



DEPARTMENT OF ENVIRONMENTAL SERVICES  
TRANSPORTATION AND LAND USE PLANNING DIVISION  
2115 SE Morrison Street  
Portland, OR 97214 (503) 248-3043

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## Decision of Hearings Officer

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### Conditional Use Permit for Template Dwelling

Case File:	CU 5-98
Hearings Officer:	Liz Fancher
Hearing Date, Time, & Place:	Wednesday, August 19, 1998, at 9:00 AM 2115 SE Morrison Street, Room 111, Portland, OR 97214
Proposal:	A conditional use permit request for a "Template Dwelling", to allow a new single family dwelling on Commercial Forest Use zoned property.
Location:	39864 SE Trout Creek Road Tax Lot 13, Sec 13, T1S, R4E, W.M (R-99413-0130)
Applicant:	David Wentz 38695 SE Trout Creek Road Corbett, Oregon 97019
Owner:	Ray & Irene Schoppert 38720 SE Serban Road Sandy, Oregon 97055
Site Size:	40.70 acres
Present Zoning:	Commercial Forest Use (CFU)
Approval Criteria:	Multnomah County Code (MCC): MCC 11.15.2042 Commercial Forest Use; MCC 11.15.7105 Conditional Use; Comprehensive Plan Policies 13, 14, 22, 37, 38, & 40

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## **Hearings Officer Decision:**

**Approval of the proposed Conditional Use Permit for a “Template Dwelling” to allow a new single family dwelling on Commercial Forest Use zoned property, subject to compliance with specific conditions.**

### **Conditions:**

1. This approval is specific to the use(s) described in the application subject to the limitations and conditions set forth in this decision. The use shall be constructed in accordance with the approved site plans, Exhibits H4 (as to layout of structures) and A17 (as to utilities, septic and water source), except as modified by this decision. Any change of use or plan from the use or plan described in the land use application or variance from the conditions imposed by this decision shall be subject to approval by the approval authority and may require a public hearing.
2. Prior to issuance of a building permit, a copy of a recorded restriction, condition, or covenant, shall be submitted as evidence that the other parcel within this tract, described under Tax Account #R-99413-0310, is precluded from all current and future rights to site a dwelling. Such restriction, condition, or covenant, shall be in a format consistent with “Exhibit A” to the Oregon Administrative Rules (OAR), Chapter 660, Division 6 (December 1995).
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 building permit, a copy of a recorded statement shall be submitted as evidence that the owner and successor in interest acknowledges 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.
5. Prior to issuance of a building permit, the applicant is to provide verification from a qualified professional engineer that the proposed driveway from the public road to the home 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).]
6. Prior to issuance of a building permit for any structure on the subject property, the applicant shall file a corrected H-4 site plan with the County that correctly designates the primary and secondary fire safety zones on the site plan map. No other changes may, however, be made to the site plan map. The primary zone is to be drawn at a distance of 30’ around both structures shown on the plan. The secondary zone is to be drawn at a distance of 100’ around the **outside** edge of the primary fire safety zone. Together, the primary and secondary zones shall extend 130’ from all points on both structures. As long as the property is under forest resource zoning, the applicant is to maintain primary and secondary fire safety zones around all structures in accordance with the requirements of MCC 11.15.2074 (A)(5).
7. The dwelling shall have a fire retardant roof and all chimneys shall be equipped with spark arresters. The dwelling shall 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.

8. Prior to the issuance of a building permit, a well report shall be submitted demonstrating compliance with MCC 11.15.2074(C). At that time, persons entitled to notice will again be notified that the water service part of the approval criteria is being reviewed and will be given the opportunity to comment and appeal the County's decision regarding compliance with well report approval criteria.
9. 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. The GEC Permit will be required only for areas of soil or earth disturbance not covered under the Oregon Department of Forestry (ODF) permit. No building permits are to be signed-off until such time as any required GEC permits are issued.
10. 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 Grading and Erosion Control Permit, if necessary;
  - B. Forest stocking survey report submitted;
  - C. Fire safety zones cleared and inspected by Planning staff;
  - D. Submittal of a well drilling report, then 10 day opportunity for parties entitled to notice to appeal determination that the well report satisfies the service requirements of Comprehensive Plan Policy 37, Utilities.
  - E. Application for Right-of-Way permits for a new driveway, if applicable, and construction of the driveway to the design and specifications shown on Exhibit H4 of this application, not to exceed a length of 500 feet, and;
  - F. The conditions of approval relating to the fire retardant roof, chimney spark arresters, foundation, and floor area are shown on the building plans.
  - G. The constructed building shall be a single family dwelling based on the following characteristics: be lawfully established under required building permits; have intact interior 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.
  - H. If the dwelling is not completed, then the method of determination 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)].

## **Findings of Fact**

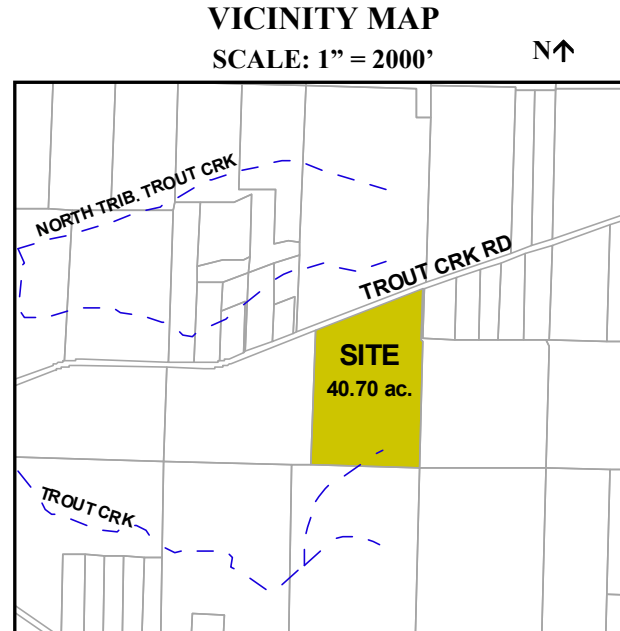
**Note:** Staff as necessary to address Multnomah County ordinance requirements has provided Findings referenced herein. Headings for each finding are underlined. Multnomah County Code requirements are referenced using a **bold** font. Written responses by the applicant, demonstrating compliance with code criteria, are *italicized*.... Planning staff comments and analysis may follow applicant responses. Where this occurs, the notation “Staff” precedes such comments. The Hearings Officer accepts the findings prepared by the Applicant and Staff as findings of the Hearings Officer, except as specifically noted in the Hearings Officer’s findings. The notation “Hearings Officer” precedes these findings.

### 1. Project Description:

The applicant’s request is for approval of a “Template Dwelling” to allow the placement of a single family dwelling, outbuilding, and new private driveway on a Commercial Forest Use zoned parcel.

### 2. Site and Vicinity Characteristics:

The parcel upon which the improvements are proposed is approximately 40.70 acres in size. Access to the parcel is available off of SE Trout Creek Road. The site is currently undeveloped. A logging road currently extends from the property to the west, south into the parcel as illustrated on the applicant’s site plan (Exhibit A17). Overhead utilities run along the eastern edge of the site. As evidenced in the applicant’s written narratives the parcel was clearcut and replanted early in 1998. A tributary of Trout Creek extends into the southeast corner of the parcel. The property slopes away from Trout Creek Road to the south.



Multnomah County zoning on all adjacent properties is Commercial Forest Use (CFU). A pocket of Rural Residential (RR) zoned land exists to the northwest. As illustrated on the arial photograph provided by the applicant (Exhibit A14), properties in this area are sparsely developed and forested. Evidence of timber harvesting activities is apparent on several of the adjoining parcels. Existing residential development exists along Trout Creek Road on the RR zoned properties to the northwest and on CFU zoned parcels northeast of the applicant’s site.

3. Conditional Use (CU) Permit Required:

**11.15....2046 Uses**

**No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this district except for the uses listed in MCC .2048 through .2056.**

\* \* \*

**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.**

\* \* \*

Staff: As established under MCC 11.15.2050(B) a “Template Dwelling” request requires Conditional Use approval in the Commercial Forest Use zone district.

4. Compliance with MCC 11.15.2052 Template Dwelling Requirements:

**Per MCC ....2052(A), a template dwelling may be sited on a tract, subject to the following:**

- A. **MCC .2052(A)(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;**

Staff: This criterion has been addressed. Compliance with Lot of Record requirements of MCC .2062 is established under Finding #5. Two parcels make up the tract, the second parcel being the property adjacent to the west (Tax Account #R-99413-0310). Both properties were created as a result of a minor partition, which was completed in May of 1986. Copies of the recorded partition documents are included as part of Exhibit A4.

- B. **MCC .2052(A)(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;**

Staff: This criterion has been addressed. Compliance with MCC ....2074 is established under Finding 6. As illustrated on the applicant’s scaled site plan (Exhibit A17) the yard requirements of the Commercial Forest Use district have been met.

- C. **MCC .2052(A)(3)(c), The tract shall be composed primarily of soils which are capable of producing above 85 cf/ac/yr of Douglas Fir timber; 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 five dwellings lawfully existed on January 1, 1993 within the 160-acre square.**

Staff: This criterion has been addressed. As referenced in the applicant's Forest Management Plan (Exhibit A12) and supported in the Soil Conservation Services "Soil Survey of Multnomah County" Cazadero series soils exist on the subject property. Cazadero series soils are Class II soils capable of producing in excess of 145 cf/ac/yr.

Exhibit B7, prepared by staff, illustrates that all or part of 11 parcels fall within a 160-acre square centered on the subject **tract**. The applicant's template map is centered on the parcel upon which the dwelling is proposed. As this is only one of the two parcels that make up the tract, the applicant's template map is in error, and has therefore not been relied upon to address this criterion.

Exhibits A13 and B8 demonstrate that five dwellings lawfully existed on January 1, 1993 within the 160-acre square centered on the tract.

<b><u>Parcel #</u></b>		<b><u>Year Built</u></b>
R-99413-0150	-	1964
R-99413-0200	-	1973
R-99413-0190	-	1973
R-99413-0160	-	1973
R-99413-0230	-	1992 (A&T system indicates structure added to tax rolls in 1993. Manufactured home finalized by the City of Gresham 10/27/92.)

- D. **MCC ....2052(A)(3)(d), Lots and dwellings within urban growth boundaries shall not be counted to satisfy...(c) above.**

Staff: None of the lots or dwellings used fall within an urban growth boundary.

- E. **MCC ....2052(A)(3)(e), There is no other dwelling on the tract,**

Staff: No dwellings currently exist on either parcel within the tract.

- F. **MCC ....2052(A)(3)(f), No other dwellings are allowed on other lots (or parcels) that make up the tract;**

Staff: This criterion has been addressed with a condition of approval contained herein.

One other parcel makes up this tract, such parcel being identified by tax account #R-99413-0310. A restriction, condition, or covenant is to be recorded prohibiting construction of a dwelling on this parcel. This restriction, condition, or covenant shall be on forms consistent with "Exhibit A" to the Oregon Administrative Rules (OAR), Chapter 660, Division 6 (December 1995).

- G. **MCC .2052(A)(3)(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**

Staff: The restriction, condition, or covenant described under Finding 4F above, shall have language sufficient to preclude all future rights to site a dwelling on the parcel described under tax account #R-99413-0310, such parcel being a part of the subject tract.

- H. **MCC .2052(A)(3)(h), No lot (or parcel) that is part of the tract may be used to qualify another tract for the siting of a dwelling;**

Staff: None of the 11 parcels used to qualify this dwelling are part of this tract or any other tract containing a template dwelling.

- I. **MCC .2052(A)(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.**

Staff: As evidenced by the applicant on a copy of the Multnomah County Sensitive Big Game Wintering Areas map (Exhibit A18), the subject tract does not fall within a big game winter habitat area.

- J. **MCC .2052(A)(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;**

Staff: The proposed dwelling is to have a new private driveway with direct access off of SE Trout Creek Road. The existing logging road access through the property to the west is to be abandoned.

- K. **MCC .2052(A)(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 minimum stocking requirements have been met by the time required by Department of Forestry rules. The assessor will inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report or where the survey report indicates that minimum stocking requirements have not been met;**

**(c) Upon notification by the assessor the Department of Forestry will determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the department 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;**

Staff: The applicant's proposed forest management plan, describing that the subject parcel was logged in 1997 and replanted in January and February of 1998 is an initial step towards addressing this criterion. A condition of approval has been included to ensure that the requirements of MCC ....2052(A)(6) are met.

- L. **MCC .2052(A)(7), The dwelling meets the applicable development standards of MCC .2074;**

Staff: Compliance with this criterion is demonstrated under Finding 6.

- M. **MCC ....2052(A)(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;**

Staff: This requirement has been addressed with a condition of approval contained herein.

- N. **MCC .2052(A)(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;**

Staff: This requirement has been addressed with a condition of approval contained herein.

## **5. Compliance with MCC 11.15.2062, Lot of Record Requirements:**

**Per MCC ....2062(A)(3), for the purposes of this district, a Lot of Record is a group of contiguous parcels of land:**

- A. **MCC .2062(A)(3)(a), For which deeds or other instruments creating the parcels were recorded with the Department of General Services, or were in recordable form prior to February 20, 1990;**

Staff: Applicant Exhibit A4 contains copies of a minor partition survey and legal descriptions for both parcels within this tract. These documents, recorded in May of 1986,



are evidence that the “recordable form” test of this criterion has been met.

- B. **MCC ....2062(A)(3)(b), Which satisfied all applicable laws when the parcels were created;**

Staff: An exempt minor partition, approved by Multnomah County is evidence that the parcels met applicable laws at the time of their creation (Exhibit A4).

- C. **MCC .2062(A)(3)(c), Which individually do not meet the minimum lot size requirements of MCC .2058, but, when considered in combination, comply as nearly as possible with a minimum lot size of nineteen acres, without creating any new lot line; and**

Staff: This criterion has been met. The parcel subject to this request is approximately 40.70 acres in size. The other parcel within this tract contains roughly 39.00 acres. Neither of the parcels meet a minimum lot size of 80 acres as defined under MCC .2058, however, when considered in combination they exceed nineteen acres in size.

- D. **MCC ....2062(A)(3)(d), Which are held under the same ownership.**

Staff: Applicant Exhibit A4 contains copies of recorded deeds demonstrating that both parcels within this tract are under the same ownership.

6. Compliance with MCC 11.15.2074, Commercial Forest Use Zone District Development Standards:

- A. **Per MCC .2074(A)(1), the dwelling or structure shall be located such that 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);**

*The placement of the dwelling exceeds the required 200-foot yard setback as required by MCC 11.15.2058. The proposed distance-of the dwelling is 300 feet from the nearest property boundary (see site plan). Area between the dwelling and surrounding properties will be maintained as a managed forest operation, with practices matching current industry expectations used on the surrounding plots. Therefore, the intent of Commercial Forest Use zoning of this plot and the surrounding plots will be maintained.*

Staff: As evidenced on the applicant’s site plan (Exhibit A17), the minimum yard requirements of MCC .2058 have been met.

- B. **Per 11.15.2074(A)(2), the dwelling or structure shall be located such that adverse impacts on forest operations and accepted farming practices on the tract will be minimized.**

*The proposed dwelling will be sited to take advantage of the already, existing disturbance and land currently removed from production by the existing access roads. The area has been harvested by clear-cut. The proposed dwelling site has been located in an area of least productivity as shown by the 1994 aerial photograph (Exhibit A14).... The location*

*allows for the minimum amount of property to be used while maintaining the needed setbacks. The property surrounding the dwelling beyond the primary fire safety zones will be managed as a timber crop. The dwelling is located approximately 500 feet from SE Trout Creek Road, beyond the 60-foot required setback to take advantage of the existing entrance roads and needed topography for the house placement (See accompanying topographic map (Exhibit A16)).*

- C. **Per 11.15.2074(A)(3), the dwelling or structure shall be located such that the amount of forest land used to site the dwelling or other structure, access road, and service corridor is minimized.**

*The area of impact within the forest boundary (see the site map (Exhibit A17)) is estimated to be .247 acres. The impact from the road to the house is estimated to be 0.11 acres, giving a total estimated impact of 2.58 acres. The actual area impacted by the dwelling is 1,438 square feet. The barn is estimated to be approximately 1,080 square feet.*

Staff: In siting the structure in a cleared area and by incorporating portions of the existing logging road into the new driveway, the applicant has taken steps to minimize disturbance of on-site forest lands.

- D. **Per 11.15.2074(A)(4), the dwelling or structure shall be located such that any access road or service corridor in excess of 500 feet in length is demonstrated by the applicant to be necessary due to physical limitations unique to the property and is the minimum length required; and**

*The proposed dwelling location will require a driveway of approximately 500 feet from SE Trout Creek Road. The length of the road is necessary due to the existing roadway... and to utilize the closest level area to the required setbacks (see the topographic map).*

Staff: As evidenced on the site plan the access road does not exceed 500 feet, therefore, the above criterion has been met.

Hearings Officer: Exhibit H4 shows the approved driveway location. That exhibit was revised to limit the length of the driveway to 500' in length. The driveway shall be constructed in the approximate location shown on Exhibit H4 and shall not exceed 500' in length.

- E. **Per 11.15.2074(A)(5), the dwelling or structure shall be located such that the risks associated with wildfire are minimized. Provisions for reducing such risk shall include:**

- (a) The proposed dwelling will be located upon a tract within a fire protection district or the dwelling shall be provided with residential fire protection by contract;**
- (b) Access for a pumping fire truck to within 15 feet of any perennial water source on the lot. The access shall meet the driveway standards of MCC ....2074(D) with permanent signs posted along the access route to indicate the location of**

the emergency water source;

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

- (i) A primary fire safety zone is a fire break extending a minimum of 30 feet in all directions around a dwelling or structure. Trees within this safety zone shall be spaced with greater than 15 feet between the crowns. The trees shall also be pruned to remove low branches within 8 feet of the ground as the maturity of the tree and accepted silviculture practices may allow. All other vegetation should be kept less than 2 feet in height.**
- (ii) On lands with 10 percent or greater slope the primary fire safety zone shall be extended down the slope from a dwelling or structure as follows:**

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

- (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.**

**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**

**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.**

*A Fire District Review form has been submitted to the Multnomah County Rural Fire Protection Department Number 14. It was returned as "...There is adequate water pressure and flow for fire fighting purposes." This was signed by Brent A Younker, Assistant Chief, dated February 27, 1998 (Exhibit A7).*

*The nearest perennial water source on the subject property is located in the southeast section of the lot, with a pond bordering the property. As shown in the site map an access*

*road reaching the pond will be retained as part of the forest management practices of the forest plantation. Road and driveway construction design have been reviewed by the fire protection district and approved. A Multnomah County Minimum Design Standards for Residential Driveways and Privately Maintained Roads sheet and inspection form has been completed, reviewed, and approved. A copy of this document has been submitted as part of this application (Exhibit A7).*

*The primary and secondary fire safety zones are represented on the Site Plan and Site Topography figures (Exhibits A16 & A17).... The dwelling will be located as such to allow a primary safety zone of a minimum of 30 feet in all directions. Any trees within this area will be managed at a spacing of greater than 15 feet between crowns and other considerations as discussed in MCC 11.15.2074(A)(5)(c)(i). The dwelling location is on a grade of less than 10 percent. Therefore, extension of the primary fire safety zone is not required. In addition a secondary, fire safety zone of a minimum of 100 feet beyond the primary fire safety zone, in all directions. Any trees within this area will be managed with undergrowth and brush removed.*

*The building site, as described in the Site Topography Map... maintains a change of elevation of approximately 15 feet over a distance of approximately 400 feet. This gives an approximate slope of 4 percent.*

Staff: To ensure that the requirements of these criteria are met evidence must be submitted prior to building permit sign-off that the access road has been constructed to the standards of MCC .2074(D). Additionally, primary and secondary fire safety zones must be delineated on the site plan. These concerns have been addressed with conditions of approval contained herein.

Hearings Officer: The applicant has shown fire safety zones on Exhibit H-4. The zones shown on the map, however, appear to be incorrect. The primary zone appears to be 60 feet. A primary zone of 30' is required by the County code, as the slope of the property is less than 10%. The secondary zone is to be 100' in width but it must be measured from the **outside** of the primary zone, not from the structures. As a result, the secondary zone needs to be increased to include all lands within 130' of each structure other than land that is included within the primary zone. A condition of approval has been imposed to require the applicant to amend Exhibit H-4 to correct this error.

**F. Per MCC .2074(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.**

*A description and floor plan of the proposed dwelling is provided as a separate document (Exhibit A19). The dwelling will be a manufactured home of 1,438 square feet. The structure will be attached to permitted foundation, is over 600 square feet, have a fire retardant roof, and will maintain a working spark arrester on any chimney. A description*

*of the proposed home is provided as part of this application.*

Staff: Evidence of compliance with each of the elements of MCC 2074(B) must be verified at time of building permit review and inspection. A condition of approval has been included herein addressing this concern.

- G. **Per MCC .2074(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 11 stream as defined in the Forest Practices Rules.**

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

**(2) Evidence of a domestic water supply means:**

\* \* \*

**(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.**

*A groundwater well will be installed, according to the Oregon, Department of Water Resources requirements by a licensed well installer. The well will be constructed by McNally and Sons Well Drilling, Inc., Well Driller's License #1380 of Boring Oregon. This company has been contacted by the client and agreed to complete the work. The general location of the well will be to the northwest of the dwelling, as represented on the Site Map (Exhibit A17).*

*Attempts were made by DBA (Applicant's Consultant) to obtain water well logs of properties adjacent to the subject property from the Oregon Department of Water Resources. However, well logs were not available at the time of this submittal.*

Staff: To address this criterion a copy of the well constructor's report must be submitted prior to building permit sign-off. A condition of approval addressing this concern has been included herein.

- H. **Per MCC ....2074(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.**

*The existing forest management service road (see the aerial photograph and site map (Exhibits A16 & A17)), historically used for heavy vehicle transport, will be utilized. This will give a compacted base for the driveway. After re-grading, a subbase of 4-inch minus will be placed and compacted. The drive surface shall then be placed, consisting of 3/4-inch minus. This will be smoothed by tractor. The driveway will maintain a minimum width of 12 feet.*

*There are no curvatures between the dwelling and SE Trout Creek Road (see site map). The straight course of the driveway will also give unobstructed clearance. There is no vegetation or structures to impair the 13 feet, 6 inches of vertical clearance. The existing grade is approximately 4 percent. Therefore, there will be no section of the driveway greater than 8 percent grade.*

*As shown in the site plan, a turnout of a minimum of 20 X 40 feet will be constructed. The distance from SE Trout Creek Road will be approximately 200 feet. The distance from the dwelling will be approximately 200 feet. The driveway will not cross any perennial water systems and therefore will not require bridge crossings and an engineer's approval.*

*Road and driveway construction design have been reviewed by the fire protection district and approved. A Multnomah County Minimum Design Standards for Residential*

*Driveways and Privately Maintained Roads sheet and inspection form has been completed, reviewed, and approved. The review was completed by Brent A. Younker, Assistant Chief for Multnomah County Rural Fire Protection District Number 14. Mr. Younker can be contacted at (503) 695-2272. The review was completed February 27, 1998. A copy of this document has been submitted as part of this application (Exhibit A7).*

Staff: To ensure that this criterion has been addressed, evidence must be provided prior to building permit sign-off demonstrating that the access road has been engineered and constructed to the standards specified under MCC ....2074(D). This concern has been addressed with a condition of approval attached herein.

## **7. Compliance With Applicable Comprehensive Plan Policies:**

### **A. Policy 13: Air, Water And Noise Quality**

**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.**

*The development of the single family residence as allowed by Multnomah County's Template Dwelling process will maintain and manage a forest crop on the property utilizing Best Management Practices for forest crop management. The choice of residence will utilize a small square footage (approximately 1,438 square feet). The home is of new construction utilizing currently accepted energy saving measures.*

*The sewage disposal system will manage disposal in a way that will not impact local waterways. A preliminary inspection has been conducted and the site approved by the City of Portland.*

*The placement of the structures utilizes the localized topography for the restriction of noise produced from Trout Creek Road. The residence is placed in a topographic, "low", surrounded on three sides by topographic "highs".*

*Continued management of the property, as a forest crop will maintain an ecosystem which will enhance air and water quality. Forest ecosystems provide oxygen production, air purification, water thermal pollution reduction, stormwater runoff attenuation, and surface water filtration. Placement of the residence at this location will allow for close proximity of the forest manager assisting in cultivation and expedient management of the woodland.*

*The development of the single-family residence as allowed by Multnomah County's Template Dwelling process, is not located within impact of any high noise generating sources. The nearest commercial use is the location of high voltage power lines and towers. These are not high noise generating.*

### **B. 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%;**

*The building site, as described in the Site Topography Map... maintains a change of elevation of approximately 15 feet over a distance of approximately 400 feet. This gives an approximate slope of 4 percent. Therefore this location satisfies criteria A.*

**B. Severe soil erosion potential;**

*The soil slope of the building site is approximately 4 percent. The soils are classified as Cazadero Soil. Therefore, this soil is given a Capability Classification of IIe<sup>2</sup>.... This gives the soil a moderate limitation due to erosion, as opposed to severe or extremely severe erosion limitations. The forest manager will maintain Best Management Plans of erosion control, including immediate replanting of disturbed areas. Therefore this location satisfies criteria B.*

**C. Land within the 100 year flood plain;**

*The dwelling will be located approximately 500 feet northwest of the nearest surface water, which is a wetland associated with Trout Creek, as represented in Site Topography (Exhibit A16).... The wetland acts as a flood retention system. The building site is located at an elevation approximately 20 feet above the surface water. The Cazadero Soils are listed as not having flooding potential, with a seasonal high water table of greater than six feet from the ground surface. Therefore, this location satisfies criteria C.*

**D. A high seasonal water table within 0-24 inches of the surface for 3 or more weeks of the year;**

*The Cazadero Soils, as described in the Soil Survey for Multnomah County, maintain a high seasonal water table of greater than six feet from the ground surface. Therefore, this location satisfies criteria D.*

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

*The Soil Survey for Multnomah County does not list a fragipan associated with the Cazadero soils. Field investigation of soil pits constructed on the property showed no presence of a fragipan. Therefore this location satisfies criteria E.*

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

*The building site soil grade is within the angle of repose for this soil classification. Field examination revealed no evidence of slumping or earth movements associated with the building site. The Soil Survey of Multnomah County rates the soil as moderate*



*for erosion hazard, no mention of soil failures for the Cazadero soils.*

**C. Policy 22: Energy Conservation**

**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. 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;**

*The development of the single family residence as allowed by Multnomah County's Template Dwelling process, will maintain and manage a forest crop on the property, utilizing Best Management Practices for forest crop management. The choice of residence will utilize a small square footage (approximately 1,438 square feet) making the dwelling far more energy efficient than that of a larger structure. The home is of new construction, utilizing currently accepted energy saving measures.*

*Placement of the residence at this location will allow for close proximity of the forest manager assisting in cultivation and expedient, efficient management of the woodland. Location of the residence near the forest crop will allow for reduced transportation for the forest manager and necessary equipment needed for the management of the woodland. Therefore, this application fulfills criteria A.*

**B. Increased density and intensity of development in urban areas, especially in proximity to transit corridors and employment, commercial and recreational centers;**

*The tree farm located, on the property is intended as a retirement investment for the forest manager. Construction of the small residence near the woodland allows for intrinsic management of the forest resource. This long-term project will be sustained throughout his retirement. The dwelling and associated structures are required for the forest manager's residence and equipment storage associated with the needed management practices. Therefore this fulfills the location to employment centers addressed in criteria B.*

**C. An energy-efficient transportation system linked with increased mass transit, pedestrian and bicycle facilities;**

*The location of the project allows for numerous transportation alternatives. The closest public transit terminal is located in Troutdale, Oregon. The possible travel route system is from Trout Creek Road to Gordon Creek Road to Evans Road to Corbett. From Corbett two transportation routes are possible. The first is Corbett Hill Road to Interstate 84 to Troutdale. The second is Evans Road to Hurlburt Road to Crown Point Road to Troutdale. The Public Transit terminal is located at the Outlet Store Complex, approximately 12 'Miles, from the project. Tri-Met lines*

24, 80, and 81 serve this facility.

*Limited public transit is provided to the town of Sandy. The possible travel route system to this transit terminal is Trout Creek Road to Gordon Creek Road to Bull Run Road to Ten Eyck Road to the town of Sandy. The Public Transit terminal is approximately 13 miles from the project.*

*The dwelling and associated structures are within a linked transportation that includes primary arterial and public transportation systems. Therefore, this application fulfills criteria C.*

**D. Street layouts, lotting patterns and designs that utilize natural environmental and climactic conditions to advantage.**

*The development of the single family residence as allowed by Multnomah County's Template Dwelling process, is not a development requiring street layouts, lotting patterns, or multiple dwelling and structure design. However, the placement of the dwelling will utilize existing topographies and the future growth of the forest crop for additional protection of weather extremes and climatic control.*

**E. Finally, the county will allow greater flexibility in the development and use of renewable energy resources.**

*The development of the single family residence, as allowed by Multnomah County's Template Dwelling process is being proposed to allow the forest manager close proximity to the forest resource, enhancing the management and oversight of this woodland. While not considered a direct energy resource, forestry does perpetuate the continued management of a renewable resource. Material gained from this project will be used for energy efficient building material, localized supply for pulp and paper manufacturing, and energy production in the form of a biomass heating resource. The management of this woodlot will increase the forest yield, providing a renewable resource for the community in the future.*

**D. Policy 37: Utilities**

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

- 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.**
- E. There is adequate capacity in the storm water system to handle the 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 adjoining lands.**
- H. There is 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.**

**Furthermore, the County's policy is to continue cooperation with DEQ, for the development and implementation of a groundwater quality plan to meet the needs of the county.**

*A groundwater well will be installed according to the Oregon Department of Water Resources requirements by a licensed well installer. The well will be constructed by McNally and Sons Well Drilling, Inc., Well Driller's License #1380, of Boring Oregon. Attempts were made by DBA to obtain water well logs of properties adjacent to the subject property from the Oregon Department of Water Resources. However, well logs were not available at the time of this submittal.*

*A land feasibility site evaluation was conducted of the building site by Mr. Phillip Crawford, Environmental Soils Inspector for the City of Portland, Bureau of Buildings. The result of the study is that the "...site is SUITABLE for the use of a standard septic drainfield system in compliance with the standards set forth in On-Site Sewage Disposal Rule..." The minimum type and size of the system and absorption area required for the three bedroom home proposed in this project is 1,000 gallons for the septic system, and 300 feet of linear feet absorption trench. The report is referenced by LFS 13-98 (Exhibit A5). Therefore, criteria C is satisfied.*

*Drainage absorption trenches have been recommended by the City of Portland. The required minimum is 300 linear feet. There is ample area, as described in the Site Plan, to handle all drainage from roof runoff. The area of coverage is 1438 square feet. The topography slopes to the southeast, providing slope drainage into vegetated areas. The slope will prevent ponding around the structure. Therefore criteria F is satisfied.*

*The nearest surface water is a wetland area associated with Trout Creek, located approximately 500 feet to the southeast.... Stormwater from roof drainage will be directed downslope to the southeast. However, the runoff will be directed into' vegetated topography and infiltrate into the soils. Direct flow will not impact the existing surface waters. The building site has been located and the drainage designed so as to not impact nor alter any existing drainage patterns. Therefore, criteria G is satisfied.*

*The development of the single family residences, as allowed by Multnomah County's*

*Template Dwelling process is-not a development requiring a large power supply. Power is currently supplied to residences located adjacent to the subject property. Although not a local power source, high voltage power lines bound the eastern side of the property. Therefore, criteria H is satisfied.*

*An underground telecommunications system bounds the north side of the property. A junction to the telecommunication is located approximately 50 feet east of the proposed drive. Therefore, criteria I is satisfied.*

E. **Policy 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.**

*A School District Review form has been submitted to the Corbett School District Number 39. It was returned as "...The District has no comment...", signed by the Superintendent, dated February 20, 1998. Therefore, criteria A is satisfied (Exhibit A9).*

- 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.**

*A Fire District Review form has been submitted to Multnomah County Rural Fire Protection District Number 14. It was reviewed and returned, stating there is adequate water pressure and flow for fire fighting purposes, with water- supply being provided by water shuttles with water tenders. This was completed by- Brent A. Younker, Assistant Chief, dated February 27, 1998. Therefore, criteria B and C are satisfied (Exhibit A7).*

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

*A Police Services Review form has been submitted to the Multnomah County Sheriff. It was reviewed and returned, "...stating the level of police service available to serve the proposed project is ADEQUATE..." The form was completed by Mel Hedgpeth, Commander, dated February 24, 1998. Therefore, criteria D is satisfied (Exhibit A8).*

F. **Policy 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.**

*The development of the single-family residence, as allowed by Multnomah County's Template Dwelling process will not affect any existing or future bicycle path routes or projects. Therefore, criteria A is satisfied.*

**B. Landscaped areas with benches will be provided in commercial, industrial and multiple family developments, where appropriate.**

*The development of the single-family residence, as allowed by Multnomah County's Template Dwelling process is not a commercial, industrial or multiple family development. Therefore, criteria B does not apply.*

**C. Areas for bicycle parking facilities will be required in development proposals, where appropriate.**

*The development of the single-family residence, as allowed by Multnomah County's Template Dwelling process, does not necessitate bicycle parking facilities. Therefore, criteria C is not appropriate.*

Staff: This proposal does not impact any existing or planned park and recreation areas or bicycle facilities.

## **Conclusion**

Considering the findings and other information provided herein, this application for approval of a "Template Dwelling", to allow a new single family dwelling on Commercial Forest Use zoned property, as conditioned, satisfies applicable Comprehensive Framework Plan policies and Multnomah County Zoning Ordinance requirements. The application also complies with state land use laws and regulations as Multnomah County's regulations have been acknowledged by LCDC as complying with the Statewide Planning Goals and implementing regulations.

DATED THIS 20<sup>TH</sup> DAY OF AUGUST 1998.

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LIZ FANCHER, OSB #81220  
Multnomah County 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 \$530.00 plus a \$3.70 - 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.**