

1 conducted a hearing on the record, with additional testimony allowed on
2 September 24, 1991. After considering evidence, arguments from the applicant
3 and appellants, and other testimony, the Board, in 3 – 2 split vote, reversed the
4 Planning Commission’s decision and denied the CU request. The Board recon-
5 sidered the matter and accepted rebuttal testimony on October 15, 1991. After
6 again considering the evidence and the rebuttals, the Board, in a 3 – 2 split vote,
7 reversed the Planning Commission decision and denied the CU request.

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10 **I. APPLICABLE REVIEW STANDARDS**

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12 Conditional uses allowed in the EFU zone are specified in MCC
13 11.15.2012. Subsection (B)(1) specifies “..*Commercial activities that are in*
14 *conjunction with farm uses*”. Such uses may be permitted when found to
15 satisfy *Conditional Use Approval Criteria* in MCC .7105 – .7640.

16
17 The proposal must meet the following requirements:

18 A. Under MCC .7120, the Conditional Use must be one that:

- 19 (1) Is consistent with the character of the area;
20 (2) Will not adversely affect natural resources;
21 (3) Will not conflict with farm or forest uses in the area;
22 (4) Will not require public services other than those existing or pro-
23 grammed for the area;
24 (5) Will be located outside a big game winter habitat area as defined
25 by the Oregon Department of Fish and Wildlife or that agency has
26 certified that the impacts will be acceptable;

- 1 (6) Will not create hazardous conditions; and
- 2 (7) Will satisfy the applicable policies of the Comprehensive Plan.

3

4 B. Under MCC .7122 (A), an applicant for a Conditional Use in an EFU Dis-

5 trict must demonstrate that the proposed Conditional Use:

- 6 (1) Will not force a significant change in accepted farm or forest prac-
- 7 tices on surrounding lands devoted to farm or forest use; and,
- 8 (2) Will not significantly increase the cost of accepted farm or forest
- 9 practices on surrounding lands devoted to farm or forest use.

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12 **II. FINDINGS OF FACT**

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14 Applicants, Bowlus and Lynne Chauncey, request County approval of

15 “Beaver Bark”, a proposed commercial wood products business on a 4.24-acre

16 site. The site measures approximately 1300-feet by 200-feet, with the long

17 dimension and east boundary along Cornelius Pass Road. The property slopes

18 to the south and west, and flattens out towards the south end. The northern 1/3

19 (or so) is a cleared Fir forest, with some remaining trees. Some younger Firs

20 (originally planted for Christmas tree production) are grouped near the center of

21 the site, near the mobile home. The south 1/3 (or so) is more open, with pasture

22 and scattered brushy trees; this area is proposed for the bark mulch storage and

23 commercial operation. A shallow drainage swale (and associated riparian vege-

24 tation) is located at the extreme southwest corner of the property.

1 Board should broadly interpret the *in conjunction with farm uses* test to include
2 the proposed wood products processing and transfer operation.

3
4 Even though applicant's product is useable by a broad range of agricultur-
5 al enterprises, the Board received evidence showing only two (2) out of thirty-six
6 (36) nurseries within a 10-mile radius (generally to the northwest, west, and
7 south) used the product. While applicant presented evidence that an additional
8 three enterprises are applicant's customers, the Board concludes most of the 36
9 nurseries do not use 'Beaver Bark' products.

10
11 The Board also received copies of Yellow Pages advertisements for Beaver
12 Bark (in the Portland US West and Washington County - West Hills GTE phone
13 books) which state "**...BARK DUST ... Speedy Delivery ... Serving the Tri-
14 County Area ... Fir & Hemlock ... Serving Homeowners ... Landscapers ...
15 BEAVER BARK, Inc.**". The applicant noted that the advertisement was in the
16 process of being changed for the 1991/92 Yellow Pages edition to delete refer-
17 ences to the Tri-county area and the Eastside (Portland) delivery service, howev-
18 er, applicant did not deny the accuracy of the above advertisement. Based on
19 evidence in the record, the Board concludes that most orders for Beaver Bark
20 products come from urban areas in Washington County and the Portland
21 metropolitan area.

22
23 The record does not clearly show the applicant's bark product is used for
24 agricultural purposes. Some evidence shows the product is used by nurseries as
25 a component of potting soil. However, the evidence does not show the nature of
26 these nurseries. That is, the record fails to demonstrate whether the nursery

1 grows plants for sale to retail outlets as an agricultural enterprise or is merely a
2 nursery that re-sells plants grown elsewhere at retail to the public. Without
3 more detail, the Board does not consider retail nurseries to be farm uses.
4

5 The Board therefore finds the use is a manufacturing and commercial
6 transfer operation rather than a commercial use in conjunction with farm uses.
7 Raw material (i.e., tree bark chips) is brought in from elsewhere, reground and
8 primarily sold outside the local agricultural community (Ref. area description
9 below). In rebuttal, applicant's proposed to eliminate the processing component
10 and only perform the bark materials storage and transfer aspects at the site.
11 The Board still finds the activity – without the processing on-site – not suffi-
12 ciently in conjunction with farm uses.
13

14 *2. Character of the Area*

15

16 The 4.24-acre site is located in unincorporated Multnomah County. It is
17 surrounded by a mix of agricultural and rural residential land uses. The area is
18 generally defined as a portion of the Rock Creek "valley", located west of Brooks
19 and Kaiser roads, south of Skyline Boulevard, east of Old Cornelius Pass Road,
20 and north of Germantown Road. The valley is primarily agricultural in charac-
21 ter, with some low-density rural-residential sections. There are a mix of rural
22 non-farm residences, generally on sites of roughly 10-acres or less; and
23 farm-related residences, generally on sites of 20 to 40 acres. The land slopes
24 generally to the southwest on the east side of the valley, and to the northeast on
25 the west side of the valley. Rock Creek flows generally in a southerly direction
26 through the valley. The valley is characterized by open fields and pastures with

1 scattered patches of woodlands and rural residences. Cornelius Pass Road tra-
2 verses the area from north to south.

3
4 The bark-mulch business is not consistent with the area character in
5 terms of its nature (a secondary or tertiary manufacturing operation and a com-
6 mercial storage and transfer site in a rural agricultural area), and its location
7 (close to low intensity agricultural and rural residential uses). The wood prod-
8 ucts processing activities and their off-site effects are manufacturing in charac-
9 ter and inconsistent with the agricultural and rural residential character of the
10 area. The materials storage and transfer activity introduces large and small
11 trucks into the area at frequencies not characteristic of the agricultural/ rural
12 residential area.

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14 *3. Compliance With Other Applicable Criteria*

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16 The Planning Commission's June 3, 1991 decision on CU 6-91 addresses
17 applicable standards for the requested CU. Except as modified by findings Nos.
18 1. and 2. above, the Board adopts by reference the Planning Commission's find-
19 ings A(2), A(3), A(4), A(5), and A(6) on pages 12 – 13 of the June 3, 1991 deci-
20 sion. The Board adopts by reference findings A(7)c., d., e., f., and g. regarding
21 Comprehensive Plan Policies (pgs.14 – 18), and finding B. on pages 18 – 19.

22
23 The Board rejects findings A(1) regarding consistency with the area char-
24 acter, and A(7)a. and b. regarding Off-site Effects and Agricultural Lands poli-
25 cies for the reasons stated under item 2. above.

1 **IV. CONCLUSIONS AND DECISION**

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3 Based on the above findings and evaluation, the Board of Commissioners

4 concludes that the proposed CU does not comply with applicable standards of

5 the Multnomah County Code. Therefore, the Board of Commissioners hereby

6 reverses the Planning Commission decision in this matter and denies the Com-

7 mercial Use in Conjunction With Farm Uses requested in CU 6-91.

8

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10 DATED this 24th day of October, 1991



13 Gladys McCoy
Gladys McCoy, Multnomah County Chair

14 REVIEWED AS TO FORM:

15 LAURENCE KRESSEL, COUNTY COUNSEL

16 FOR MULTNOMAH COUNTY, OREGON

17

18 By: John DuBay
John DuBay, Chief Deputy County Counsel

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