident participant. No new buildings or modifications to existing structures shall be allowed (constructed after March 14, 1998). No deliveries other than those normally associated with a single family dwelling and between the hours of 7 a.m. – 6 p.m. No outdoor storage or displays shall occur (including vehicle parking associated with the Home Occupation). No signage shall be allowed (including temporary signage and those exempted under MCC 11.15.7912 with the exception of those required under MCC 11.05.500 - .575), and no noise above 50 dba (decibels adjusted) at the property lines shall be permitted. No repair or assembly of any vehicles or motors can occur as part of a type A home occupation. A type A home occupation may not serve as headquarters or dispatch where employees come to the site. A type A home occupation must have direct access to a public road (no easements). Type A home occupations shall be filed on a form provided by the Planning Director. Type A Home Occupations must be in conformance with all other applicable state codes.
- (B) Type B home occupation is one where the residents use their home site as a place of work but exceeds the standards of the type A home occupation. Type B home occupations shall be approved as per MCC 11.15.7105 and .7455.

Staff: Staff will start by listing the standards of the Home Occupation Type A and comparing those to the applicant's proposal.

The applicant narrative describes that one employee will be on the site and that employee will be the owner/ applicant, Marva Belanger. This does not exceed the Type A Home Occupation standards.

The applicant's subject parcel includes vehicles parked on the site; vehicles driven by the clients coming to the hair salon. The definition of Type A Home Occupation states that outdoor storage, including vehicle parking associated with the Home Occupation, is not allowed. This exceeds the Type A Home Occupation standards.

The applicant states that no signs will be installed on the site. This is in keeping with the requirement.

Under the Type A standards, no new structures or modifications can be made to the residence or to the site for the purpose of accommodating the Home Occupation. The applicant received building permit approval for a new single-family residence on June 2, 1999 from Multnomah County with the special comment on the portion labeled "Salon" on

the applicant plans was modified by the Staff Planner to state, "Future Salon with Approval". The applicant's proposal thus exceeds the Type A Home Occupation standards and hence the applicant's proposal is classified as a Type B Home Occupation. The Type A standard requires direct access to a public road for a Home Occupation; not access by easement. The subject parcel is accessed from SE Kane Road.

Thus, evaluation of the applicant's proposal in light of the Type A Home Occupation standards reveals the appropriate avenue for the applicant's request is through the Type B Home Occupation application. The approval requested by the applicant is for a Type B Home Occupation for a one-chair salon and such a request is reviewed through the Conditional Use application process. Further evaluation of the request will be under Section .2132 (B), Section .7455 et seq., and Section .7120.

Multiple Use Agriculture (MUA-20)

11.15.2122 Purposes

The purposes of the Multiple Use Agriculture District are to conserve those agricultural lands not suited to full-time commercial farming for diversified or part-time agriculture uses; to encourage the use of non-agricultural lands for other purposes, such as forestry, outdoor recreation, open space, low density residential development and appropriate Conditional Uses, when these uses are shown to be compatible with the natural resource base, the character of the area and the applicable County policies.

11.15.2124 Area Affected

MCC .2122 to .2150 shall apply to those lands designated MUA-20 on the Multnomah County Zoning Map.

Staff: The subject parcel is zoned MUA-20 according to the zoning maps on file at Multnomah County.

11.15.2132 Conditional Uses

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

(D) Type B home occupation as provided for in MCC 11.15.7455. *[Added 1998, Ord. 900 § III]*

Staff: As described above, under the definition of Home Occupation in MCC 11.15.0010, the applicant's proposed home business is classified under the Type B Home Occupation. See also Section .7455 et seq. for additional criteria and comments.

11.15.2138 Dimensional Requirements

(A) Except as provided in MCC .2140, .2142, .2144 and .7629, the minimum lot size shall be 20 acres.

Staff: The subject parcel is 2.4 acres in size and is hence smaller than the required minimum lot size of the MUA-20 zone. The provisions of Section .2142 establish the standards for a Lot of

Record. The subject parcel is reviewed under these standards. Please see the Staff comments under Section .2142.

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

Staff: ~~The applicant does not propose to vacate the abutting street and hence the criterion is not applicable to the proposal.~~

Hearings Officer: This code section is immaterial to resolution of this application. The portion of the street that would accrue to the subject property if it were vacated is too small to change the status of the Belanger property as a substandard parcel (less than 20 acres in size).

- (C) Minimum Yard Dimensions - Feet**

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

Staff: The applicant's site plan illustrates compliance of the single-family dwelling with the required front, rear, and side yard setback requirements. The structure is less than 35 feet in height, as shown on the submitted elevation drawings. The front lot line length of the subject parcel exceeds the minimum front lot line length requirement. The application meets the criterion.

- (D) The minimum yard 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: Alan Young of the Multnomah County Right-of-Way division stated that no additional requirements for the site are applicable at this time for the Conditional Use application. Young did not require dedication of SE Kane Road for this development.

- (E) Structures such as barns, silos, windmills, antennae, chimneys or similar structures may exceed the height requirement if located at least 30 feet from any property line.**

Staff: The applicant does not propose to build a barn, silo, windmill, antennae, or any similar structure as described in (E). The criterion is not applicable to this application, CU 5-99.

11.15.2142 Lot of Record

- (A) For the purposes of this district, a Lot of Record is a parcel of land for which a deed or other instrument dividing land was recorded with the Department of Administrative Services or was in recordable form prior to October 6, 1977, and which, when established, satisfied all applicable laws.**

Staff: Staff reviewed the land use and zoning maps on file at Multnomah County's Land Use Planning office. Maps from 1962, 1978, 1979, 1986, 1989, and 1998, were used to determine

compliance with the Lot of Record standards. The applicant provided a copy of the deed of the property, dated June 17, 1974. The deed description of the subject property, according to the deed, is as follows, "The south half of Lot 75, Botefuhr Tract, Multnomah County, Oregon, excepting therefrom that part thereof lying within Kane Road". The zoning map from 1962 showed the subject parcel had not been created. The 1962 zoning map showed the zoning for the area (including the current parcel) was Single-Family Residential (S-R). Criteria within the S-R zone in the 1962 Multnomah County Code included a minimum lot size of 10,000 square feet and frontage to a public street. The application met the applicable standards at the time the parcel was created.

- (B) A Lot of Record which has less than the area or front lot line minimums required may be occupied by any permitted or approved use when in compliance with the other requirements of this district.**

Staff: The front lot line length of the subject property exceeds the minimum standard required in Section .2138 (C).

- (C) Separate Lots of Record shall be deemed created when a street or zoning district boundary intersects a parcel of land.**

Staff: A street does not intersect the subject property; this criterion is not applicable.

- (D) Except as otherwise provided by MCC .2140, .2144, .6256 and .7720, no sale or conveyance of any portion of a lot, other than for a public purpose, shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.**

Hearings Officer: This code provision is not applicable. The Belanger application does not involve a sale or conveyance of a portion of the subject property.

11.15.2144 Lot Sizes for Conditional Uses

The minimum lot size for a Conditional Use permitted pursuant to MCC .2132, except subpart (C)(1) thereof, shall be based upon:

- (A) The site size needs of the proposed use;**
- (B) The nature of the proposed use in relation to its impact on nearby properties; and**
- (C) Consideration of the purposes of this district.**

Staff: The subject parcel is a Lot of Record as described in Section .2142 above. The nature of the proposed use in relation to its impact on nearby properties; the site size needs of the proposed use; and the consideration of the purposes of this district are reviewed throughout this Staff Report. Section .7120 and Section .7455 provide additional applicant and Staff comments.

Hearings Officer: The 2.4-acre size of the site is far larger than needed to support the existing single-family residential use of the property and the proposed salon use. Septic feasibility review has shown that the property is large enough to accommodate a drain field to serve both uses. The property contains ample areas that are suitable for parking and unloading activities.

The surrounding area includes residences and home businesses. The impact of approval of this application will have no visual impact on area neighbors as the building will look exactly like any other single-family home when viewed from the outside. Traffic will be greater than generated by a single-family residence but these trips will occur throughout the day. This means that most trips will occur at off-peak hours, minimizing the impact of the use on the area transportation system. Additionally, the business hours are such that most business activity will occur during the work week. This will mean that these residents will not be present to be disturbed by the traffic.

11.15.2146 Off-Street Parking and Loading

Off-Street parking and loading shall be provided as required by MCC .6100 through .6148.

Staff: See Sections .6144 (G) and .7465 (C) for the requirements for parking for the proposed use of the site as a Home Occupation for a one-chair hair salon. The applicant states that no more than 2 clients are expected at a time on the site. Thus, two parking spaces for clients may be considered appropriate under the standards of Section .6144 (G) [via Section .7465(C)] and .7465 (J). The site plan illustrates the proposed location for on-site parking. The application meets the criterion.

Hearings Officer: The applicant, Marva Belanger, testified that the business receives deliveries of beauty supplies from a supply house. Ms. Belanger said that the truck used by the supply house is smaller than a UPS truck and will use the driveway or customer parking spaces for unloading. A review of the site plan shows that there will be room on the subject property to accommodate this delivery and unloading activity. The same is true for other trucks that could conceivably make deliveries (UPS, FedEx, US Postal Service).

11.15.2148 Access

Any lot in this district shall abut a street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles.

Staff: The subject property has direct access to SE Kane Road. The applicant has provided a completed copy of the Fire District Review form signed by the City of Gresham Fire and Emergency Services Department. The site is also served by the Multnomah County Sheriff's Office.

Conditional Uses (CU)

11.15.7105 Purposes

Conditional uses as specified in a district or described herein, because of their public convenience, necessity, unique nature, or their effect on the Comprehensive Plan, may be permitted as specified in the district or described herein, provided that any such conditional use would not be detrimental to the adjoining properties or to the purpose and intent of the Comprehensive Plan.

Hearings Officer: The evidence in the record shows that no visible alteration to the Belanger residence will be needed to accommodate the proposed salon use and that the use proposed will not be detrimental to adjoining properties or the intent of the Comprehensive Plan. Plan policies are addressed below. The findings elsewhere in this decision support the conclusion that the use will not be detrimental to adjoining properties.

11.15.7110 General Provisions

- (A) Application for approval of a Conditional Use shall be made in the manner provided in MCC .8205 through .8280.**

Staff: The applicant submitted the application for the Conditional Use on September 29, 1999 in the appropriate manner established by the Multnomah County Code.

- (B) The Approval Authority shall hold a public hearing on each application for a Conditional Use, modification thereof, time extension or reinstatement of a revoked permit.**

Staff: The application for CU 5-99 will be reviewed by the Hearings Officer at a public hearing on November 17, 1999 at the Multnomah County Land Use Planning offices.

Hearings Officer: A hearing was held on November 17, 1999.

- (C) Except as provided in MCC .7330, the approval of a Conditional Use shall expire two years from the date of issuance of the Board Order in the matter, or two years from the date of final resolution of subsequent appeals, unless:**

- (1) The project is completed as approved, or**
- (2) The Approval Authority establishes an expiration date in excess of the two year period, or**
- (3) The Planning Director determines that substantial construction or development has taken place. That determination shall be processed as follows:**
 - (a) Application shall be made on appropriate forms and filed with the Director at least 30 days prior to the expiration date.**
 - (b) The Director shall issue a written decision on the application within 20 days of filing. That decision shall be based on findings that:**
 - (i) Final Design Review approval has been granted under MCC .7845 on the total project; and**
 - (ii) At least ten percent of the dollar cost of the total project value has been expended for construction or development authorized under a sanitation, building or other development permit. Project value shall be as determined by MCC .9025(A) or .9027(A).**

Staff: Subsection (C) of Section .7110 is established as Condition of Approval #2.

- (c) Notice of the Planning Director decision shall be mailed to all parties as defined in MCC .8225.**
- (d) The decision of the Planning Director shall become final at the close of business on the tenth day following mailed notice unless a party files a written notice of appeal. Such notice of appeal and the decision shall be subject to the provisions of MCC .8290 and .8295.**

- (D) A Conditional Use permit shall be issued only for the specific use or uses, together with the limitations or conditions as determined by the Approval Authority. Any change of use or modification of limitations or conditions shall be subject to approval authority approval after a public hearing.
- (E) The findings and conclusions made by the approval authority and the conditions, modifications or restrictions of approval, if any, shall specifically address the relationships between the proposal and the approval criteria listed in MCC .7120 and in the district provisions.

Staff: The above criteria are included as informational.

11.15.7120 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;

Applicant: The site plan for the single-family dwelling (Exhibit 7), within which the home occupation business is located, has been approved by Multnomah County. The character of the home exterior will in no way be modified as a result of the business (see Exhibits 9 and 10). The remaining property of the 2.4 acre parcel will be maintained as yard, horse pasture and natural areas consistent with the use of surrounding properties. There are no other hair salon occupations in the area, however, there are other home occupation businesses in the nearby area. The noise, air, and water quality will in no way be affected by the business. The traffic will have minimal increase to a maximum of ten visits per day, less on average. Presence of the home occupation will reduce the number of trips made by the owner/operator by reducing the free-lance hair service trips currently made to other locations. Overall, the presence of the home occupation business is not expected to be discernable by area neighbors.

Staff: The subject parcel is zoned Multiple Use Agriculture (MUA-20); this is a single-family residential zoning district. The subject parcel now contains the single-family residence approved under the building permit issued by Multnomah County on June 2, 1999. The building permit included a comment regarding the proposed salon; the applicant plans were marked the area "Salon" and the Staff Planner marked the plans, "Future Salon with Approval". The character of the area is not a quantifiable standard to analyze. Instead, Staff uses aerial photos from the Geographic Information Systems (GIS), zoning maps, the applicant narrative, and a site visit, to determine the compatibility of the proposal with the character of the area. The applicant's comments regarding traffic and natural areas are important elements of the character of the area. Staff's analysis includes parking as a consideration in the character of the area. No signs will be put on the residence. Staff agrees with the applicant statement that the presence of the Home Occupation is unlikely to be discernable by neighbors. The application meets the criterion.

Hearings Officer: The character of the area is rural residential. A number of area homes are used for home businesses.

(2) Will not adversely affect natural resources;

Applicant: There are no streams, wetlands or forests within the immediate vicinity of the home occupation business. The water and the sanitary use of the business will be equivalent to the addition of another household member as determined by the City of Portland Environmental Soils Specialist.

Staff: The applicant states there are no streams, wetlands, or forests in the vicinity of the Home Occupation. The maps on file indicate there is a stream on the subject parcel. During a phone conversation with Marva Belanger on November 3, 1999, the applicant stated the stream is seasonal or intermittent in its presence on the site. The applicant also stated that the stream is over 500 feet from the single-family residence. The applicant has provided a completed copy of the Certification of Private On-Site Sewage Disposal. Further comments regarding the on-site sewage disposal are included under the Staff analysis of Comprehensive Plan Policy 37. The applicant's proposed use of a portion of the single-family residence will entail a 10' x 13' area of the existing single-family residence. Comprehensive Plan Policy 13 evaluates the impacts of the proposal in relationship to air, water, and noise quality. The intermittent stream on the site is over 500 feet from the dwelling. The proposal ~~is not likely to~~ *will not* affect natural resources in an adverse manner *provided the business is operated according to law*. The application meets the criterion.

(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.**

Applicant: The site property is zoned MUA. The majority of adjacent properties are used for livestock pasture and in some areas nursery stock. There are no forest lands in the area. The home occupation business will have no affect on the use of the site property as it is completely contained within the single family dwelling. The balance of the site property will be used for yard, livestock pasture and natural areas consistent with neighboring properties.

Staff: The surrounding properties of the subject property are zoned MUA-20 just as the subject property. As the applicant describes, the adjacent properties are used for farming purposes including nursery stock and livestock pasture. The area the applicant proposes to use for the Type B Home Occupation for the one chair salon is approximately 10' x 13' and is located within the existing single-family dwelling. The proposal will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use. The applicant's proposal will not force a significant change to land in the vicinity that is used for farm or forest purposes. The application meets the criterion.

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

Applicant: As demonstrated by the sewer, fire, water, and police provider forms completed by the various jurisdictions, adequate services are available by those currently existing in the area. The home occupation business will in no way be expanded in the future eliminating the possibility of excess future demands on such services.

Staff: The applicant has provided completed copies of the Certification of Water Service, the Fire District Review form, the Police Service Review form, the Certification of On-Site Sewage Disposal form, a water supply well report, and a copy of the Land Feasibility Study (LFS 28-99). These forms are used to illustrate compliance with requirements for site utilities and facilities. Additional comments will be provided under Comprehensive Plan Policies 37 and 38 included in this Staff Report.

- (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;**

Applicant: The use site is not located within the big game winter habitat area as defined by the Oregon Department of Fish and Wildlife.

Staff: The subject parcel is not part of the big game winter habitat area as defined by the Oregon Department of Fish and Wildlife. The application meets the criterion.

- (6) Will not create hazardous conditions; and**

Applicant: The home occupation business is located within the single-family dwelling. The dwelling, septic and related site plans have all received approval with appropriate permits, which demonstrate compliance with all applicable land use and hazard conditions. The nature of the business will create use conditions equivalent to that of an additional household member which remains within the approved capacity of the dwelling systems.

Staff: The applicant has provided completed copies of all required service provider forms. Based on the applicant's submitted materials, the applicant's proposal is highly unlikely to create hazardous conditions on the site.

Hearings Officer: Hazardous conditions will not be created provided that the applicant properly disposes of chemical products used in the salon business. A condition of approval has been included to assure compliance with the cited approval criterion.

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

Applicant: The applicant has addressed the Comprehensive Plan Policies as included below.

Staff: The Comprehensive Plan Policies are included in this Staff Report; the applicant and Staff provide comments under each respective applicable policy.

11.15.7125 Design Review

Uses authorized under this section shall be subject to design review approval under MCC .7805 through .7865.

11.15.7127 Design Review Exemption

Exempted from the Design Review criteria of MCC .7805 through .7870(A), include:

- (A) **Single family residences.**
- (B) **Type B Home Occupations that require the addition of less than 400 square feet of ground coverage to the structure.**

Staff: The applicant's proposal is to use 130 square feet of the single-family dwelling (June 2, 1999 building permit) on the subject parcel. The applicant's proposal involves the use, for the purpose of the Type B Home Occupation, of less than 400 square feet of the subject residence. Thus, the application is considered exempt from the Design Review application.

Home Occupation CU

11.15.7455 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.**
- (C) **Normal deliveries – The home occupation shall not involve the use, parking, storage or repair of any vehicle exceeding a gross vehicle weight of 11,000 pounds, except deliveries by parcel post, United Parcel Service, or similar in-town delivery service trucks. These deliveries or pick-ups of supplies or products, associated with business activities, are allowed at the home only between 7 a.m. and 6 p.m.**
- (D) **Headquarters – A business operation where employees come to the site at any time.**
- (E) **Motor vehicles – vehicles or equipment with internal combustion engines (such as autos, motorcycles, scooters, snowmobiles, outboard marine engines, lawn mowers, chain saws, and other small engines).**

11.15.7460 Purposes

The purposes of the type B home occupation section are to address the need for home based business that are small scale businesses (not more than 5 employees) and that fit in with the characteristic of the neighborhood or the area. The regulations are designed to:

- (A) **Protect the individual characteristics of areas in unincorporated Multnomah County and maintain the quality of life for all residents of the communities.**
- (B) **Join in an effort to reduce vehicle miles traveled, traffic congestion and air pollution in the State of Oregon.**

Hearings Officer: The proposed home occupation will help reduce vehicle congestion and the length of vehicle trips by providing a commercial service in a residential neighborhood. The home that will be used as a salon will look like a home, not a commercial business. This appearance will protect the characteristics of the area in question as a residential area and maintain the quality of life enjoyed by area residents.

11.15.7465 Criteria for Approval

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

(A) The standards found in MCC 11.15.7120.

Applicant: The standards of MCC 11.15.7120, Conditional Use Approval Criteria, are addressed.

Staff: Staff commented on the applicant's responses to the criteria under Section .7120 in Section .7120. Staff made findings the application met the criteria of Section .7120.

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

Applicant: The home occupation will have one employee, the owner/ operator Marva Belanger, which is less than the 5 employee maximum allowed.

Staff: The application meets the criterion because only one employee will be employed by the home occupation operator. The operator of the one chair salon Type B Home Occupation proposal is the owner of the business and the residence, Marva Belanger.

(C) The site has on-site parking as per MCC 11.15.6100 to accommodate the total number of employees and customers.

Applicant: The site, in addition to the 3 car driveway of the single family dwelling, will have an area approximately 46' x 20' available for off-street clientele parking. This area is contiguous to the south side of the driveway (See Exhibit 7).

Staff: The applicant's site includes the three-car garage described by the applicant. The 46' x 20' area described by the applicant and shown on the submitted site plan, will provide ample parking for the clients of the one-chair salon. The applicant states that no more than two clients are expected at a time on the site. As established in Section .2146, two parking spaces for clients may be considered appropriate under the standards of Section .6144 (G) [via Section .7465(C)] and .7465 (J). The application meets the criterion.

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

Applicant: There will be no deliveries associated with the business.

Staff: The applicant states there will be no deliveries, associated with the business, to the site.

(E) No outdoor storage or display.

Applicant: The business will not require and will not have any outdoor storage or display.

Staff: The applicant states no outdoor storage or display will occur on the site. The application meets the criterion.

(F) No signage (including temporary signage and those exempted under MCC 11.15.7912) with the exception of those required under MCC 11.05.500 - .575.

Applicant: The home occupation business will have no signage, either on the building or on the property premises. From an exterior view the public will only see the standard residential exterior as designed for the home dwelling and approved by the City of Gresham Buildings Division.

Staff: The applicant will not have signage on the site or on the structure. The application meets the criterion.

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

Applicant: There will be no audible sound detectable at the property lines as a result of the home occupation business. The only source of business related noise will be running water and an upright and portable hair dryers.

Staff: The criterion cites a specific standard. The number is quantifiable. The applicant did not submit a document with noise testing results or any such evidence. Staff did not request evidence to support the applicant's statement. A reasonable and logical evaluation of the applicant's proposal considering the description here of the sounds of running water and hair dryers, provides the Staff with a description of on-site activities that are of limited duration and minimal noise. Based on the applicant's description, Staff finds the application meets the criterion.

Hearings Officer: The applicant's statement establishes that the amount of noise at the property lines will be 0 dba.

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

Applicant: The nature of the home occupation business does not involve the repair or assembly of any vehicles or motors.

Staff: The applicant's proposal for the Type B Home Occupation is a one chair hair salon. The applicant's proposal does not include the repair or assembly of any vehicles or motors. The application meets the criterion.

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

Staff: To Staff's knowledge, the application has not been reviewed by the Small Business Section of the Department of Environmental Quality.

Hearings Officer: At the request of the hearings officer, notice was provided to the SBS of the DEQ. The SBS reviewed and commented on the application in a memorandum dated November 22, 1999.

(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.

Staff: The applicant has described the number of employees and the hours of operation of the proposed home occupation business. ~~The applicant shall be specific in the description of the proposed use, frequency and type of deliveries, and the parking on the site. Other information as~~

~~necessary may be required. Parking requirements of .6144 (G) provide for "unspecified uses" and appropriating the most nearly equivalent amount of required parking spaces.~~

Hearings Officer: The use approved is a one-chair beauty salon. The business will be operated by Marva Belanger. No employees are allowed, unless the applicant obtains a subsequent modification of this approval. Truck deliveries of beauty supplies are expected and may occur up to an average of one time per each day of operation.

Comprehensive Plan Policies

POLICY 13 Air, Water and Noise Quality

Multnomah County, recognizing that the health, safety, welfare, and quality of life of its citizens may be adversely affected by air, water and noise pollution, supports efforts to improve air and water quality and to reduce noise levels. Therefore, it is Multnomah County's policy to:

- A. Cooperate with private citizens, businesses, utilities and public agencies to maintain and improve the quality of air and water, and to reduce noise pollution in Multnomah County.**
- B. Support and participate in the implementation of state and regional plans and programs to reduce pollution levels.**
- C. Maintain healthful air quality levels in the regional airshed, to maintain healthful ground and surface water resources, and to prevent or reduce excessive sound levels while balancing social and economic needs in Multnomah County.**
- D. Discourage the development of noise-sensitive uses in areas of high noise impact.**

Applicant: As stated previously, the air, water and noise impact will be comparable to that of adding a member to the household of the single-family dwelling. The dwelling within which the home occupation is located has already been approved for such capacity (4 to 6 bedroom occupants). The home occupation use will not create an environmental impact, including noise, beyond that allowed by the home dwelling.

Staff: The applicant states the air, water, and noise impacts will be those impacts typically associated with a single-family dwelling. Staff provided comments earlier in the Staff Report regarding air, water, and noise impacts. Staff made findings under Section .7465 (G) regarding noise impacts to the site; Staff found the noise impacts of running water, hair dryers, and other activities described by the applicant, as minimal. In addition, the applicant commented under Section .7120 (A)(1) on the air and water quality impacts. The intermittent stream on the subject parcel is approximately 500 feet away from the residence. Staff finds the impacts to air and water from the single-family dwelling and the Home Occupation of the one-chair salon as minimal.

Hearings Officer: The cited criteria provide direction to the County and its hearings officer and staff to work with the applicants regarding environmental quality issues. It does not supply approval criteria that must be satisfied by the applicants. Additionally, the subject property is not located in an area of high noise impact and the applicant is not proposing a noise-sensitive use.

At the land use hearing, County staff provided the hearings officer with a copy of Ordinance No. 933, an ordinance that amended the Comprehensive Framework Plan. Plan Policy 13 now reads:

Multnomah County, recognizing that the health, safety, welfare and quality of life of its citizens may be adversely affected by air, water and noise pollution, supports efforts to improve air and water quality and to reduce noise levels. Therefore, if a land use proposal is a noise-sensitive use and is located in a noise-impacted area, or if the proposed use is a noise generator, the following shall be incorporated into the site plan:

- 1. Building placement on the site in an area having minimal noise level disruptions.**
- 2. Insulation or other construction techniques to lower interior noise levels in noise-impacted areas.**

This policy is not applicable because the subject property is not located in a noise-impacted area and the proposed use is not a noise generator.

POLICY 14 Developmental 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%;~~

~~Applicant:~~ There are no slopes greater than 20%. There are no land development issues resulting from the home occupation. The home occupation is totally contained within the garage portion of the single-family dwelling. Accordingly, the home occupation does not require any alteration from the requirements land siting of the dwelling which has already received County approval.

~~Staff:~~ The Soil Survey of Multnomah County, OR identifies three soil types on the subject parcel. The soil types are Powell silt loam, 0 to 3 percent slopes (34A), Powell silt loam, 3 to 8 percent slopes (34B), and Wollent silt loam (57). None of these soil types have a slope exceeding 20%.

~~B. Severe soil erosion potential;~~

~~Applicant:~~ There is no severe soil erosion potential.

~~Staff:~~ The Soil Survey lists the erosion potential of all three soil types on the subject parcel as slight.

~~C. Land within the 100-year flood plain;~~

~~Applicant:~~ No floodplain issues.

~~Staff:~~ The location of the proposed Type B Home Occupation for a one chair salon is within the existing single family residence. The applicant does not propose to alter the land to accommodate the Home Occupation use.

~~D. A high seasonal water table within 0-24 inches of the surface for three or more weeks of the year;~~

~~Applicant:~~ No seasonal high water table.

~~Staff:~~ Soil types 34A and 34B have a seasonal water table at a depth of 18 to 24 inches from December to April according to the Soil Survey. Soil type 57 has a water table that ranges from 12 inches above to 12 inches below the surface from November through May according to the Soil Survey.

~~E. A fragipan less than 30 inches from the surface;~~

~~Applicant:~~ No fragipan issues.

~~Staff:~~ The soil survey lists a fragipan at a depth of 60 inches or more for soil type 34A and 34B.

~~F. Land subject to slumping, earth slides or movement.~~

~~Applicant:~~ No slumping, slides, or earth movement on the property.

~~Staff:~~ The Soil Survey does not identify these soils as being subject to slumping, earth slides, or movement.

Hearings Officer: Policy 14 is inapplicable as no land form alteration or new development is proposed by this application. All activities will occur within an existing single-family residence.

POLICY 22

The County's policy is to promote the conservation of energy and to use energy resources in a more efficient manner. In addition, it is the policy of Multnomah County to reduce dependency on non-renewable energy resources and to support greater utilization of renewable energy resources *through* ~~The County shall require a finding, prior to the approval of legislative or quasi-judicial action, that the following factors have been considered:~~

- A. The development of energy-efficient land uses and practices;
- B. Increased density and intensity of development in urban areas, especially in proximity to transit corridors and employment, commercial and recreational centers;
- C. An energy-efficient transportation system linked with increased mass transit, pedestrian and bicycle facilities;
- D. Street layouts, lotting patterns and designs that utilize natural environmental and climatic conditions to advantage;
- E. Finally, the County will allow greater flexibility in the development and use of renewable energy resources.

Applicant: The energy use will consist of lighting and heating for the salon shop, hot water and operation of a hair dryer. The load is within that allowed by the home dwelling electrical service. All general energy conservation measures applied to the dwelling will also be applied to the home occupation salon shop. As a rural setting, mass transit is not an applicable factor, however, it is our belief that the home occupation business will serve to reduce the length of trips for such service otherwise made to the city by clientele.

Staff: The subject parcel is in a rural setting and mass transit does not serve the property. The applicant does not propose to alter the street layouts or lotting pattern. The applicant is not increasing the density or intensity of development in the area. The applicant is aware of the energy-efficiency provisions and states that the site may be convenient and reduce trip length for that service for some clients.

POLICY **37** Utilities

The County's policy is to require a finding prior to approval of a legislative or quasi-judicial action that:

Water and Disposal Systems:

- A. ~~The proposed use can~~ **Shall** be connected to a public sewer and water system, both of which have adequate capacity; or
- B. ~~The proposed use can~~ **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. ~~There is~~ **Shall have** an adequate private water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system; or
- D. ~~There is~~ **Shall have** an adequate private water system and a public sewer with adequate capacity.

Hearings Officer: Evidence in the record demonstrates that there is an adequate private water system and that DEQ will approve a subsurface sewage disposal system.

Drainage

- E. ~~There is~~ **Shall have** adequate capacity in the storm water system to handle the run-off; or
- F. ~~The water run-off can~~ **shall** be handled on the site or adequate provisions ~~can~~ **shall** be made; and

Hearings Officer: The applicant has been required to provide storm water drainage facilities on their property as a condition of development of their home. These facilities were sized and approved as being capable of handling water run-off on the site.

- G. **The run-off from the site will shall not adversely affect the water quality in adjacent streams, ponds, lakes, or alter the drainage on adjoining lands.**

Hearings Officer: The use of County approved drainage facilities will prevent the home and business from adversely affecting water quality in adjacent streams and from altering drainage on adjoining lands.

Energy and Communications

- H. There ~~is~~ *shall be* an adequate energy supply to handle the needs of the proposal and the development level projected by the plan; and**
- I. Communications facilities are available.**

Applicant: The home occupation impact on the water and on-site septic systems are within the capacities already established for the single family residence (see the certification provided by the City of Portland environmental soils specialist, attached). The home occupation does not involve an alteration to the single-family home's exterior or site location. The site plan and storm drains have already received county approval. The energy and telephone needs for the home occupation will be adequately provided within such service already provided for the single family dwelling.

Staff: The applicant has provided a completed copy of the Certification of Water Service, the Certification of Private On-Site Sewage Disposal, and the Land Feasibility Study (LFS 28-99). The applicant has provided documentation that the applicable service provider forms are completed. The required services for the recently constructed single-family dwelling and the proposed Type B Home Occupation for the one-chair salon are appropriately addressed by the applicant.

POLICY 38 Facilities

~~The County's policy is to require a finding prior to approval of a legislative or quasi-judicial action that:~~

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

School

- A. The appropriate school district has had an opportunity to review and comment on the proposal.**

Hearings Officer: The proposed use will not impact the appropriate school district as it is a non-residential use. The Planning Division, therefore, does not seek comments from the district.

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 comment on the proposal.**

Police Protection

- D. The proposal can receive adequate local police protection in accordance with the standards of the jurisdiction providing police protection.**

Applicant: Reviews are attached from the appropriate agencies attesting that there is adequate fire and police service with regard to the home occupation. The home occupation has no direct burden or benefit to the local school district which has no sites near the home occupation area.

Staff: The applicant provided completed copies of the Fire District Review form, signed by Mike Kelly of the City of Gresham Fire and Emergency Services Department, and the Police Services Review form, signed by the Multnomah County Sheriff's Office. Staff did not request the applicant complete the School District Review form as it is not applicable to the application.

POLICY 40 Development Requirements

The County's policy is to encourage a connected parks and recreation system and to provide for small private recreation areas by ~~requiring a finding prior to approval of legislative or quasi-judicial action that:~~

- A. *Requiring the dedication of pedestrian and bicycle path connections to parks, recreation areas and community facilities ~~will be dedicated~~ where appropriate and where designated in the Bicycle Corridor Capital Improvements Program and map.***
- B. *Requiring landscaped areas with benches ~~will be provided~~ in commercial, industrial and multiple-family developments where appropriate.***
- C. *Requiring areas for bicycle parking facilities ~~will be required~~ in development proposals where appropriate.***

Applicant: The home occupation is in a rural area within a single family dwelling. Accordingly, there are no park or recreational issues. There will be adequate and secure off-street parking for bikes and automobiles (see site plan Exhibit 7).

Staff: The subject parcel is a single-family residential site. No requirements for bicycle parking, landscaping with benches, or park facilities are required to be implemented by the applicant as a result of this request for approval of a Type B Home Occupation for a one chair salon.

Appeal to the Board of County Commissioners:

The Hearings Officer Decision may be appealed to the Board of County Commissioners (Board) by any person or organization who appears and testifies at the hearing, or by those who submit written testimony into the record. An appeal must be filed with the County Planning Division within ten days after the Hearings Officer decision is submitted to the Clerk of the Board. An Appeal requires a completed "Notice of Review" for and a fee of \$500.00 plus a \$3.50 - per- minute charge for a transcript of the initial hearing(s). [ref. MCC 11.15.8260(A)(1) and MCC 11.15.9020(B)] Instructions and forms are available at the County Planning Office at 1600 SE 190th Ave., (in Gresham) or you may call 248-3043, for additional instructions.

DATED this 21st day of November 1999.

Liz Fancher, Hearings Officer

Case File: CU 5-99

Location: South 1/2 of Lot 75 Botefuhr Tracts or Tax Lot 15, Section 23, Township 1S, Range 3E, WM.

Application Timeline:

Pre-Application Conference: September 29, 1999.

Application received with full fees: September 29, 1999.

Application incomplete letter mailed: NA.

Determination that application is complete: October 27, 1999.

Begin "120 day timeline" on October 27, 1999.

Notice of a Public Hearing (mailed): October 28, 1999.

Staff Report available: November 10, 1999.

Public Hearing before Hearings Officer: November 17, 1999. **Day 21**

List of Exhibits:

List A: Staff/ Applicant Exhibits:

1. Applicant site plan (reduced copy) showing dwelling location and area of the proposed one chair salon on the subject parcel.
2. Applicant site plan showing the 10' x 13' area to be used for the proposed one chair salon.
3. Elevation drawings of the front and rear views of the house.
4. Elevation drawings of the side views of the house.
5. Site visit photos illustrating the entrance to the area of the garage for the proposed one chair hair salon.
6. Site visit photos illustrating the garage and the driveway.

List B: Notification Information:

1. "Complete Application" Letter, 3 pages.
2. Notice of Hearing, 4 pages.
3. Completed Copy of the Affidavit of Posting, dated November 3, 1999.

List C: Multnomah County Documents

1. Staff Report – November 10, 1999

List D: Documents Submitted After November 17, 1999 Public Hearing:

1. Memorandum from DEQ, Jill Inahara, Small Business Assistance Program dated November 22, 1999.