



MULTNOMAH COUNTY

Department of Environmental Services
Transportation and Land Use Planning Division
2115 SE Morrison Street
Portland, OR 97214 Phone: (503) 248-3043

DECISION OF HEARINGS OFFICER

Case File: CU 2-97

Hearings Officer: Liz Fancher

Hearing Date, Time, & Place: Wed., April 16, 1997; at 2:30 p.m.
2115 SE Morrison Street, Room 111
Portland, OR 97214

WHAT: Conditional Use application to establish a single family residence on lands designated for Commercial Forest Use (under the template dwelling approval standards).

PROPERTY LOCATION: Address: 43000 SE Haines Road
Tax lot '10', Section 32, Township 1 North, Range 5 East
5 acres, Tax Account # R94532-0100

WHO: *Property Owner:* Mabel Loomis
495 Whitetail Drive
Rexford, MT 59930

*Applicant &
Contract Purchaser:* James T. Kunz
2217 SW McGinnis
Troutdale, OR 97060

Hearings Officer Decision: APPROVAL, subject to compliance with the following conditions of approval:

CONDITIONS:

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MULTNOMAH COUNTY
PLANNING SECTION

1. A Hillside Development Permit will be required for all areas where site clearing and earth disturbance is proposed on slopes exceeding 25 percent. A Grading and Erosion Control Permit is required for slopes of 25 percent or less.
2. The dwelling shall have a fire retardant roof and all chimneys shall be equipped with spark arresters. The dwelling shall also comply with Uniform Building Code, be attached to a foundation for which a building permit has been obtained, and have a minimum floor area of 600 square feet.
3. A forest stocking survey shall be submitted prior to issuance of a building permit in accordance with the procedures and provisions of MCC 11.15.2052 (A)(6).
4. Prior to issuance of a dwelling building permit, provide verification that the driveway design submitted with the application has been constructed to the specified width, grade, and location and that the surface can support 52,000 lbs. GVW. [MCC 11.15.2074 (D)]
5. Prior to the issuance of a building permit, a well report shall be submitted demonstrating compliance with MCC 11.15.2074 (C), and at that time, persons entitled to notice will again be notified that the water service part of the approval criteria is being reviewed and there is the opportunity to comment and appeal of those particular findings.
6. Prior to issuance of a building permit, and as long as the property is under forest resource zoning, maintain primary and secondary fire safety zones around all new structures, in accordance with MCC 11.15.2074(A)(5).
7. Approval of this Conditional Use shall expire two years from the date of the Board Order unless "substantial construction" has taken place in accordance with MCC 11.15.7110 (C) or the subject proposal is completed as approved. For the purposes of this decision, "completion" of the development under this conditional use review will involve at a minimum the following (summarized actions) to have taken place prior to the expiration date of the Conditional Use:
 - A. Applying for and approval of a Hillside Development Permit;
 - B. Forest stocking survey report submitted;
 - C. Fire safety zones cleared and inspected by planning staff;
 - D. Application for and approval of Design Review for the dwelling, access, and landscaping;

E. Submittal of well drilling report, then 10 day opportunity for parties entitled to notice to appeal determination that the well report satisfies the service requirements of Plan Policy 37, Utilities;

F. Application to Right-of-Way Permits for a new driveway and construction of that driveway to the design and specifications shown on plans submitted with the Conditional Use application; and

G. The conditions of approval relating to the fire retardant roof, chimney spark arresters, foundation, and floor area are shown on the building plans.

H. The constructed building shall be a single family dwelling based on the following characteristics: be lawfully established under required building permits; have intact exterior walls and roof structures inspected under that building permit; has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to an approved and permitted sanitary waste disposal system; has interior wiring for interior lights inspected under an electrical permit; and has a heating system.

I. Record the Notarized Deed Restriction re Forest Practices provided with the Application so that it is binding upon the subject property and owners of the subject property. The Applicant does not presently own the subject property so the deed restriction will need to be recorded once the Applicant becomes the owner of the real property.

J. If the dwelling is not completed, then the method of determining that "substantial construction" has taken place is an application to the Planning Director. The application must be submitted on a General Application Form with supporting documentation at least 30 days prior to the expiration date. The decision of the Planning Director will be a land use decision that may be appealed to a Hearings Officer by a party entitled to notice [MCC 11.15.7110(C)(3)].

LEGAL BASIS FOR APPROVAL

The Hearings Officer hereby accepts the following findings of fact and conclusions of law prepared by Mr. Clifford and Mr. Kunz. Where the findings and conclusions made by Mr. Clifford conflict with, modify or qualify the findings and conclusions proposed by Mr. Kunz, the findings proposed by Mr. Clifford shall control.

Zoning Ordinance Requirements:

CONDITIONAL USE ORDINANCE CONSIDERATIONS:

11.15.2050 Conditional Uses

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

...

(B) A Template Dwelling pursuant to the provisions of MCC .2052 and .2074.

...

11.15.2052 Template Dwelling

(A) A template dwelling may be sited on a *tract*, subject to the following:

- (1) The lot or lots in the *tract* shall meet the lot of record standards of MCC .2062(A) and (B) and have been lawfully created prior to January 25, 1990;**

Applicant: This parcel was created by deed on July 15, 1964. See deed exhibit. The lot satisfied all applicable laws when created. There is not contiguous parcels in the same ownership. The lot meets the requirements of MCC 11.15.2062(A)(2).

Staff Comment: The copy of the 1964 deed submitted (Exhibit A2, Item 3) refers to "Tax Lot Ten" which existed on the November 15, 1962 zoning maps adopted with Ordinance 100 (the Zoning Ordinance). Therefore, the subject parcel was created prior to enactment of Ordinance 100 and therefore was lawfully created before a zoning designation was in place. As evidenced by the copies of 1980 microfiche of property owners and current property ownership printouts (Exhibit A2, Item 9), there is no evidence of adjacent same ownership since 1980 (MCC 11.15.Lot of Record). The subject property is a Lot of Record.

There is only one Lot of Record in the subject *tract*. As defined in MCC 11.15.2045(H), a *tract* is one or more contiguous Lots of Record.

The "Tax Lot Three" also referred to on the 1964 deed is a parcel that is a quarter mile to the east and is not contiguous to Tax Lot Ten.

- (2) The *tract* shall be of sufficient size to accommodate siting the dwelling in accordance with MCC .2074 with minimum yards of 60 feet to the centerline of any adjacent County Maintained road and 200 feet to all other property lines. Variances to this standard shall be pursuant to MCC .8505 through .8525, as applicable;**

Applicant: This 5 acre site is of sufficient size to accommodate a single family residence. The dimensions of the parcel lends itself to meet all the required setbacks to other property lines. The proposed dwelling will be 70 feet from Haines Rd. and the proposed dwelling 320 feet from the East line, 240 feet from the North line, 280 feet from the West line and 250 feet from the South line. The dwelling site is 100 feet from the bank of the Lattourel Creek, a seasonal creek. It is also 50 feet from the beginning of a slope hazard area. see Site Plan, exhibit 10 [Staff labeled Exhibit A2, Item 10].

(3) **The *tract* shall meet the following standards:**

(a) (3)(c) **The *tract* shall be composed primarily of soils which are capable of producing 85 *cubic feet* of Douglas Fir timber *per acre per year* (*cf/ac/yr*); and**

(i) **The lot upon which the dwelling is proposed to be sited and at least all or part of 11 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject *tract* parallel and perpendicular to section lines; and**

(ii) **At least 5 dwellings lawfully existed on January 1, 1993 within the 160-acre square, or**

(d) **Lots and dwellings within urban growth boundaries shall not be counted to satisfy (a) through (c) above.**

(e) **There is no other dwelling on the *tract*,-**

(f) **No other dwellings are allowed on other lots (or parcels) that make up the *tract*,-**

(g) **Except as provided for a replacement dwelling, all lots (or parcels) that are part of the *tract* shall be precluded from all future rights to site a dwelling; and**

(h) **No lot (or parcel) that is part of the *tract* may be used to qualify another *tract* for the siting of a dwelling;**

Applicant: The U.S. Department of Agriculture Soil Conservation Service indicates that the soils on this parcel are primarily that which are capable of producing above 85 cf/ac/yr. of Douglas Fir timber. The annual cubic feet production calculates out to be 680. There are at least five dwellings that were lawfully existing on or before January 1, 1993 within the 160 acre square. There are 11 tax lots within the 160 acre square. See soils report from Mult. Co. and the template map locating the tax lots and dwellings referred to.

The tax lots included in this 160 acre analysis are lots 13,23,22,12,8,9,14,18,20 and 7 of Tax Map 1 North, Range 5, Sec 32 of Multnomah County, Oregon. Tax lots with dwellings are as follows: Tax lot 13 built in 1980, Tax lot 18, built in 1969, Tax lot 20, built in 1975, Tax lot 22, built in 1977, and Tax lot 23, built in 1979. None of these dwellings are within the UGB. See county records provided, exhibit # 9, (7 pages included) [Staff labeled Exhibit A2, Item 9].

There are no dwellings or other structural improvements on the tract. There are no lots contiguous to this parcel under the same ownership. The lot is of sufficient size to accommodate siting the dwelling in accordance with the minimum yards of 60 feet to the centerline of any adjacent County maintained road and 200 feet to all other property lines. There are no other homes near enough to cluster with or have potential for sharing access.

Staff: The soils on the property are Bull Run Silt Loam which has a potential yield of Douglas Fir of 145 to 170 cubic feet per acre. Therefore, the applicable "template test" are the standards in MCC 11.15.2052(A)(3)(c) above.

- (4) The dwelling 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 of the additional dwelling, considered with approvals of other dwellings in the area since acknowledgment of the Comprehensive Plan in 1980, will be acceptable.**

Applicant: The Department of Fish and Wildlife determined that there will be no negative impact to the existing wildlife in the area. The only comment of a conflict identified is that of the wildlife impact on domestic living activities such as gardening and pets. Grazing wildlife may be invited by a garden and natural predators may see certain pets or livestock as fair game. This request does not propose to change the forest district designation or the forestry land use.

Staff: Exhibit A2, Item 13 is a letter stating that the Department "will not oppose the project".

- (5) Proof of a long-term road access use permit or agreement shall be provided if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the Bureau of Land Management, or the United States Forest Service. The road use permit may require the applicant to agree to accept responsibility for road maintenance;**

Applicant: Not applicable. A private driveway from the county road will provide access to the proposed dwelling.

- (6) A condition of approval requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules, provided, however, that:**

- (a) The planning department shall notify the county assessor of the above condition at the time the dwelling is approved;**

- (b) The property owner shall submit a stocking survey report to the county assessor and the assessor will verify that the stocking requirements have been met by the time required by Department of Forestry rules. The assessor will inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report or where the survey report indicates that minimum stocking requirements have not been met;
- (c) Upon notification by the assessor the Department of Forestry will determine whether the *tract* meets minimum stocking requirements of the Forest Practices Act. If the department determines that the *tract* does not meet those requirements, the department will notify the owner and the assessor that the land is not being managed as forest land. The assessor will then remove the forest land designation pursuant to ORS 321.359 and impose the additional tax pursuant to ORS 321.372;

Applicant: The applicant agrees to provide a restocking certification upon conditional approval of this application. Currently the entire parcel is covered in conifer and deciduous trees. Only one acre will be dedicated to the dwelling site and driveway.

Staff: The tax lot is presently in forest deferral tax status. A condition of approval requires the submittal of the above requirements prior to approval of a building permit.

(7) The dwelling meets the applicable development standards of MCC .2074;

Staff: Demonstration of compliance with this criteria is addressed under MCC 11.15.2074, of this report.

- (8) 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;

Applicant: This will be recorded upon approval of this CFU dwelling request. [Staff labeled Exhibit A2, Item 17]

- (9) Evidence is provided, prior to the issuance of a building permit, that the covenants, conditions and restrictions form adopted as "Exhibit A" to the Oregon Administrative Rules (OAR), Chapter 660, Division 6 (December, 1995), or a similar form approved by the Planning Director, has been recorded with the county Division of Records;

- (a) The covenants, conditions and restrictions shall specify that:
 - (i) All lots (or parcels) that are part of the *tract* shall be precluded from all future rights to site a dwelling; and
 - (ii) No lot (or parcel) that is part of the *tract* may be used to qualify another *tract* for the siting of a dwelling;
- (b) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of Multnomah County. That release may be given if the *tract* is no longer subject to protection under Statewide Planning Goals for forest or agricultural lands;
- (c) Enforcement of the covenants, conditions and restrictions shall be as specified in OAR 660-06-027 (December, 1995).

Finding: The subject property is a *tract* that consists of only one Lot of Record. The above deed restriction is not required.

11.15.2058 Dimensional Requirements

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

Staff: The property is a Lot of Record as defined in MCC .2062(A)(2).

* * *

(C) Minimum Yard Dimensions - Feet:

Frontage on County Main- tained Road 60 from centerline	Other Front	Side	Rear
	200	200	200
* * *			

Staff: The site plan submitted, Exhibit A2, Item 10 shows a proposed house location that meets all of the above yard requirements.

11.15.2074 Development Standards for Dwellings and Structures

Except as provided for the alteration, replacement or restoration of dwellings under MCC .2048(D), .2048(E) and .2049 (B), all dwellings and structures located in the CFU district after January 7, 1993 shall comply with the following:

(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);**

Applicant: Due to the setbacks of the proposed dwelling and the mature conifer and deciduous growth on the parcel any impact on surrounding forest or agricultural lands has been mitigated.

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

Applicant: Forest operations and accepted farming practices will not be curtailed or impeded as a result of the dwelling on subject property due to the fact that the dwelling will be 200 feet from all property lines and impact from any adjacent forest or farming practice will be mitigated as the natural topography and mature trees that separate the parcel from these activities. The home is placed in such a way as to decrease the risk of fire, (i.e.) slope and also to not impede the access of logging related equipment from accessing the log deck which will be to the west of the home site. The proposed driveway will facilitate the residential and commercial needs of the property.

Staff: The criteria is addressing impacts "on the tract". In this case the tract includes only the subject parcel. The subject parcel is receiving special assessment for forest production. The area proposed for the dwelling has been cleared some time in the past.

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

Applicant: The dwelling site will not exceed one acre including the driveway.

Staff: The driveway is somewhat longer than a direct connection to the home in order to reduce the steepness of the grade and enter the public road at a location that has better sight distance in both directions.

- (4) Any access road or service corridor in excess of 500 feet in length is demonstrated by the applicant to be necessary due to physical limitations unique to the property and is the minimum length required; and**

Applicant: The designed driveway is approximately 150 feet in length to the dwelling site.

(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;

Staff: The *tract* is in Multnomah County Rural 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;

Applicant: There are no consistent emergency water sources within 15 feet of the lot.

Staff: Latourell Creek, a seasonal stream on the south part of the property enters a culvert in Haines Road at the southwest frontage of the property. At times it could be a water source.

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

- (i) A primary fire safety zone is a fuel 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.
- (ii) On lands with 10 percent or greater slope the primary safety zone shall be extended down the slope from a dwelling or structure as follows:

<u>Percent Slope</u>	<u>Distance In Feet</u>
Less than 10	Not required
Less than 20	50
Less than 25	75
Less than 40	100

- (iii) A secondary fire safety zone is a fire break extending a minimum of 100 feet in all directions around the primary safety zone. The goal of this safety zone is to reduce fuels so that the overall intensity of any wildfire is lessened. Vegetation should be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees should be removed to prevent the spread of fire up into the crowns of the larger trees. Assistance with planning forestry practices which meet these objectives may be obtained from the State of Oregon Department of Forestry or the local Rural Fire Protection District.
 - (iv) No requirement in (i), (ii), or (iii) above may restrict or contradict a forest management plan approved by the State of Oregon Department of Forestry pursuant to the State Forest Practice Rules; and
 - (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).
- (d) The building site must have a slope less than 40 percent.

Applicant: Primary and Secondary fire safety zones will be maintained around the proposed dwelling. The home site is in an area of slopes of approximately 5%. The area immediately surrounding the home site area is less than 20% slope, therefore an additional 50 feet for a secondary break will be implemented. If the slopes of the entire parcel are to be referenced to, i.e. up to 70% per the geotech report then the secondary firebreak will be increased to 100 feet in all directions around the primary one. See site plan, exhibit 10 and geotech report, exhibit 11 [Staff labeled Exhibits A2, Items 10 & 11].

Staff: A requirement to clear the fire safety zones prior to issuance of a building permit is a condition of approval.

(B) The dwelling shall:

- (1) Comply with the standards of the Uniform Building Code or as prescribed in ORS 446.002 through 446.200 relating to mobile homes;
- (2) Be attached to a foundation for which a building permit has been obtained;
- (3) Have a minimum floor area of 600 square feet;

- (4) **Have a fire retardant roof; and**
- (5) **Have a spark arrester on each chimney.**

Applicant: The dwelling shall comply with the Uniform Building Code Standards. The dwelling will be attached to a foundation for which a building permit will be obtained.

(C) The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Department of Water Resources Oregon Administrative Rules for the appropriation of ground water (OAR 690, Division 10) or surface water (OAR 690, Division 20) and not from a Class II stream as defined in the Forest Practices Rules.

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

(2) Evidence of a domestic water supply means:

- (a) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water, or**
- (b) A water use permit issued by the Water Resources Department for the use described in the application; or**
- (c) Verification from the Water Resources Department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.**

Applicant: The water source for the property will consist of a domestic well drilled on the site. Wells drilled for domestic purposes are permitted by the Oregon Water Resources Department. This water supply proposed is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the county upon completion of the well.

Staff: A condition of approval will require that a well report be submitted and a finding of compliance with this condition be re-noticed to applicable property owners prior to the issuance of a building permit.

- (D) A private road (including approved easements) accessing two or more dwellings, or a driveway accessing a single dwelling, shall be designed, built, and maintained to:**
- (1) Support a minimum gross vehicle weight (GVW) of 52,000 lbs. Written verification of compliance with the 52,000 lb. GVW standard from an Oregon Professional Engineer shall be provided for all bridges or culverts;**
 - (2) Provide an all-weather surface of at least 20 feet in width for a private road and 12 feet in width for a driveway;**
 - (3) Provide minimum curve radii of 48 feet or greater,**
 - (4) Provide an unobstructed vertical clearance of at least 13 feet 6 inches;**
 - (5) Provide grades not exceeding 8 percent, with a maximum of 12 percent on short segments, except as provided below:**
 - (a) Rural Fire Protection District No. 14 requires approval from the Fire Chief for grades exceeding 6 percent;**
 - (b) The maximum grade may be exceeded upon written approval from the fire protection service provider having responsibility;**
 - (6) Provide a turnaround with a radius of 48 feet or greater at the end of any access exceeding 150 feet in length;**
 - (7) Provide for the safe and convenient passage of vehicles by the placement of.**
 - (a) Additional turnarounds at a maximum spacing of 500 feet along a private road; or**
 - (b) Turnouts measuring 20 feet by 40 feet along a driveway in excess of 200 feet in length at a maximum spacing of 1/2 the driveway length or 400 feet whichever is less.**

Applicant: See exhibits 15 and 16 [Staff labeled Exhibits A2, Items 15 & 16]. The driveway will be 20 feet wide approximately 150 feet in length to the home site and extending west for future commercial use, i.e. decking area truck access. This driveway design meets approved subject to final inspection. Grades and turnarounds all meet the standards. See driveway design for specs of rock base, grades, culverts, and cuts. The maximum grade is 20% for approximately 60 feet, then it is 15% for approx. 60 feet, this is unavoidable in order to access the property to Haines Road. The local Fire Marshall

has been on site with the engineer and has approved this design to meet his GVW of 52,000 lbs. and radii of 48 feet or greater, as well as vertical clearance of 14 feet and 12 foot wide surface area, with turnouts that are at least 20 X 40 feet in dimension.

Finding: A condition of approval requires that prior to issuance of a dwelling building permit, verification be provided that the driveway design submitted with the application has been constructed to the specified width, grade, and location and that the surface can support 52,000 lbs. GVW.

COMPREHENSIVE FRAMEWORK PLAN CONSIDERATIONS:

Policies in the Comprehensive Plan which are applicable to this Quasi-judicial Decision are addressed as follows:

1. **Policy No. 13, Air, Water and Noise Quality:** Multnomah County, ... Supports efforts to improve air and water quality and to reduce noise levels. ... Furthermore, it is the County's policy to require, prior to approval of a legislative or quasi-judicial action, a statement from the appropriate agency that all standards can be met with respect to Air Quality, Water Quality, and Noise Levels.

Applicant: Activities associated with the proposed dwelling are those customarily anticipated with a single family residence. It can be assumed that outdoor recreational activities, raising of domestic animals, landscape maintenance, and occasional entertainment of guest will be encountered over the period of the dwelling's existence. It is certain, due to the size of the lot, the setbacks from adjacent parcels, the topography, and the reforestation of the property, that the air, water, and noise pollution would be minimal.

2. **Policy No. 14, Development Limitations.** The County's Policy is to direct development and land form alterations away from areas with development limitations except upon a showing that design and construction techniques can mitigate any public harm or associated public cost, and mitigate any adverse effects to surrounding persons or properties. Development limitations areas are those which have any of the following characteristics:
 - A. Slopes exceeding 20%;
 - B. Severe soil erosion potential;
 - C. Land within the 100 year flood plain;
 - D. A high seasonal water table within 0-24 inches of the surface for more than 3 or more weeks of the year;
 - E. A fragipan less than 30 inches from the surface; and
 - F. Lands subject to slumping, earth slides or movement.

Applicant: This proposed home site was chosen due to the slopes of 5% in an area large enough to accommodate the dwelling and the required Primary and Secondary firebreaks most efficiently. It is already essentially cleared and has the best accessibility to the County road. The dwelling will be developed according to the Commercial Forest Use zoning district standards and the standards for Goal 5 with regard to the protection of streams and wildlife, as well as be in compliance with the Hillside Development and Erosion Control standards. The dwelling is sited on a slope of less than 5% and there is no indication of slope instability, seasonally high water table or fragipan less than 30 inches from the surface. Erosion potential will be addressed in the erosion control permit process. Nominal amounts of soil will be disturbed to develop this site, approximately 22 cu. ft. See exhibit 11 [Staff labeled Exhibit A2, Item 11].

Staff: The Multnomah County "Potential Slope Hazard Areas" map shows that the proposed building site appears to be outside of a potential hazard area, but the areas of this parcel nearest Latourell Creek are labeled as hazard areas for earth movement. The applicant submitted a "Geotechnical Reconnaissance and Stability Preliminary Study". The submitted report did not include a page four that would have the State of Oregon Registration Stamp of a Certified Engineering Geologist or Geotechnical Engineer.

A condition of approval requires the application and approval of a Hillside Development Permit (HDP) prior to issuance of a building permit. The HDP application must have the required reports of a Certified Engineering Geologist or Geotechnical Engineer to be a complete application. Those reports will verify the stability of the slopes on the site prior to construction or placement of the proposed house.

3. **Policy No. 22, Energy Conservation:** The County's policy is to promote the conservation of energy and to use energy resources in a more efficient manner. ... The County shall require a finding prior to approval of a 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 recreation 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 climactic conditions to advantage.
 - E. Finally, the County will allow greater flexibility in the development and use of renewable energy resources.

Staff: This policy encourages energy conservation. This parcel is adjacent to an existing county road and other dwellings. It can be readily served by existing utilities. This lot of record can rely on its own resources for domestic water and due to its size and soil types, provide its own sewage disposal system.

4. **Policy No. 37, Utilities:** The County's policy is to require a finding prior to approval of a legislative hearing or quasi-judicial action that:

WATER DISPOSAL SYSTEM:

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

Applicant: A septic system and drainfield have already been approved for this tax lot. Utilities are located on Haines Rd. Storm water drainage will be further analyzed in the Hillside Development and Erosion Control process prior to obtaining building permit approval.

Staff: Water will be obtained from an on-site well. A "Land Feasibility Study" (LFS 198-91) determined that an on-site sanitation system could be approved in the form of a steep slope serial distribution system, see Exhibit A2, Item 5.

DRAINAGE:

- E. There is adequate capacity in the storm water system to handle the increased run-off; or
- F. The water run-off can be handled on the site or adequate provisions can be made; and
- G. The run-off from the site will not adversely affect the water quality in adjacent streams, ponds, lakes or alter the drainage on adjacent lands.

Staff: The City of Portland Bureau of Buildings regulates the flow of water coming off single family residences. Multnomah County will requires a Hillside Development Permit for development on this land. In the Hillside Development Permit review will be the requirement to design erosion control mechanisms to prevent erosion off the property and the requirement to determine the best method of handling water run-off resulting from future development.

ENERGY AND COMMUNICATIONS:

- H. **There is an adequate energy supply to handle levels projected by the plan; and**
- I. **Communications facilities are available.**

Staff: Portland General Electric and US West Communication provide necessary power and phone service to the area. A single family residence is unlikely to result in inadequate services or facilities for those services.

5. **Policy No. 38, Facilities:** The County's Policy is to require a finding prior to approval of a legislative or quasi-judicial action that:

- A. **The appropriate School District has had an opportunity to review and comment on the proposal.**
- 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.**
- D. **The proposal can receive adequate local police protection with the standards of the jurisdiction providing police protection.**

Applicant: The county Fire Department, Police Department, and Corbett Public Schools all verified service availability to the proposed dwelling. There were no negative comments or concerns expressed. [Staff labeled Exhibit A2, Item 4]

6. **Policy No. 40, Development Requirements:** The County's policy is to encourage a connected park 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. **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. Landscaped areas with benches will be provided in commercial, industrial and multiple family developments, where appropriate.
- C. Areas for bicycle parking facilities will be required in development proposals, where appropriate.

Finding There are no pedestrian or bicycle path connections to parks, recreation areas or community facilities from or to the site.

CONCLUSION:

- 1. The subject parcel meets the template tests of the Commercial Forest Use zoning district.
- 2. Conditions of approval are necessary to ensure some criteria of approval are met.

Dated this 18th day of April, 1997.



LIZ FANCHER, Hearings Officer

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 2115 SE Morrison Street (in Portland) or you may call 248-3043, for additional instructions.