

ANNOTATED MINUTES

Tuesday, July 9, 1996 - 9:30 AM
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland

LAND USE PLANNING MEETING

Vice-Chair Dan Saltzman convened the meeting at 9:32 a.m., with Commissioners Sharron Kelley, Gary Hansen and Tanya Collier present, and Chair Beverly Stein excused.

- P-1 First Reading and Adoption of an ORDINANCE Amending the Commercial Forest Use Section of MCC 11.15 and Comprehensive Framework Plan Policy 11, Commercial Forest Use to Include Mandatory Provisions of Oregon Revised Statutes and Oregon Administrative Rules Regarding Land Uses on Forest Lands, and Declaring an Emergency

ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. COMMISSIONER COLLIER MOVED AND COMMISSIONER HANSEN SECONDED, APPROVAL OF FIRST READING AND ADOPTION. GARY CLIFFORD EXPLANATION, DISCUSSION OF PLANNING COMMISSION RECOMMENDATION TO LEAVE THE LOT OF RECORD LANGUAGE AS IS PENDING EVALUATION IN THE RURAL AREA PLANS PROCESS NOW IN PROGRESS, AND RESPONSE TO BOARD QUESTIONS. COMMISSIONER COLLIER MOVED AND COMMISSIONER HANSEN SECONDED, APPROVAL OF AN AMENDMENT TO PAGE 23 OF THE PROPOSED ORDINANCE, WHICH WOULD LEAVE THE LOT OF RECORD CODE SECTION LANGUAGE UNCHANGED. ARNOLD ROCHLIN AND CHRIS FOSTER TESTIMONY IN SUPPORT OF ORDINANCE AND PLANNING COMMISSION RECOMMENDED AMENDMENT. MR. CLIFFORD AND GORDON HOWARD RESPONSE TO BOARD QUESTIONS AND DISCUSSION REGARDING EMERGENCY CLAUSE, COUNTY OPTION TO LOOSEN CRITERIA FOR LOT OF RECORD AND DENSITY STANDARDS, AND PROCESS AND TIMELINES FOR COMPLETION OF

**THE WEST HILLS AND EAST OF SANDY RIVER
RURAL AREA PLANS. COMMISSIONER KELLEY
DISCUSSED CONTROVERSIAL PLANNING
PROCESS ISSUES, NEED FOR CONTINUED
EFFORT TO REACH CONSENSUS WITH
COMMUNITY PRIOR TO BOARD ACTION, AND
ASKED STAFF TO PROVIDE IMPACT
INFORMATION REGARDING ACTUAL NUMBER OF
NEW DWELLINGS IF LOOSER STANDARDS ARE
ADOPTED. PAGE 23 LOT OF RECORD
AMENDMENT UNANIMOUSLY APPROVED.
ORDINANCE 859 UNANIMOUSLY APPROVED, AS
AMENDED.**

P-2 CU 1-96, HV 1-96, SEC 1-96 Regarding Appeal of Hearings Officer Decision DENYING Request for a Conditional Use Permit for a Single Family Residence Not Related to Forest Management, Lot Size and Setback Variances, and a Significant Environmental Concern Permit in the Commercial Forest Use CFU-80 and SEC-h Wildlife Habitat Zones Located at 3130 NW FOREST LANE, PORTLAND, Testimony Limited to 15 Minutes Per Side.

**AT THE REQUEST OF VICE-CHAIR SALTZMAN,
AND UPON MOTION OF COMMISSIONER KELLEY,
SECONDED BY COMMISSIONER COLLIER, IT WAS
UNANIMOUSLY APPROVED THAT THE DE NOVO
HEARING BE RESCHEDULED FOR 9:30 AM,
TUESDAY, AUGUST 13, 1996, WITH TESTIMONY
LIMITED TO 15 MINUTES PER SIDE.**

*There being no further business, the meeting was adjourned at 10:10
a.m.*

Thursday, July 11, 1996 - 9:30 AM
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland

REGULAR MEETING

*Chair Beverly Stein convened the meeting at 9:35 a.m., with
Commissioners Sharron Kelley, Gary Hansen and Tanya Collier present.*

CONSENT CALENDAR

***UPON MOTION OF COMMISSIONER KELLEY,
SECONDED BY COMMISSIONER HANSEN, THE
CONSENT CALENDAR (ITEMS C-1 THROUGH C-5)
WAS APPROVED, WITH COMMISSIONERS KELLEY,
HANSEN, COLLIER AND STEIN VOTING AYE.***

DEPARTMENT OF COMMUNITY AND FAMILY SERVICES

- C-1 Renewal of Intergovernmental Agreement 101177 with the Oregon Commission for the Blind for Employment Services for Individuals with Developmental Disabilities

DEPARTMENT OF HEALTH

- C-2 Renewal of Intergovernmental Agreement 200117 with Clackamas County for the Provision of Essential Health and Support Services for Persons Living with HIV/AIDS
- C-3 Renewal of Intergovernmental Agreement 200347 with Oregon Health Sciences University for the Provision of Hospital Services for Multnomah County Corrections Inmates

DEPARTMENT OF JUVENILE JUSTICE SERVICES

- C-4 Renewal of Intergovernmental Agreement 101466 with the Oregon Youth Authority for Evaluation and Diagnostic Services, Disposition of Parole Violations, Detention Backup, Community Programs and Services, and a Process for Making Training School and Parole Placement Decisions
- C-5 Renewal of Intergovernmental Agreement 102304 with the Oregon Youth Authority for Funding to Internal and Community Based Providers to Allow Services to Gang-Involved Youth and the Consolidation of Gang Transition Services

REGULAR AGENDA

PUBLIC COMMENT

- R-1 Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.

NO ONE WISHED TO COMMENT.

DEPARTMENT OF SUPPORT SERVICES

- R-2 Presentation of Employee Service Awards Honoring Multnomah County Employees with 5 to 25 Years of Service

Vice-Chair Dan Saltzman arrived at 9:37 a.m.

WITH THE ASSISTANCE OF SHERY STUMP AND GAIL FOSTER, THE BOARD GREETED, ACKNOWLEDGED AND PRESENTED 5 YEAR AWARDS TO REYNOLD BRANCHE, NEAL KUSHIYAMA, NANCY MILLIGAN-MOCK, CYNTHIA ROSE AND LYNN STOTT OF DCFS; RHONE LORENZO WILLIAMS OF DCC; NANCY WILER OF DA; KURTIS CALVIN HAMM, MARIE KATONA AND LESLIE KORBE OF DES; PAULA WATARI OF DSS; 10 YEAR AWARDS TO SARA FIX, JOHN FLANAGAN AND NORMA JAEGER OF DCFS; NANCY LUARCA OF DCC; ANNETTE ADAMS AND VANESSA WITKA OF DES; 20 YEAR AWARDS TO JO'EY STEWART OF DA; TOM GUINEY AND DAVID LESTIKO OF DES; 25 YEAR AWARD TO LON STRATTON OF JJD.

NON-DEPARTMENTAL

- R-3 Board Decision and Consideration of an ORDER in the Matter of the Appeal of Valerie Young from Hearings Officer Decision on an Adult Care Home License, Hearing Numbers 154115 and 154134. **OPTION 1** Schedule a Hearing to Accept Evidence or Argument on this Appeal; OR **OPTION 2** Decide this Appeal on the Record that has Already Been Created. MCC Section 8.90.090 (J) and Section 890-90-450 of the Administrative Rules for Licensure of Adult Care Homes Give the Board Discretion to Follow Either Course.

CHAIR STEIN AND ACTING BOARD COUNSEL PETE KASTING EXPLANATION OF PROCESS AND BOARD OPTIONS. LINDA SHELTON, DIANNA ROBERTS AND VALERIE YOUNG TESTIMONY IN SUPPORT OF NEW HEARING. MR. KASTING RESPONSE TO OBJECTION OF COUNSEL KATIE GAETJENS. MS. GAETJENS TESTIMONY IN

SUPPORT OF BOARD AFFIRMATION OF HEARINGS OFFICER DECISION. MR. KASTING RESPONSE TO BOARD QUESTIONS. COMMISSIONER COLLIER MOVED AND COMMISSIONER SALTZMAN SECONDED, AFFIRMATION OF HEARINGS OFFICER DECISION. BOARD COMMENTS. ORDER 96-121 AFFIRMING DECISION UNANIMOUSLY APPROVED.

DEPARTMENT OF AGING SERVICES

R-4 Second Reading and Adoption of an ORDINANCE Repealing Multnomah County Code Chapter 8.90, Adult Care Homes, and Adopting Chapter 8.91, Updated and Expanded Adult Care Home Licensure Requirements that Conform to Revisions in State Law and Changes in Practice

ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. COMMISSIONER SALTZMAN MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF SECOND READING AND ADOPTION. JEAN DEMASTER EXPLANATION. ESTIL DIETZ, THELMA SKELTON, JIM DUNCAN, NICOLETA MURZEA, JOE MAHONEY AND GROVER SIMMONS TESTIMONY IN SUPPORT. MS. DEMASTER, KATIE GAETJENS AND MARY FASSELL RESPONSE TO BOARD QUESTIONS AND DISCUSSION. COMMISSIONER COLLIER MOVED AND COMMISSIONER KELLEY SECONDED AMENDMENT TO NOT REMOVE BOARD FROM APPEAL PROCESS. COUNTY COUNSEL LARRY KRESSEL ADVISED APPROVAL OF AMENDMENT WOULD REQUIRE AN ADDITIONAL READING. ESTIL DEITZ COMMENTS IN SUPPORT OF EXPEDITING PROCESS. JIM MCCONNELL, MS. DEMASTER, MS. GAETJENS, MR. KRESSEL, MR. SIMMONS, MR. MAHONEY AND MS. FASSEL RESPONSE TO BOARD QUESTIONS AND DISCUSSION. BOARD COMMENTS. AMENDMENT FAILED, WITH COMMISSIONERS KELLEY AND COLLIER VOTING AYE, AND COMMISSIONERS HANSEN, SALTZMAN AND STEIN VOTING NO.

**COMMISSIONER KELLEY SUGGESTED
REVIEWING PROCESS IN ONE YEAR. BOARD
COMMENTS IN SUPPORT. ORDINANCE 860
UNANIMOUSLY APPROVED.**

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-5 Intergovernmental Agreement 301916 with the Oregon Department of Transportation, Accepting Immediate Opportunity Grant Funding for the Improvement of NE Glisan Street from NE 223rd to NE 242nd, in Association with Development of the LSI Logic Integrated Circuits Plant

**COMMISSIONER KELLEY MOVED AND
COMMISSIONER COLLIER SECONDED, APPROVAL
OF R-5. JOHN DORST EXPLANATION.
AGREEMENT UNANIMOUSLY APPROVED.**

PUBLIC CONTRACT REVIEW BOARD

(Recess as the Board of County Commissioners and convene as the Public Contract Review Board)

- R-6 First Reading and Adoption of an ORDINANCE Amending Ordinance 807, Division 60, Affirmative Action in Public Contracts, of the Multnomah County Public Contract Review Board Rules, and Declaring an Emergency

**ORDINANCE READ BY TITLE ONLY. COPIES
AVAILABLE. COMMISSIONER KELLEY MOVED
AND COMMISSIONER HANSEN SECONDED,
APPROVAL OF FIRST READING AND ADOPTION.
FRANNA HATHAWAY EXPLANATION AND
RESPONSE TO BOARD QUESTIONS AND COMMENTS
IN SUPPORT. NO ONE WISHED TO TESTIFY.
ORDINANCE 861 UNANIMOUSLY APPROVED.**

(Adjourn as the Public Contract Review Board and reconvene as the Board of County Commissioners)

DEPARTMENT OF SUPPORT SERVICES

- R-7 Intergovernmental Agreement 500057 with the City of Portland to Administer Equal Employment Opportunity Certification Program and

Workforce Hiring and Training Program for County Contracts and Construction Projects

COMMISSIONER KELLEY MOVED AND COMMISSIONER HANSEN SECONDED, APPROVAL OF R-7. JERRY WALKER EXPLANATION. AGREEMENT UNANIMOUSLY APPROVED.

- R-8 Second Reading and Adoption of an ORDINANCE Amending Multnomah County Code Chapter 5.30 (Motor Vehicle Fuel Tax) to Authorize the Transfer of a Portion of the Revenues Collected to Metro

ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. COMMISSIONER KELLEY MOVED AND COMMISSIONER HANSEN SECONDED, APPROVAL OF SECOND READING AND ADOPTION. NO ONE WISHED TO TESTIFY. ORDINANCE 862 UNANIMOUSLY APPROVED.

- R-9 RESOLUTION Adopting and Defining the Various County Funds for 1996-97

COMMISSIONER KELLEY MOVED AND COMMISSIONER COLLIER SECONDED, APPROVAL OF R-9. DAVE BOYER EXPLANATION. RESOLUTION 96-122 UNANIMOUSLY APPROVED.

- R-10 RESOLUTION Levying Ad Valorem Property Taxes for Multnomah County, Oregon for Fiscal Year 1996-97

COMMISSIONER COLLIER MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF R-10. DAVE WARREN EXPLANATION. COMMISSIONER COLLIER MOVED, SECONDED BY COMMISSIONER KELLEY, TO AMEND RESOLUTION AS FOLLOWS: LIBRARY GENERAL OBLIGATION BONDS EXCLUDED FROM THE LIMITATION CORRECTED TO \$5,037,607; PUBLIC SAFETY GENERAL OBLIGATION BONDS EXCLUDED FROM THE LIMITATION CORRECTED TO \$7,373,545; CATEGORY TOTAL EXCLUDED FROM THE LIMITATION CORRECTED TO \$12,411,152; AND TOTAL LEVY CORRECTED TO

**\$165,534,666. AMENDMENT UNANIMOUSLY
APPROVED. RESOLUTION 96-123 UNANIMOUSLY
APPROVED, AS AMENDED.**

NON-DEPARTMENTAL

R-11 Briefing and Request for Policy Direction Regarding Submission of a Grant to the Oregon Department of Human Resources for the Welfare Reform Reinvestment Waiver Grant Program. Presented by Maureen Casterline, Donna Beegle, Peggy Schultz, Howard Klink and Norm Monroe.

**NORM MONROE, DONNA BEEGLE, MAUREEN
CASTERLINE JUDITH ALBOY, JASON MUNSON,
CRYSTAL RICHARD, SUSAN DAMEWOOD, MIKE
PETERSON, MOLLY COOLEY AND TOM DARBY
PRESENTATION AND RESPONSE TO BOARD
QUESTIONS AND DISCUSSION.**

Chair Stein was excused at 11:56 a.m.

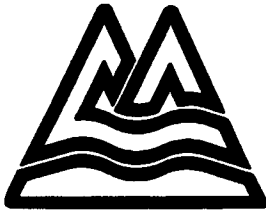
**UPON MOTION OF COMMISSIONER HANSEN,
SECONDED BY COMMISSIONER COLLIER,
APPROVAL OF AUTHORITY TO APPLY FOR PART
OF THE AVAILABLE \$7 MILLION AND AUTHORITY
FOR THE COUNTY TO ACT AS FISCAL AGENTS
FOR 45 COMMUNITY BASED AGENCIES APPLYING
TO THE STATE FOR FISCAL SUPPORT WAS
APPROVED, WITH COMMISSIONERS KELLEY,
HANSEN, COLLIER AND SALTZMAN VOTING AYE.**

There being no further business, the meeting was adjourned at 12:07 p.m.

OFFICE OF THE BOARD CLERK
FOR MULTNOMAH COUNTY, OREGON

Deborah L. Bogstad

Deborah L. Bogstad



MULTNOMAH COUNTY OREGON

OFFICE OF THE BOARD CLERK
SUITE 1510, PORTLAND BUILDING
1120 SW FIFTH AVENUE
PORTLAND, OREGON 97204
CLERK'S OFFICE • 248-3277 • 248-5222
FAX • (503) 248-5262

BOARD OF COUNTY COMMISSIONERS		
BEVERLY STEIN	CHAIR	•248-3308
DAN SALTZMAN	DISTRICT 1	• 248-5220
GARY HANSEN	DISTRICT 2	•248-5219
TANYA COLLIER	DISTRICT 3	•248-5217
SHARRON KELLEY	DISTRICT 4	•248-5213

AGENDA

MEETINGS OF THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS

FOR THE WEEK OF

JULY 8, 1996 - JULY 12, 1996

Tuesday, July 9, 1996 - 9:30 AM - Land Use Planning.....Page 2

Thursday, July 11, 1996 - 9:30 AM - Regular Meeting.....Page 3

*Thursday Meetings of the Multnomah County Board of Commissioners
are *cablecast* live and taped and can be seen by Cable subscribers in Multnomah
County at the following times:*

Thursday, 9:30 AM, (LIVE) Channel 30

Friday, 10:00 PM, Channel 30

Sunday, 1:00 PM, Channel 30

Produced through Multnomah Community Television

**INDIVIDUALS WITH DISABILITIES MAY CALL THE OFFICE OF THE BOARD
CLERK AT 248-3277 OR 248-5222, OR MULTNOMAH COUNTY TDD PHONE 248-
5040, FOR INFORMATION ON AVAILABLE SERVICES AND ACCESSIBILITY.**

AN EQUAL OPPORTUNITY EMPLOYER

*Tuesday, July 9, 1996 - 9:30 AM
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland*

LAND USE PLANNING MEETING

- P-1 First Reading and Adoption of an ORDINANCE Amending the Commercial Forest Use Section of MCC 11.15 and Comprehensive Framework Plan Policy 11, Commercial Forest Use to Include Mandatory Provisions of Oregon Revised Statutes and Oregon Administrative Rules Regarding Land Uses on Forest Lands, and Declaring an Emergency*
- P-2 CU 1-96, HV 1-96, SEC 1-96 PLEASE NOTE: APPELLANT REQUESTS THAT BOARD RESCHEDULE THIS DE NOVO HEARING TO 9:30 AM, TUESDAY, AUGUST 13, 1996, Regarding Appeal of Hearings Officer Decision DENYING Request for a Conditional Use Permit for a Single Family Residence Not Related to Forest Management, Lot Size and Setback Variances, and a Significant Environmental Concern Permit in the Commercial Forest Use CFU-80 and SEC-h Wildlife Habitat Zones Located at 3130 NW FOREST LANE, PORTLAND, Testimony Limited to 15 Minutes Per Side.*

Thursday, July 11, 1996 - 9:30 AM
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland

REGULAR MEETING

CONSENT CALENDAR

DEPARTMENT OF COMMUNITY AND FAMILY SERVICES

- C-1 *Renewal of Intergovernmental Agreement 101177 with the Oregon Commission for the Blind for Employment Services for Individuals with Developmental Disabilities*

DEPARTMENT OF HEALTH

- C-2 *Renewal of Intergovernmental Agreement 200117 with Clackamas County for the Provision of Essential Health and Support Services for Persons Living with HIV/AIDS*
- C-3 *Renewal of Intergovernmental Agreement 200347 with Oregon Health Sciences University for the Provision of Hospital Services for Multnomah County Corrections Inmates*

DEPARTMENT OF JUVENILE JUSTICE SERVICES

- C-4 *Renewal of Intergovernmental Agreement 101466 with the Oregon Youth Authority for Evaluation and Diagnostic Services, Disposition of Parole Violations, Detention Backup, Community Programs and Services, and a Process for Making Training School and Parole Placement Decisions*
- C-5 *Renewal of Intergovernmental Agreement 102304 with the Oregon Youth Authority for Funding to Internal and Community Based Providers to Allow Services to Gang-Involved Youth and the Consolidation of Gang Transition Services*

REGULAR AGENDA

PUBLIC COMMENT

- R-1 *Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.*

DEPARTMENT OF SUPPORT SERVICES

- R-2 *Presentation of Employee Service Awards Honoring Multnomah County Employees with 5 to 25 Years of Service*

NON-DEPARTMENTAL

- R-3 *Board Decision and Consideration of an ORDER in the Matter of the Appeal of Valerie Young from Hearings Officer Decision on an Adult Care Home License, Hearing Numbers 154115 and 154134. **OPTION 1** Schedule a Hearing to Accept Evidence or Argument on this Appeal; OR **OPTION 2** Decide this Appeal on the Record that has Already Been Created. MCC Section 8.90.090 (J) and Section 890-90-450 of the Administrative Rules for Licensure of Adult Care Homes Give the Board Discretion to Follow Either Course.*

DEPARTMENT OF AGING SERVICES

- R-4 *Second Reading and Adoption of an ORDINANCE Repealing Multnomah County Code Chapter 8.90, Adult Care Homes, and Adopting Chapter 8.91, Updated and Expanded Adult Care Home Licensure Requirements that Conform to Revisions in State Law and Changes in Practice*

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-5 *Intergovernmental Agreement 301916 with the Oregon Department of Transportation, Accepting Immediate Opportunity Grant Funding for the Improvement of NE Glisan Street from NE 223rd to NE 242nd, in Association with Development of the LSI Logic Integrated Circuits Plant*

PUBLIC CONTRACT REVIEW BOARD

(Recess as the Board of County Commissioners and convene as the Public Contract Review Board)

- R-6 *First Reading and Adoption of an ORDINANCE Amending Ordinance 807, Division 60, Affirmative Action in Public Contracts, of the Multnomah County Public Contract Review Board Rules, and Declaring an Emergency*

(Adjourn as the Public Contract Review Board and reconvene as the Board of County Commissioners)

DEPARTMENT OF SUPPORT SERVICES

- R-7 *Intergovernmental Agreement 500057 with the City of Portland to Administer Equal Employment Opportunity Certification Program and Workforce Hiring and Training Program for County Contracts and Construction Projects*
- R-8 *Second Reading and Adoption of an ORDINANCE Amending Multnomah County Code Chapter 5.30 (Motor Vehicle Fuel Tax) to Authorize the Transfer of a Portion of the Revenues Collected to Metro*
- R-9 *RESOLUTION Adopting and Defining the Various County Funds for 1996-97*
- R-10 *RESOLUTION Levying Ad Valorem Property Taxes for Multnomah County, Oregon for Fiscal Year 1996-97*

NON-DEPARTMENTAL

- R-11 *Briefing and Request for Policy Direction Regarding Submission of a Grant to the Oregon Department of Human Resources for the Welfare Reform Reinvestment Waiver Grant Program. Presented by Maureen Casterline, Donna Beegle, Peggy Schultz, Howard Klink and Norm Monroe. 30 MINUTES REQUESTED.*



Beverly Stein, Multnomah County Chair

Room 1515, Portland Building
1120 S.W. Fifth Avenue
Portland, Oregon 97204

Phone: (503) 248-3308
FAX: (503) 248-3093
E-Mail: MultChair@aol.com

MEMORANDUM

TO: Commissioner Sharron Kelley
Commissioner Tanya Collier
Commissioner Gary Hansen
Commissioner Dan Saltzman
Office of the Board Clerk

FROM: Lyne Martin

DATE: July 1, 1996

RE: Beverly's Absence from Board meeting

Beverly will be unable to attend the Board meeting scheduled for Tuesday July 9. She will be out of town in Washington DC.

cc: Chair's Staff

BOARD OF
COUNTY COMMISSIONERS
96 JUL - 1 PM 2:32
MULTNOMAH COUNTY
OREGON



#1

PLEASE PRINT LEGIBLY!

MEETING DATE

7/9/96

NAME

Arnold Rochlin

ADDRESS

PO Box 83645

STREET

Portland

CITY

97283

ZIP CODE

I WISH TO SPEAK ON AGENDA ITEM #

P-1

SUPPORT

X

OPPOSE

SUBMIT TO BOARD CLERK

#2

PLEASE PRINT LEGIBLY!

MEETING DATE 7/9/96

NAME

Chris Foster

ADDRESS

9540 NW McNamara Rd

STREET

Portland OR 97231

CITY

ZIP

I WISH TO SPEAK ON AGENDA ITEM NO. P-1

SUPPORT ☒

OPPOSE ☐

SUBMIT TO BOARD CLERK ☐

Meeting Date: JUL 09 1996
Agenda No: P-1
Est. Start Time: 9:30

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: Public Hearing on an Ordinance with an emergency clause amending the Commercial Forest Use Zoning District in the zoning code (C 2-96).

BOARD BRIEFING Date Requested:
 Amt. of Time Needed:
 Requested By:

REGULAR MEETING Date Requested: July 9, 1996
 Amt. of Time Needed: 20 Min.

DEPARTMENT: DES **DIVISION:** Transportation & Land Use Planning
CONTACT: Gary Clifford **TELEPHONE:** 248-3043
 BLDG/ROOM: 412 / 109

PERSON(S) MAKING PRESENTATION: Gary Clifford

ACTION REQUESTED

☐ Informational Only ☐ Policy Direction ☒ Approval ☐ Other

SUGGESTED AGENDA TITLE

Public Hearing on an Ordinance with an emergency clause amending the Commercial Forest Use Zoning District in the zoning code (C 2-96).

7/10/96 copies to Gary Clifford
& ORDINANCE Distribution list

BOARD OF
COUNTY COMMISSIONERS
JUN 26 PM 2:49
ULTIMATE COUNTY
OREGON

SIGNATURES REQUIRED

Elected Official: _____

or

Department Manager: LB Larry F. Nicholas/uo

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM BRIEFING
STAFF REPORT SUPPLEMENT**

TO: Board of County Commissioners

FROM: Planning Staff

TODAY'S DATE: June 19, 1996

REQUESTED

PLACEMENT DATE: July 9, 1996

RE: Public hearing on an ordinance amending the Commercial Forest Use Zoning District in the zoning code. (Planning File No. C 2-96)

I. RECOMMENDATION / ACTION REQUESTED:

Recommend adoption, with one change, of an ordinance passed by the Planning Commission and recommended to the Board. that amends the CFU zoning district. The ordinance amends the CFU (forest) zoning district by placing into the county code recent mandatory provisions of state statutes and administrative rules on land uses on forest lands. The proposed ordinance leaves intact existing county zoning regulations that are not in conflict with state requirements — with one exception.

That one exception is an amendment to the "lot of record" definition on page 23 of 33 of the ordinance. The definition was adopted by the Planning Commission at the June 3, 1996 public hearing before that body in response to a citizen suggestion.

Planning staff suggests to the Board that no amendments be made to the existing code language on page 23 of 33 at this time. That is because the amendment on that page is the only proposed amendment that is not a state mandate. Representation to the public of this ordinance has been that no additional restrictions over existing county and state requirements would be included at this time. The definition change would affect the ability to build a house for many property owners.

The ordinance is proposed to include an emergency clause to reduce the amount of time before the effective date. This is important because recent legal questions have been raised by applicants and a County Hearings Officer regarding which provisions of state rules are in effect for a jurisdiction (such as Multnomah County) that has not been "acknowledged" by the Department of Land Conservation and Development to be in full compliance with the latest version of state rules. This ordinance has passed DLCD review and would resolve that question for applicants and prevent a potential rush of applications speculating that the few less restrictive state standards must be applied instead of the existing county code standards.

II. BACKGROUND / ANALYSIS:

A 47 page findings report accompanies the proposed ordinance. It is referenced in the ordinance as Exhibit A and includes verbatim the mandatory statute and rule language alongside the corresponding proposed county code amendments.

The Zoning Code Provisions for forest lands in Multnomah County were first acknowledged by the Land Conservation and Development Commission (LCDC) to be in conformance with Statewide Planning Goal 4, Forest Lands in July, 1980. Since that date LCDC has adopted Oregon Administrative Rules (OARs) and the Legislature has adopted laws into the Oregon Revised Statutes (ORS) to carry out the purposes of Goal 4 and address specific development issues on forest lands. A short history of recent state and county regulatory actions can be summarized as follows:

- LCDC adopted OAR 660, Division 6 on January 25, 1990
- LCDC amended OAR 660, Division 6 on March 1, 1990
- LCDC amended OAR 660, Division 6 on December 3, 1992
- Multnomah County amends Commercial Forest Use (CFU) Zone on December 6, 1992 (effective 1/7/93) and is fully in compliance with all state standards
- Legislature passes HB 3661, signed by Governor, effective date in November, 1993
- At this point the Multnomah County Planning Director initiates the policy of applying both the CFU and Statute (and later amended OAR) provisions based upon the concept that the county code is still in effect except as may be in direct conflict with state requirements by being less restrictive. For example, Zoning Code standards that included additional standards of approval for new dwellings were retained in the review of applications — with the addition of any more restrictive state standards. It was also determined that the "Lot of Record Dwelling" and the rectangular template variations for a "Template Dwelling" were optional provisions for which the county would not accept applications unless those options were included in the Zoning Code.
- LCDC amended OAR 660, Division 6 on February 18, 1994
- Legislature and Governor pass minor amendments (2 different times) during 1995

Planning staff, various citizen groups, and the Planning Commission are in the process of adopting and updating Rural Area Plans in the county. In reviewing the Rural Area Plans all the various optional uses and provisions allowed by the OARs and ORSs will be examined.

This proposal is an interim step before those plans are completed. Included in the proposed ordinance are the minimum OAR and ORS required amendments to the Zoning Code. In a few instances, where existing land uses in the Zoning Code have been repealed by Statute, then the closest equivalent current OAR and ORS provisions have been substituted. Existing standards in the CFU Zone, even if more restrictive than allowed, have been retained. Corresponding amendments to Comprehensive Framework Plan Policy 11, Commercial Forest Land are also in the ordinance. The proposed has received review by DLCD staff and has been determined to include all required state requirements.

III. FINANCIAL IMPACT:

No fiscal impact to the County has been identified. Administration of land use applications in the forest zone should be more efficient.

IV. LEGAL ISSUES:

Counsel representing property owners will argue that the county code cannot be more restrictive on development than state statute and rule and must include all available development options for the approval of dwellings in forest zones. Both the staff to the Land Conservation and Development Commission and Multnomah County Counsel have determined that the county code can be more restrictive, just not less restrictive.

V. CONTROVERSIAL ISSUES:

Adoption by emergency provision reduces the time line to the minimum allowed by state law before adoption (no sooner than 45 days after DLCD has received copy of the proposal). This will restrict the ability of some applicants for new houses that will be speculating on the Land Use Board of Appeals ruling against applying all existing county standards.

Legal arguments about the ability of the county to be more restrictive in zoning requirements for approving new houses.

VI. LINK TO CURRENT COUNTY POLICIES:

Requirements to implement Statewide Planning Goal 4, Forest Lands and the Multnomah County Comprehensive Framework Plan Policy 11, Commercial Forest Use. Failure to adopt into the zoning code and use LCDC Administrative Rules has the potential for an enforcement order by the state commission, which could include withholding state funds and control of building permits.

VII. CITIZEN PARTICIPATION:

A public hearing was held before the Planning Commission on June 3, 1996 where testimony was heard. The hearing was advertised in the *Oregonian* newspaper.

VIII. OTHER GOVERNMENT PARTICIPATION:

A draft of the ordinance and notice of the public hearings was provided to the State of Oregon Department of Land Conservation and Development (DLCD). Staff from that agency has worked with county planning staff and have given their confirmation that the ordinance will bring the county code into full compliance with required mandatory statute and rule provisions.

ORDINANCE FACT SHEET

Ordinance Title:

An Ordinance amending the Commercial Forest Use section of MCC 11.15 and Comprehensive Framework Plan Policy 11, Commercial Forest Use to include mandatory provisions of Oregon Revised Statutes and Oregon Administrative Rules regarding land uses on forest lands, and declaring an emergency.

Give a brief statement of the purpose of the ordinance including rationale for adoption, description of persons benefited, alternatives explored:

The ordinance is an interim step in the updating of the forest lands zoning regulations. This step will adopt into the County Code all the **mandatory** State of Oregon requirements for regulating land uses in the Commercial Forest Use Zoning District. Prior to the 1993 Legislature is the last time the county zoning regulations contained all the state requirements. Adopting this ordinance will assist greatly in clarifying to applicants, staff, and hearing authorities which provisions of the complicated state requirements are mandatory.

The ordinance is requested to be by emergency clause due to recent legal questions raised regarding which provisions of state rules are in effect for a jurisdiction that has not been "acknowledged" to be in full compliance by the Department of Land Conservation and Development.

What other local jurisdictions have enacted similar legislation?

All counties in Oregon must adopt into their zoning codes at least the mandatory provisions of State Statute and Rules for forest lands.

What is the fiscal impact, if any?

Currently the mandatory land use regulations are being enforced, they are just not in the county code. No fiscal impact to the County has been identified.

SIGNATURES

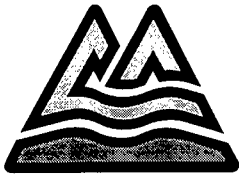
Person filling out form: _____

Gary L. Clifford

Planning and Budget (if fiscal impact): _____

Department Manager / Elected Official: _____

Larry F. Nicholas / ms



MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES
TRANSPORTATION & LAND USE PLANNING DIVISION
2115 S.E. MORRISON STREET
PORTLAND, OREGON 97214
(503) 248-3043

BOARD OF COUNTY COMMISSIONERS
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DAN SALTZMAN • DISTRICT 1 COMMISSIONER
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July 8, 1996

Beverly Stein, Chair
Multnomah County Board of Commissioners
Portland Building, Room 1515
1120 SW 5th Avenue
Portland, OR 97204

Re: July 9th Hearing on Ordinance Amending the CFU Zoning District

Dear Chair Stein:

The Multnomah County Planning Commission has approved my representing their interests in this letter regarding a proposed ordinance to be heard at a public hearing before the Board on July 9th. The ordinance amends the Commercial Forest Use Zoning District by adding mandatory requirements from state statute and rules. The Planning Commission passed the ordinance for recommendation to the Board on June 3rd.

Last Monday, July 1st, during the old business portion of the Planning Commission agenda, questions and concerns were raised about the proposed changes to the "Lot of Record" section in the proposed ordinance before you. Those changes are on page 23 of 33. Upon reconsideration, the Planning Commission wishes to express to the Board that it would be appropriate to, at this time, leave the "Lot of Record" code section language unchanged.

The primary reasons for such an action are: (1) In order to resolve some other legal issues raised by our Land Use Hearings Officers, there is a preference that the proposed ordinance should continue through the path of review without being sent back to the Planning Commission; and (2) The "Lot of Record" changes are the only proposed provisions that would be more restrictive to development than is in current practice. The Planning Commission's preferred path of code amendments would have new "non-mandatory" provisions fully evaluated in the Rural Area Plans process now in progress.

Thank you for your consideration in this matter.

Sincerely,

Leonard Yoon, Chair
Multnomah County Planning Commission



1 when considered in combination, comply as nearly as possible with a minimum lot size
2 of nineteen acres, without creating any new lot line; and

3 (d) Which ~~[are]~~ were held under the same ownership on or after February 20, 1990.

4 (B) For the purposes of this subsection:

5 (1) *Contiguous* refers to parcels of land which have any common boundary, excepting a single
6 point, and shall include, but not be limited to, parcels separated only by an alley, street or
7 other right-of-way;

8 (2) *Substandard Parcel* refers to a parcel which does not satisfy the minimum lot size require-
9 ments of MCC .2058; and

10 (3) *Same Ownership* refers to ~~[parcels in which]~~ greater than possessory interests ~~[are]~~ held by
11 the same person or persons, ~~[spouse, minor age child]~~, persons of the degree of relationship
12 of wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law,
13 son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, step-
14 parent, stepchild, grandparent or grandchild, [single] same partnership , corporation, trust
15 or [business] other entity, separately , [or] in tenancy in common , or by other form of title.
16 Ownership shall be deemed to exist when a person or entity owns or controls ten percent or
17 more of a parcel, whether directly, or through ownership or control of an entity having such
18 ownership or control.

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

21 (D) A Lot of Record may be comprised of a separate parcel, containing an area less than that required
22 by MCC .2058(A), created solely for the purposes of financing a dwelling. Such a parcel shall be
23 considered a Mortgage Lot, subject to the following:

24 (1) A Mortgage Lot may be created without review providing the remainder of the Lot of Record
25 is not developed with a residence.

26 (2) The remainder of the Lot of Record shall be ineligible for a permit for a dwelling.



DEPARTMENT OF ENVIRONMENTAL SERVICES
TRANSPORTATION AND LAND USE PLANNING DIVISION
2115 SE MORRISON STREET
PORTLAND, OREGON 97214 (503) 248-3043

EXHIBIT A

Case # C 2-96, June, 1996

Report of the Planning Commission to the Board of County Commissioners

**FINDINGS ASSOCIATED WITH AMENDING THE ZONING CODE TO
INCLUDE MANDATORY PROVISIONS OF THE OREGON ADMINISTRATIVE
RULES ON FOREST LANDS AND OREGON REVISED STATUTES;
WITH THE OBJECTIVE OF RETAINING EXISTING LOCAL OPTIONS**

I. INTRODUCTION

The Zoning Code Provisions for forest lands in Multnomah County were first acknowledged by the Land Conservation and Development Commission (LCDC) to be in conformance with Statewide Planning Goal 4, Forest Lands in July, 1980. Since that date LCDC has adopted Oregon Administrative Rules (OARs) and the Legislature has adopted laws into the Oregon Revised Statutes (ORS) to carry out the purposes of Goal 4 and address specific development issues on forest lands. A short history of recent state and county regulatory actions can be summarized as follows:

- LCDC adopted OAR 660, Division 6 on January 25, 1990
- LCDC amended OAR 660, Division 6 on March 1, 1990
- LCDC amended OAR 660, Division 6 on December 3, 1992
- Multnomah County amends Commercial Forest Use (CFU) Zone on December 6, 1992 (effective 1/7/93) and is fully in compliance with all state standards
- Legislature passes HB 3661, signed by Governor, effective date in November, 1993
- At this point the Multnomah County Planning Director initiates the policy of applying both the CFU and Statute (and later amended OAR) provisions based upon the concept that the county code is still in effect except as may be in direct conflict with state requirements by being less restrictive. For example, Zoning Code standards that included additional standards of approval for new dwellings were retained in the review of applications — with the addition of any more restrictive state standards. It was also determined that the "Lot of Record Dwelling" and the rectangular template variations for a "Template Dwelling" were optional provisions for which the county would not accept applications unless those options were included in the Zoning Code.
- LCDC amended OAR 660, Division 6 on February 18, 1994
- Legislature and Governor pass minor amendments (2 different times) during 1995

Planning staff, various citizen groups, and the Planning Commission are in the process of adopting and updating Rural Area Plans in the county. In reviewing the Rural Area Plans all the various optional uses and provisions allowed by the OARs and ORSs will be examined. **This proposal is an interim step before those plans are completed. Following are the minimum OAR and ORS required amendments to the Zoning Code.** In a few instances, where existing land uses in the Zoning Code have been repealed by Statute then the closest equivalent current OAR and ORS provisions have been substituted. Existing standards in the CFU Zone, even if more restrictive than allowed, have been retained. Following the CFU Zoning section is Plan Policy 11, Commercial Forest Land.

II. PROPOSED CODE AMENDMENTS

NOTE: Proposed amendments are shown with new wording underlined and language to be deleted in [brackets and crossed through].

Commercial Forest Use CFU

11.15.2042 Purposes

The purposes of the Commercial Forest Use District are to conserve and protect designated lands for continued commercial growing and harvesting of timber and the production of wood fiber and other forest uses; to conserve and protect watersheds, wildlife habitats and other forest associated uses; to protect scenic values; to provide for agricultural uses; to provide for recreational opportunities and other uses which are compatible with forest use ; implement Comprehensive Framework Plan Policy 11, Commercial Forest Land and to minimize potential hazards or damage from fire, pollution, erosion or urban development.

11.15.2044 Area Affected

MCC .2042 through .2074 shall apply to those lands designated CFU on the Multnomah County Zoning Map.

11.15.2045 Definitions

As used in MCC .2042 through .2074, unless otherwise noted, the following words and their derivations shall have the following meanings:

~~[(A) Accessory to – As applied to forest dwellings, a dwelling that is incidental and subordinate to the main forest use.]~~

(A) ~~[(B)]~~ Auxiliary – For the purposes of MCC .2048(A)(2) to (3), the use or alteration of a structure or land which provides temporary help, or is

Oregon Administrative Rules (OAR),
Chapter 660, Division 6 — Land
Conservation and Development
Commission (December, 1995),
Goal 4 Forest Lands;

Oregon Revised Statutes (ORS),
Chapter 215;

and Staff Comments

NOTE: The relevant Administrative Rules and Statutes are not quoted in their entirety. Given below are only those portions of the Rules and Statutes which apply directly to needed updates of the Zoning Code.

Comments and explanations are preceded by the introduction "Comment:".

OAR 660-06-003 (1) OAR Chapter 660, Division 6 applies to all forest lands as defined by Goal 4.

(2) Governing bodies shall amend their comprehensive plan and land use regulations to comply with requirements of OAR 660-06-035(2) and 660-06-040 by September 6, 1994.

Comment: "Accessory to" was a term used for evaluating applications for forest management dwellings. That dwelling type is no longer in the Rule.

directly associated with the conduct of a particular forest practice. An auxiliary structure shall be located on site, be temporary in nature, and be designed not to remain for the entire growth cycle of the forest from planting to harvesting. An auxiliary use shall be removed when the particular forest practice for which it was approved is concluded.

(B) ~~[(C)] Campground~~ – An area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. A campground shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

~~[(D)] Necessary for~~ – ~~As applied to forest management dwellings, the principal purpose for locating the dwelling is to enable the resident(s) to contribute substantially to the effective and efficient management of the forest land. A resident contributes substantially when the resident spends an extensive amount of time performing forest management activities which increase timber yields, quality or productivity, and which are recognized by the Forest Practices Act. Necessary for precludes a dwelling which simply "enhances" forest management. Necessary for also does not demand that a dwelling be absolutely required for forest management or that the production of trees is physically possible only with a dwelling.]~~

(C) Commercial Tree Species – Trees recognized under rules adopted under ORS 527.715 (1996) for commercial production.

(D) Cubic Foot Per Acre – The average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service. Where SCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be

Comment: "Necessary for" was a term used for evaluating applications for forest management dwellings. That dwelling type is no longer in the Rule.

OAR 660-06-027 (5) (b) "Commercial Tree Species" means trees recognized under rules adopted under ORS 527.715 for commercial production.

OAR 660-06-005 (2) "Cubic Foot Per Acre" means the average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service. Where SCS data

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used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

(E) *Cubic Foot Per Tract Per Year* – The average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service. Where SCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

(F) *Date of Creation and Existence* – When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot of record pursuant to MCC .2062 or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot of record or tract.

(G) *Forest Operation* – Any commercial activity relating to the growing or harvesting of any forest tree species as defined in ORS 527.620 (6) (1996).

(H) *Tract* – One or more contiguous Lots of Record, pursuant to MCC .2062, in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway. Lots that are contiguous with a common boundary of only a single point are not a tract.

are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

OAR 660-06-005 (3) “Cubic Foot Per Tract Per Year” means the average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service. Where SCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

OAR 660-06-005 (4) “Date of Creation and Existence”. When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract.

OAR 660-06-005 (6) “Forest Operation” means any commercial activity relating to the growing or harvesting of any forest tree species as defined in ORS 527.620 (6).

OAR 660-06-027 (5) (a) “Tract” means one or more contiguous lots or parcels in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway;

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Exhibit A, Findings, C 2-96

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.

11.15.2048 Uses Permitted Outright

(A) The following uses pursuant to the Forest Practices Act and Statewide Planning Goal 4:

- (1) Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash;
- (2) Temporary on site structures which are auxiliary to and used during the term of a particular forest operation; or
- (3) Physical alterations to the land auxiliary to forest practices including, but not limited to, those for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities;

(B) A temporary portable facility for the primary processing of forest products;

(C) Farm use, as defined in ORS 215.203;

(D) ~~[Maintenance, repair, or expansion]~~ Alteration of an existing lawfully established single family dwelling that:

- (1) Has intact exterior walls and roof structures;
- (2) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

OAR 660-06 025 (3) (p) Alteration, restoration or replacement of a lawfully established dwelling that:

(3) (p) (A) Has intact exterior walls and roof structures;

(3) (p) (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(3) Has interior wiring for interior lights; and

(4) Has a heating system;

(E) Replacement of an existing lawfully established single family dwelling on the same lot, subject to the following:

(1) The replacement dwelling will be located within 200 feet of the existing dwelling; and

(2) The existing dwelling : [~~shall be habitable, served by a reliable sanitary supply of running water for domestic use, and contain a cooking/eating area, a sleeping area, and bathroom facilities connected to a sewage disposal system~~]

(a) Has intact exterior walls and roof structures;

(b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(c) Has interior wiring for interior lights;

(d) Has a heating system; and

(e) Is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling;

(F) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources, including a public or private wildlife and fisheries resources conservation area;

(G) An uninhabitable structure accessory to fish and

(3) (p) (C) Has interior wiring for interior lights;

(3) (p) (D) Has a heating system; ...

Comment: This subsection is for those replacement dwellings that will be located within 200 feet of the existing house. For those proposed to be farther away than that distance, the approval criteria are in the next section as a "use under prescribed conditions".

OAR 660-06 025 (3) (p) Alteration, restoration or replacement of a lawfully established dwelling that:

(3) (p) (A) Has intact exterior walls and roof structures;

(3) (p) (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(3) (p) (C) Has interior wiring for interior lights;

(3) (p) (D) Has a heating system; and

(3) (p) (E) In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.

Comment: Listed uses to follow have not been changed in the OAR since adoption of the present CFU Zone.

wildlife enhancement;

- (H) A caretaker residence for a public park or a fish hatchery;
- (I) Local distribution lines (e.g., electric, telephone, natural gas, etc.) and accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups;
- (J) Climbing and passing lanes within the right of way existing as of July 1, 1987;
- (K) Reconstruction or modification of public roads and highways, not including the addition of vehicular travel lanes, where no removal or displacement of buildings will occur, or no new land parcels result;
- (L) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed;
- (M) Minor betterment of existing public roads and highway related facilities such as maintenance yards, weigh stations and rest areas, within a right-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways;
- (N) A lookout tower for forest fire protection;
- (O) A water intake facility, canal and distribution lines for farm irrigation and ponds;
- (P) A temporary forest labor camp;
- (Q) Exploration for mineral and aggregate resources as defined in ORS Chapter 517;
- (R) Exploration for geothermal resources;
- (S) A site for the disposal of solid waste that has been ordered to be established by the Environmental

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Quality Commission under ORS 459.049, together with equipment, facilities or buildings necessary for its operation.

11.15.2049 Uses Permitted Under Prescribed Conditions

(A) Replacement of an existing lawfully established single family dwelling on the same lot more than 200 feet from the existing dwelling, subject to the following:

(1) The existing dwelling : ~~[is habitable, is served by a reliable sanitary supply of running water for domestic use, and contains a cooking/eating area, a sleeping area, and bathroom facilities connected to a sewage disposal system; and]~~

(a) Has intact exterior walls and roof structures;

(b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(c) Has interior wiring for interior lights;

(d) Has a heating system; and

(e) Is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling;

(2) The replacement dwelling location meets the development standards of MCC .2074.

(B) Restoration or replacement of a lawfully established single family dwelling on the same lot when the restoration or replacement is made necessary by fire, other casualty or natural disaster, subject to

Comment: This subsection is for those replacement dwellings that will be located more than 200 feet from the existing house.

OAR 660-06 025 (3) (p) Alteration, restoration or replacement of a lawfully established dwelling that:

(3) (p) (A) Has intact exterior walls and roof structures;

(3) (p) (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(3) (p) (C) Has interior wiring for interior lights;

(3) (p) (D) Has a heating system; and

(3) (p) (E) In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.

Comment: This subsection is for replacement of a dwelling that no longer exists due to fire, casualty or natural disaster. The time frame is from

the following:

- (1) Restoration or replacement shall be commenced within one year from the occurrence of the fire, casualty or natural disaster; and
- (2) A replacement dwelling located more than 200 feet from the prior dwelling location shall be subject to the development standards of MCC .2074;
- (3) The existing dwelling at the time of the fire, casualty, or natural disaster:
 - (a) Had intact exterior walls and roof structures;
 - (b) Had indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
 - (c) Had interior wiring for interior lights; and
 - (d) Had a heating system.

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:

- (A) A ~~[Forest Management Dwelling]~~ Large Acreage Dwelling pursuant to the provisions of MCC .2051 and .2074.

Statute for "non-conforming uses" and was required by DLCD during their review of the CFU amendments in 1992.

OAR 660-06 025 (3) (p) Alteration, restoration or replacement of a lawfully established dwelling that:

(3) (p) (A) Has intact exterior walls and roof structures;

(3) (p) (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(3) (p) (C) Has interior wiring for interior lights;

(3) (p) (D) Has a heating system; ...

OAR 660-06-027 (4) A proposed dwelling under this rule is not allowed:

(4) (a) If it is prohibited by or will not comply with the requirements of an acknowledged comprehensive plan or acknowledged land use regulations or other provisions of law;

Comment: The above reinforces the ability of a county to not choose some of the optional dwelling types, (such as the "dwelling based upon ownership prior to 1985" option). Included in this

(B) A [~~dwelling not related to forest management~~] Template Dwelling pursuant to the provisions of MCC .2052 and .2074.

(C) The following Community Service Uses pursuant to the provisions of MCC .2053, .2074, .7005 through .7015, and .7035 through .7072.

- (1) Campground.
- (2) Cemetery.
- (3) Fire station for rural and forest fire protection.
- (4) Aid to navigation and aviation.
- (5) Water intake facility, related treatment facility, pumping station, and distribution line.
- (6) Reservoir and water impoundment.
- (7) New distribution line (e.g., gas, oil, geothermal) with a right-of-way 50 feet or less in width or new electric transmission line with a right-of-way width of up to 100 feet as specified in ORS 772.210.

proposal are only the dwelling types, or the closest equivalent, that are now in the code.

Comment: The listing and criteria for forest management dwellings was repealed by the 1993 Legislature in HB 3661. The classification of dwelling that replaced the management dwelling is sometimes called a "large acreage dwelling". The concept is that a sufficient number of acres would likely ensure that the resident of the dwelling was engaged in forestry practices.

Comment: The listing and criteria for dwellings not related to forest management was repealed by the 1993 Legislature in HB 3661. Most of the criteria of approval were retained for another classification of dwelling now commonly referred to as a "template dwelling".

Comment: Listed uses to follow have not been changed in the OAR since adoption of the present CFU Zone. The only remaining difference in the CFU listing of these type of uses and the list in the OAR is the 1992 decision of the Board of County Commissioners to exclude "firearms training facilities" in the county CFU Zoned lands.

- (8) Forest management research and experimentation facility as defined by ORS 526.215.
- (9) Park, including a public or private wildlife and fisheries resources conservation area with accessory structures for educational or instructional use.
- (10) Utility facility for the purpose of generating power provided the facility not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR 660, Division 4.
- (11) Radio, microwave, and television transmission towers subject to the definitions, restrictions and standards in MCC .7020(15) and .7035 through .7041.
- (12) Refuse dump or sanitary landfill for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.
- (13) Regional Sanitary Landfill for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation subject to the definitions, restrictions and standards in MCC .7045 through .7072.
- (14) Private hunting and fishing operation without any lodging accommodations.
- (15) Private seasonal accommodations for a fee hunting operation or fishing, provided:
 - (a) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
 - (b) Only minor incidental and accessory retail sales are permitted;

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(c) Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons or fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and

(d) Accommodations for fishing must be located within 1/4 mile of fish bearing Class I waters.

(16) Mining, processing and production of geothermal resources.

(D) The following uses pursuant to the provisions of MCC .2053, .2074, .7105 through .7120, .7125 through .7135, .7305 through .7335, and .7605 through .7640.

(1) Mining and processing of aggregate and other mineral or subsurface resources as defined in ORS Chapter 517;

(2) Permanent facility for the primary processing of forest products;

(3) Permanent logging equipment repair and storage;

(4) Log scaling and weigh stations;

(5) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels;

(6) Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels;

(7) Improvement of public roads and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not

resulting in the creation of new land parcels;
and

- (8) Expansion of aircraft landing areas auxiliary to forestry practices, notwithstanding the provisions of MCC .6050 through .6058.

11.15.2051 [~~Forest Management Dwelling~~] Large Acreage Dwelling

A [~~forest management dwelling~~] large acreage dwelling may be [~~allowed when~~] sited on a tract, subject to the following:

- (A) The lot or lots in the tract [~~size meets the standards of MCC .2058(A) with a minimum area requirement of 80 acres or~~] meet(s) the lot of record standards of MCC .2062(A) and (B) [~~, but shall not be less than 10 acres;~~];
- (B) The tract contains at least 160 contiguous acres in one ownership zoned for forest use; [~~The dwelling is necessary for and accessory to forest operations [including cultured Christmas trees as defined in ORS 215.203(3)]. Such determination shall be based at a minimum on the following information provided by the applicant:~~]
- (1) ~~Completed forms available from the Division of Planning and Development or its equivalent regarding the condition and productivity of the lands to be managed;~~
 - (2) ~~A plan for management of the land, including a chronological description of commercial forest management activities to be undertaken by the residents, or under contract and estimates of yield, labor and expenses;~~
 - (3) ~~Maps, showing the site for the proposed dwelling and a description of related fire safety measures;~~
 - (4) ~~The information must be sufficient to enable the Oregon Department of Forestry within 45~~

OAR 660-06-027 (1) Dwellings
authorized by OAR 660-06-025(1)(d)
are: ...

OAR 660-06-027 (1) (c) If a dwelling is not allowed pursuant to subsection (a) or (b) of this section, a dwelling may be allowed on land zoned for forest use if it complies with other provisions of law and is sited on a tract:
...

OAR 660-06-027 (1) (c) (B) In western Oregon of at least 160 contiguous acres or 200 acres in one ownership that are not contiguous but are in the same county or adjacent counties and zoned for forest use. A deed restriction shall be filed pursuant to section (6) of this rule for all tracts that are used to meet the acreage requirements of this paragraph.

Comment: The prior forest management dwelling standards did not include the ability to count non-contiguous acreage and therefore that provision is not included in this proposal. However, consideration of adding the provision is appropriate during the review of the Rural Area Plans. The deed restriction provision is in a following standard.

days to determine that:

~~(a) The information describing the productivity and current condition of the forest land to be managed is complete and accurate;~~

~~(b) Fulfillment of the forest management plan will result in use of the parcel for the required management purpose in terms of stocking, stand density, and harvest; and~~

~~(c) The siting and safety standards in MCC .2074, derived from OAR 660-06-029 and OAR 660-06-035, have been satisfied;~~

~~(5) Christmas trees and other types of agricultural production may be a part of the management plan. However, such uses shall not be the predominant use on the property nor the basis for determining that the dwelling is necessary.]~~

(C) There is ~~[are]~~ no other dwelling ~~[s]~~ on the tract and no other dwellings are allowed on other lots (or parcels) that make up the tract ~~[property which are vacant or currently occupied by persons not engaged in forestry, which could be used as the principal forest dwelling for the forest operation];~~

~~[(D) The property qualifies for and is enrolled in one of the State of Oregon forest tax programs;]~~

~~[(E) The dwelling will not significantly interfere with, significantly increase the costs of, or impede accepted forestry or farming practices on surrounding forest or agricultural lands;]~~

OAR 660-06-027 (4) A proposed dwelling under this rule is not allowed:

...

(4) (c) Unless no dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under section (6) of this rule for the other lots or parcels that make up the tract are met;

(4) (d) If the tract on which the dwelling will be sited includes a dwelling.

Comment: See new MCC .2051(G) below for proposed tax deferral and tree stocking requirements.

Comment: The 1993 legislation and the resulting OAR dropped this criteria of approval for dwellings and changed the emphasis from trying to judge an amount of interference (if "significant") to a standard of attempting to minimize and reduce potential impacts on nearby forestry and farming. That is done in

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the evaluation of the location of the dwelling on the subject lot [OAR 660-06-029 (5)]. Those standards are found in MCC .2074 at the end of the CFU district regulations.

(D) ~~[(F)]~~ 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;

(E) ~~[(G)]~~ 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;

(F) ~~[(H)]~~ 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;

(G) ~~[(I) The forest lands to be managed by the resident of the proposed dwelling meet the stocking and survival requirements of the Forest Practices Rules for the Northwest Region (as specified in OAR 629-24-502) at the time the permanent dwelling is requested;]~~ 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:

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

OAR 660-06-029 (5) Approval of a dwelling shall be subject to the following requirements:

(5) (a) Approval of a dwelling 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;

(5) (b) The planning department shall notify the county assessor of the above condition at the time the

(2) 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;

(3) 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;

(H) 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) has been recorded with the county Division of Records;

(1) The covenants, conditions and restrictions as specified in "Exhibit A" above shall specify that it is not lawful to use the acreage of the subject tract to qualify another tract for the siting of a dwelling;

(2) The covenants, conditions and restrictions as specified in "Exhibit A" are irrevocable, unless a statement of release is signed by an

dwelling is approved;

(5) (c) 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;

(5) (d) 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.

OAR 660-06-027 (6)(a) The applicant for a dwelling authorized by paragraph (1)(c)(A) or (B) of this rule that requires one or more lot or parcel to meet minimum acreage requirements shall provide evidence that the covenants, conditions and restrictions form adopted as "Exhibit A" has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located;

(b) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county

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authorized representative of Multnomah County and any other county where the property subject to the covenants, conditions and restrictions is located;

- (3) Enforcement of the covenants, conditions and restrictions shall be as specified in OAR 660-06-027 (December, 1995).

~~[(J) A temporary forest management dwelling may be approved if the lands to be managed meet all of the requirements for approval of a forest management dwelling except for the stocking and survival requirements of the Forest Practices Rules of OAR 629-24-502, subject to the following:~~

- ~~(1) The temporary dwelling shall be a manufactured or mobile home;~~
- ~~(2) A written agreement has been recorded with the Division of Records which states the temporary dwelling and any accessory structures will be removed by the applicant within 60 days of the determination by the Planning~~

or counties where the property subject to the covenants, conditions and restrictions is located;

(c) Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located;

(d) The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section;

(e) The county planning director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting tracts which do not qualify for the siting of a dwelling under the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.

Comment: This type of dwelling would have allowed someone to occupy a mobile home during the time that the property was stocked to Forest Practices standards. Provision repealed along with the forest management dwelling.

~~Director that the property has not met the stocking and survival requirements of OAR 629 24 502 within 5 years of the dwelling approval date, or within 7 years of that date if an extension is approved pursuant to MCC .2051(J)(4); and~~

- ~~(3) A commitment to pay all costs associated with the removal of the dwelling and any accessory structures in the form of either a cash deposit, irrevocable letter of credit, or other form of financial security determined acceptable by County Counsel in an amount sufficient to pay for all removal costs in the event the property has not met the stocking and survival requirements of OAR 629 24 502 within 5 years of the dwelling approval date, or within 7 years of that date if an extension is approved pursuant to MCC .2051(J)(4).~~
- ~~(4) The Planning Director may grant an extension of not more than 2 years upon a finding that the applicant has submitted, before expiration of the 5 year time limit, substantial evidence demonstrating that completion of the requirements of OAR 629 24 502 was not possible due to natural disaster or illness.~~
- ~~(5) Within 5 years of the dwelling approval date, the applicant shall either provide evidence that the stocking and survival requirements of OAR 629 24 502 have been met, or provide evidence required for an extension pursuant to MCC .2051(J)(4).~~
- ~~(6) Within 60 days of the expiration of the 5 year stocking time period, the Planning Director shall make a determination whether the prospective resident has complied with the requirements of MCC .2051(J), or whether the resident has provided sufficient support for an extension.~~
- ~~(7) The Planning Director shall enforce the terms of the agreements specified in MCC~~

~~.2051(J)(2) and (3) if the prospective resident fails to meet the stocking and survival requirements within 5 years, unless the temporary dwelling and accessory structures already have been removed or unless an extension has been granted.~~

~~(8) Upon determination by the Planning Director that all requirements of MCC .2051I(J) have been met, the temporary forest dwelling may be replaced by a permanently constructed dwelling, or a permanent placement permit may be issued for the manufactured or mobile home already in place.~~

~~(K) An application for a forest management dwelling is not complete for the purpose of requiring the County to take final action on the permit within 120 days, as required by ORS 215.428, until all the required information, including the review and evaluation by the Oregon Department of Forestry required by OAR 660-06-027(1), is submitted to the Division of Planning and Development.]~~

11.15.2052 Template Dwelling [~~Not Related to Forest Management~~]

(A) A template dwelling [~~not related to forest management~~] may be [~~allowed~~] 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;
- (2) The [~~lot~~] 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;

Comment: The January 25, 1990 date is not in the current OAR.

(3) The ~~[lot]~~ tract shall meet the following standards:

(a) The ~~[[lot]~~ tract shall be composed primarily of soils which are capable of producing 0 to 49 *cubic feet* of Douglas Fir timber *per acre per year (cflac/yr)*; and

(i) The lot upon which the dwelling is proposed to be sited and at least all or part of 3 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject ~~[lot]~~ tract parallel and perpendicular to section lines; and

(ii) ~~[One]~~ At least 3 dwellings lawfully existed[s] on January 1, 1993 within the 160-acre square, or

(b) The ~~[lot]~~ tract shall be composed primarily of soils which are capable of producing 50 to 85 *cflac/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 7 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject ~~[lot]~~ tract parallel and perpendicular to section lines;

OAR 660-06-027 (1) (d) In western Oregon, a governing body of a county or its designate may allow the establishment of a single-family dwelling on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:

(1) (d) (A) Capable of producing 0 to 49 cubic feet per acre per year of wood fiber if:

(1) (d) (A) (i) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

Comment: The requirement that the template be perpendicular to section lines is no longer in the Rule. Any change to allow "turning" will be evaluated in the Rural Area Plans process.

(1) (d) (A) (ii) At least three dwellings existed on January 1, 1993 on the other lots or parcels.

Comment: The Rule does not require that the dwellings be within the square; they only need to be somewhere on the lots that fall inside the square. This option can be evaluated with the Rural Area Plans.

(1) (d) (B) Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:

(1) (d) (B) (i) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

Comment: The requirement that the template be perpendicular to section

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and

- (ii) At least [F] three dwellings lawfully existed on January 1, 1993 within the 160-acre square, or

- (c) The ~~[lot]~~ tract shall be composed primarily of soils which are capable of producing above 85 *cflac/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 ~~[lot]~~ tract parallel and perpendicular to section lines; and

- (ii) At least [F] five dwellings lawfully existed on January 1, 1993 within the 160-acre square.

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

lines is no longer in the Rule. Any change to allow "turning" will be evaluated in the Rural Area Plans process.

- (1) (d) (B) (ii) At least three dwellings existed on January 1, 1993 on the other lots or parcels.

Comment: The Rule does not require that the dwellings be within the square; they only need to be somewhere on the lots that fall inside the square. This option can be evaluated with the Rural Area Plans.

- (1) (d) (C) Capable of producing more than 85 cubic feet per acre per year of wood fiber if:

- (1) (d) (C) (i) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

Comment: The requirement that the template be perpendicular to section lines is no longer in the Rule. Any change to allow "turning" will be evaluated in the Rural Area Plans process.

- (1) (d) (C) (ii) At least three dwelling existed on January 1, 1993 on the other lots or parcels.

Comment: This proposal retains the requirement of the 1992 OAR. Evaluation of the option to reduce the number to 3 is taking place during the update of the Rural Area Plans. Another option is that the dwellings only need to be somewhere on the lots that fall inside the square, (the dwellings could fall outside the square).

Comment: Not in current OAR. However, this requirement is in ORS 215.750(3).

~~[(e) The lot is not capable of producing 5,000 cubic feet of wood fiber per year from commercial tree species recognized by the Forest Practices Rules.]~~

(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;

~~[(4) The dwelling will not force a significant change in, significantly increase the costs of, or impede accepted forestry or farming practices on surrounding forest or agricultural lands;]~~

Comment: This requirement is not in the current OAR. The standard affects, typically, forest lots of approximately 40 acres or larger. Such lots could under the prior Rules apply for a forest management dwelling. Elimination of the forest management dwelling provisions results in lots of from approximately 40 acres to less than 160 acres without the ability to apply for a dwelling if the existing language is retained.

OAR 660-06-027 (4) A proposed dwelling under this rule is not allowed:

...

(4) (d) If the tract on which the dwelling will be sited includes a dwelling.

Comment: The requirement for (f), (g), and (h) is given below at MCC .2052(A)(9). The requirements are found in ORS 215.750 (4) (c) and 215.740 (3) (b), but not yet in the OAR's.

Comment: The 1993 legislation and the resulting OAR dropped this criteria of approval for dwellings and changed the emphasis from trying to judge an amount of interference (if "significant") to a standard of attempting to minimize and reduce potential impacts on nearby forestry and farming. That is done in the evaluation of the location of the dwelling on the subject lot [OAR 660-06-029 (5)]. Those standards are found in MCC .2074 at the end of the CFU district regulations.

(4) ~~[(5)]~~ 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;

~~[(6) The proposed dwelling will be located on a lot within a rural fire protection district, or the proposed resident has contracted for residential fire protection;]~~

(5) ~~[(7)]~~ 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;

(6) ~~[(8) The parcel on which the dwelling will be located has been disqualified from receiving a farm or forest tax deferral]~~ 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;

Comment: This provision has been expanded in the current OAR and the new proposed language is moved to the development standards section of MCC .2074. That change makes the requirement also apply to the Large Acreage Dwelling and more closely matches the organization of the OAR.

OAR 660-06-029 (5) Approval of a dwelling shall be subject to the following requirements:

(5) (a) Approval of a dwelling 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;

(5) (b) 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;

(7) ~~[(9)]~~ The dwelling meets the applicable development standards of MCC .2074;

(8) ~~[(10)]~~ 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;

(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

(5) (c) 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;

(5) (d) 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.

Comment: Not in current OAR. However, it is in the 1995 Statutes.

ORS 215.750 (4) A proposed dwelling under this subsection is not allowed: . . .

ORS 215.750 (4) (c) Unless no

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).

~~(B) [Dwellings not related to forest management shall not be allowed upon the effective date of a small scale resource land program adopted pursuant to the requirements of OAR 660, Divisions 6 and 33.] (Deleted 1996, Ord. _____)~~

11.15.2053 Use Compatibility Standards

Specified uses of MCC .2050(C) and (D) and .2056 may be allowed upon a finding that:

(A) The use will:

(1) Not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands;

dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under ORS 215.740 (3) for the other lots or parcels that make up the tract are met.

ORS 215.740 (3) (b) (First part of paragraph omitted) . . . The deed restrictions shall preclude all future rights to construct a dwelling on the tracts or to use the tracts to total acreage for future siting of dwellings for present and any future owners unless the tract is no longer subject to protection under goals for agricultural lands or forestlands.

Small-Scale Resource Land

OAR 660-06-070 [Repealed by LCDC 1-1994]

Comment: The uses cited do not include dwellings because the OAR has different "compatibility" standards for dwellings, (see the Development Standards in MCC .2074).

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- (2) Not significantly increase fire hazard, or significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel; and

- (B) 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.

11.15.2054 Accessory Uses

The following structures or uses may be authorized in this district provided they are customarily accessory or incidental to a permitted use:

- (A) Signs, pursuant to the provisions of MCC 11.15.7902-.7982;
- (B) Off-street parking and loading as required by MCC .6100 through .6148;
- (C) Home occupations pursuant to the definition and restrictions of MCC .0010. Home occupations as defined by MCC .0010 do not allow the level of activity defined in ORS 215.448; and
- (D) Other structures or uses determined by the Planning Director to be customarily accessory or incidental to any use permitted or approved in this district.

11.15.2056 Temporary Uses

- (A) A mobile home, in conjunction with an existing dwelling, upon obtaining an annual Temporary Health Hardship Permit pursuant to MCC .2053 and .8710.
- (B) An asphalt and concrete batch plant accessory to a specific highway project pursuant to MCC .2053.

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11.15.2058 Dimensional Requirements

- (A) Except as provided in MCC .2060, .2061, .2062, and .2064, the minimum lot size shall be 80 acres.
- (B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the size of such lot.
- (C) Minimum Yard Dimensions - Feet:
- | Frontage on
County Main-
tained Road
60 from
centerline | Other
Front | Side | Rear |
|---|----------------|------|------|
| 200 | 200 | 200 | 200 |
- Maximum Structure Height – 35 feet.
- Minimum Front Lot Line Length – 50 feet.
- These yard dimensions and height limits shall not be applied to the extent they would have the effect of prohibiting a use permitted outright. Variances to dimensional standards shall be pursuant to MCC .8505 through .8525, as applicable.
- (D) To allow for clustering of dwellings and potential sharing of access, a minimum yard requirement may be decreased to 30 feet if there is a dwelling on an adjacent lot within a distance of 100 feet of the new dwelling.
- (E) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.
- (F) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirements.
- (G) *[Repealed 1994, Ord. 804 § III]*

Comment: The ability to create a small lot for an existing house from a greater than 80 acre lot (MCC .2060) was deleted from the 1993 Statutes and the current OAR. However, a similar version was added by the 1995 Legislature to ORS 215.780(2)(b), [see below at MCC .2060 Lots of Exception].

11.15.2060 Lots of Exception

The Planning Director may grant an exception to permit the creation of a lot of less than the minimum specified in MCC .2058(A) subject to the following:

- (A) The Lot of Record to be divided exceeds the area requirements of MCC .2058(A);
- (B) The Lot of Exception will contain a dwelling which existed prior to January 25, 1990;
- (C) The Lot of Exception will be no larger than 5 acres;
- (D) The division will create no more than one lot which is less than the minimum area required in MCC .2058(A); ~~and~~
- (E) The division complies with the dimensional requirements of MCC .2058 (C) through (F); and
- (F) The parcel not containing the dwelling is not entitled to a dwelling.
 - (1) A condition of approval shall require that covenants, conditions and restrictions stating that requirement shall be recorded with the county Division of Records.
 - (2) 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 parcel is no longer subject to protection under Statewide Planning Goals for forest or agricultural lands.

11.15.2061 Lot Line Adjustment

- (A) The Planning Director may approve an adjustment of the common lot line between contiguous Lots of Record based on a finding that:
 - (1) The permitted number of dwellings will not thereby be increased above that otherwise

Comment: This provision was in the 1992 OAR, was later deleted from the OAR, then was added to the ORSs in 1995: ORS 215.780(2)(b).

ORS 215.780 (2) (b) (B) The dwelling existed prior to June 1, 1995;

ORS 215.780 (2) (b) (D) The remaining parcel, not containing the dwelling, is not entitled to a dwelling unless subsequently authorized by law or goal.

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allowed in this district;

- (2) The resulting lot configuration is at least as appropriate for the continuation of the existing commercial forest practices in the area as the lot configuration prior to adjustment;
- (3) The new lot line is in compliance with the dimensional requirements of MCC .2058 (C) through (G); and
- (4) Neither of the properties is developed with a dwelling approved under the provisions for a mobile home on a Health Hardship, or a dwelling for the housing of help required to carry out a farm or forest use.

11.15.2062 Lot of Record

(A) For the purposes of this district, a Lot of Record is:

- (1) A parcel of land:
 - (a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to August 14, 1980;
 - (b) Which satisfied all applicable laws when the parcel was created; and
 - (c) Which satisfies the minimum lot size requirements of MCC .2058, or
- (2) A parcel of land:
 - (a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to February 20, 1990;
 - (b) Which satisfied all applicable laws when the parcel was created;

- (c) Does not meet the minimum lot size requirements of MCC .2058; and
 - (d) Which is not contiguous to another sub-standard parcel or parcels under the same ownership, or
- (3) A group of contiguous parcels of land:
- (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;
 - (b) Which satisfied all applicable laws when the parcels were created;
 - (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
 - (d) Which ~~[are]~~ were held under the same ownership on or after February 20, 1990.

Comment: The Planning Commission at the June 3, 1996 public hearing added this proposed amendment to clarify and better effect the existing purpose and policy of not allowing more than one dwelling on contiguous sub-standard lots in common ownership. The amendment and the one below was introduced by Mr. Arnold Rochlin. The comments are quoted from Mr. Rochlin's submittal.

"Comment: The change is needed to clarify the code. Planning staff has long interpreted the code as assigning permanent status to a property; status not changed by transfer of a lot to an unrelated person. An unambiguous statement of the existing policy would avoid needless

disputes and the possibility of misinterpretation by a decision maker.”

(B) For the purposes of this subsection:

- (1) *Contiguous* refers to parcels of land which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels separated only by an alley, street or other right-of-way;
- (2) *Substandard Parcel* refers to a parcel which does not satisfy the minimum lot size requirements of MCC .2058; and
- (3) *Same Ownership* refers to ~~[parcels in which]~~ greater than possessory interests ~~[are]~~ held by the same person or persons, ~~[spouse, minor age child]~~, persons of the degree of relationship of wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild, [single] same partnership, corporation, trust or [business] other entity, separately, [or] in tenancy in common, or by other form of title. Ownership shall be deemed to exist when a person or entity owns or controls ten percent or more of a parcel, whether directly, or through ownership or control of an entity having such ownership or control.

Comment: The Planning Commission at the June 3, 1996 public hearing added this proposed amendment to clarify and better effect the existing purpose and policy of not allowing more than one dwelling on contiguous substandard lots in common ownership. The amendment and the one above was introduced by Mr. Arnold Rochlin. The comments are quoted from Mr. Rochlin's submittal.

“Comment: The list of relationships is lengthened to match the list in ORS 215.705(6) that defines same ownership for a related purpose in state law and to better include devices of ownership. The need for revision arises out of the ease with which the purpose of the provision is evaded. In one case to which I was a party, title to the middle of three contiguous lots was given to an adult son, enabling a claim of separate ownership even when application for development was made for all three lots at once! In a case now before a hearings officer, ownership of adjoining lots

is claimed to be separate because title of one is held by a family trust benefiting two spouses and the other is held by one of the spouses. (By state law, this amendment could not affect the outcome of this case, or any case where application is filed before it is enacted. ORS 215.428(3)).”

Comment: ORS 215.705(6) referred to in the comment immediately above is a definition of “owner” specific to a type of dwelling commonly referred to as a “lot of record dwelling”. A lot of record dwelling requires that the present “owner” have acquired the lot prior to January 1, 1985. These CFU amendments do not include that type of dwelling option. Evaluation of the option will occur during the Rural Area Planning process. Given below are the portions of ORS Chapter 215 in which that specific definition of “owner” is used.

ORS 215.705(6): For purposes of subsection (1)(a) of this section, “owner” includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by one or combination of these family members.

ORS 215.705 Dwellings in farm or forest zone; criteria; transferability of application.

215.705 (1) A governing body of a county or its designate may allow the establishment of a single-family dwelling on a lot or parcel located with-

in a farm or forest zone as set forth in this section and ORS 215.710, 215.720, 215.740 and 215.750 after notifying the county assessor that the governing body intends to allow the dwelling. A dwelling under this section may be allowed if:

(Comment: In the last sentence above, "under this section" is section 215.705, which contains the provisions for approval of a dwelling on a lot acquired by the owner prior to January 1, 1985.)

ORS 215.705 (1) (a) The lot or parcel on which the dwelling will be sited was lawfully created and was acquired by the present owner:

(1) (a) (A) Prior to January 1, 1985;

or

(1) (a) (B) By devise or by intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.

- (C) A Lot of Record which has less than the front lot line minimums required may be occupied by any permitted or approved use when in compliance with the other requirements of this district.
- (D) A Lot of Record may be comprised of a separate parcel, containing an area less than that required by MCC .2058(A), created solely for the purposes of financing a dwelling. Such a parcel shall be considered a Mortgage Lot, subject to the following:
- (1) A Mortgage Lot may be created without review providing the remainder of the Lot of Record is not developed with a residence.
 - (2) The remainder of the Lot of Record shall be ineligible for a permit for a dwelling.
 - (3) A Mortgage Lot shall not be conveyed as a lot separate from the tract out of which it was created.

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- (4) The tax roll accounts of the Mortgage Lot and parent lot shall be consolidated into one account when title to both parcels is secured.

11.15.2064 Lot Size for Conditional Uses

Lots less than the minimum specified in MCC .2058(A) may be created for the uses listed in MCC .2048(S) and .2050(C)(1) through (6), (9) through (13), and (16) and (D)(1) through (4), after approval is obtained pursuant to MCC .2053 and based upon:

- (A) A finding that the new lot is the minimum [S]site size [needs] necessary for [of] the proposed use;

- (B) The nature of the proposed use in relation to its impact on nearby properties; and

- (C) Consideration of the purposes of this district.

11.15.2066 Off-Street Parking and Loading

Off-street parking and loading permitted as an accessory use shall be provided as required by MCC .6100 through .6148.

11.15.2068 Access

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

11.15.2070 Exemptions From Non-Conforming Use Provisions

- (A) Conditional Uses listed in MCC .2050, legally established prior to October 6, 1977, shall be deemed conforming and not subject to the provisions of MCC .8805 through .8810, provided, how-

OAR 660-06-026 (2) New land divisions less than the parcel size in section (1) of this rule may be approved only for the uses listed in OAR 660-06-025(3)(m) through (o) and (4)(a) through (n) provided that such uses have been approved pursuant to OAR 660-06-025(5). Such divisions shall create a parcel that is the minimum size necessary for the use.

Comment: The change in the OAR was the addition of the last sentence in the above.

Comment: Citation correction.

ever, that any change of use shall be subject to approval pursuant to the provisions of MCC .2050.

- (B) The term "change of use", as used in this section, means the change from one Conditional Use listed in MCC .2050 to another such Conditional Use.

11.15.2072 Right to Complete Single-Family Dwelling

- (A) A single family dwelling may be completed under the provisions of a building permit issued prior to January 7, 1993.

(1) The building permit shall be subject only to the regulations in effect prior to January 7, 1993.

(2) The building permit must continue to be kept valid under the permit regulations of the applicable government issuer until completion of the dwelling.

- (B) A building permit for a new single family dwelling may be issued up to 180 days after January 7, 1993 if approval from the Planning Director was obtained on a building permit application prior to January 7, 1993.

(1) The building permit shall be subject only to the regulations in effect prior to January 7, 1993.

(2) The building permit must continue to be kept valid under the permit regulations of the applicable government issuer until completion of the dwelling.

- (C) A building permit for a new single family dwelling may be issued up to two years after January 7, 1993 if approval from the Planning Director was given in an administrative proceeding for a "residential use, in conjunction with a primary use" pursuant to the applicable Use Under Prescribed Conditions provisions of MCC .2050(A) or MCC .2170(A) in effect prior to January 7, 1993.

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- (1) The building permit shall be subject only to the regulations in effect prior to January 7, 1993.
 - (2) The building permit must continue to be kept valid under the permit regulations of the applicable government issuer until completion of the dwelling.
 - (3) Pursuant to the provisions and requirements of ORS 215.428, application for a "residential use, in conjunction with a primary use" referenced above will be accepted until January 7, 1993.
- (D) A building permit for a new single family dwelling may be issued after January 7, 1993 for a dwelling approved as a "residential use, not in conjunction with a primary use" by a Hearing Authority in an action proceeding pursuant to the applicable Conditional Use provisions of MCC .2052(C) or MCC .2172(C) in effect prior to January 7, 1993 if the approval has not expired pursuant to MCC .7110(C).
- (1) The building permit shall be subject only to the regulations in effect prior to January 7, 1993.
 - (2) The building permit must continue to be kept valid under the permit regulations of the applicable government issuer until completion of the dwelling.
 - (3) Pursuant to the provisions and requirements of ORS 215.428, application for a "residential use, not in conjunction with a primary use" referenced above will be accepted until January 7, 1993.

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

Comment: See MCC .2048.

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);
- (2) ~~[Forest operations and accepted farming practices will not be curtailed or impeded]~~ Adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
- (3) The amount of forest land used to site the dwelling or other structure, access road, and service corridor is minimized;
- (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
- (5) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:

OAR 660-06-029 The following siting criteria or their equivalent shall apply to all new dwellings and structures in forest and agriculture/forest zones. These criteria are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on forest lands. A governing body shall consider the criteria in this rule together with the requirements OAR 660-06-035 to identify the building site:

(1) Dwellings and structures shall be sited on the parcel so that:

(1) (a) They have the least impact on nearby or adjoining forest or agricultural lands;

(1) (b) The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;

(1) (c) The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized, and

(1) (d) The risks associated with wildfire are minimized.

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- (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;

Comment: This provision is moved to this location from the Template Dwelling subsection so that it will also apply to Large Acreage Dwellings. The language is basically unchanged because, as far as staff can determine, all potential homesites are either in a fire protection district or the owner could petition to a district for contracted service.

OAR 660-06-035 The following fire siting standards or their equivalent shall apply to new dwelling or structures in a forest or agriculture/forest zone:

(1) The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the governing body determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards. The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or

(b) ~~[(a)]~~ 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) ~~[(b)]~~ 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:

Percent Slope	Distance In Feet
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

registrations are not required for the use. Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fires season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.

OAR 660-06-035 (3) The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991 and published by the Oregon Department of Forestry.

Comment: The CFU Zoning Standards for fire siting concerns were drafted using the Department of Forestry booklet.

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) ~~[(e)]~~ The building site must have a slope less than 40 percent.

(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

Comment: The added language recognizes that although the standard yard requirement is 200 feet, which can accommodate the maximum primary and secondary fire zones, a dwelling may actually be approved located closer to the property line. For example: front yard minimums are only 30 feet; there is an option for a reduced yard to cluster the home near a neighbors house; or there could be an approval of a variance to the standard due to unusual site characteristics such as the lot being less than 400 feet in width (see MCC .2058).

homes;

(2) Be attached to a foundation for which a building permit has been obtained; ~~and~~

(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.

(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

OAR 660-06-035 (4) The dwelling shall have a fire retardant roof.

OAR 660-06-035 (6) If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

OAR 660-06-029 (3) The applicant shall provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Forest Practices rules (OAR Chapter 629). For purposes of this section, 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.

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.

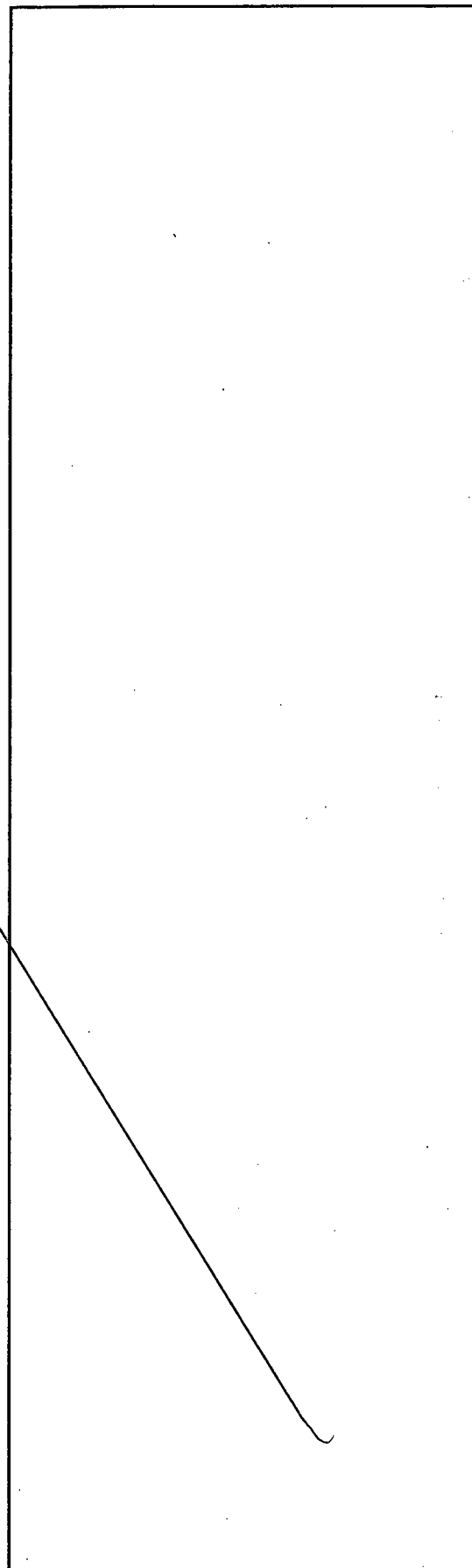
(D) A private road (including approved easements) accessing two or more dwellings, or a driveway accessing a single dwelling, shall be designed, built, and maintained to:

- (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;

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(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 $\frac{1}{2}$ the driveway length or 400 feet whichever is less.



III. PROPOSED COMPREHENSIVE FRAMEWORK PLAN AMENDMENTS

NOTE: Proposed amendments are shown with new word-
ing underlined and language to be deleted in [~~brackets and~~
~~crossed through~~].

POLICY 11: COMMERCIAL FOREST LAND

INTRODUCTION

The purpose of the Commercial Forest Land Area Classifi-
cation is to conserve forest lands by maintaining the forest
land base and to protect the state's forest economy by mak-
ing possible economically efficient forest practices that
assure the continuous growing and harvesting of forest tree
species as the leading use on forest land consistent with
sound management of soil, air, water, and fish and wildlife
resources and to provide for recreational opportunities and
agriculture.

The intent of the Commercial Forest Land Area Classifica-
tion is to allocate lands which are suitable for commercial
forest management including adjacent or nearby lands
which are necessary to permit forest operations or prac-
tices and other forested lands that maintain soil, air, water
and fish and wildlife resources.

Forest operations, practices and auxiliary uses shall be
allowed on forest lands subject only to such regulation of
uses as are found in ORS 527.722. Uses which may be
allowed subject to standards set forth in Statewide Plan-
ning Goal 4 and Oregon Administrative Rule 660, Divi-
sion 6 are: (1) uses related to and in support of forest oper-
ations; (2) uses to conserve soil, water and air quality, and
to provide for fish and wildlife resources, agriculture and
recreational opportunities appropriate in a forest environ-
ment; (3) locationally dependent uses; (4) [~~forest manage-
ment dwellings that are necessary for, and accessory to,
forest operations~~] large acreage dwellings authorized by
OAR 660-06-027(1)(c) (December, 1995); and (5) [~~other~~
~~dwellings under prescribed conditions]~~ template dwellings
authorized by OAR 660-06-027(1)(d) (December, 1995).
It is the policy of Multnomah County to allow only the
two types of dwellings in (4) and (5) above from the list-
ing of authorized types of dwellings in Oregon Revised

Oregon Administrative Rules (OAR), Oregon Revised Statutes (ORS) and Staff Comments

OAR 660-06 025 (1) Goal 4
requires that forest land be conserved.
Forest lands are conserved by adopting
and applying comprehensive plan pro-
visions and zoning regulations consis-
tent with the goals and this rule. In
addition to forest practices and opera-
tions and uses auxiliary to forest prac-
tices, as set forth in ORS 527.722, the
Commission has determined that five
general types of uses, as set forth in the
goal, may be allowed in the forest envi-
ronment, subject to the standards in the
goal and in this rule. These general
types of uses are:

- (1) (a) Uses related to and in sup-
port of forest operations;
- (1) (b) Uses to conserve soil, air and

Statutes and Oregon Administrative Rules. Further, the implementing Zoning Code criteria of approval of those two types of dwellings may be more restrictive than the permitted standards in Statute and Rule.

THE COUNTY'S POLICY IS TO DESIGNATE AND MAINTAIN AS COMMERCIAL FOREST LAND, AREAS WHICH ARE:

- A. PREDOMINANTLY IN FOREST CUBIC FOOT SITE CLASS I, II, AND III, FOR DOUGLAS FIR AS CLASSIFIED BY THE U.S. SOIL CONSERVATION SERVICE;
- B. SUITABLE FOR COMMERCIAL FOREST USE AND SMALL WOODLOT MANAGEMENT;
- C. POTENTIAL REFORESTATION AREAS, BUT NOT AT THE PRESENT USED FOR COMMERCIAL FORESTRY;
- D. NOT IMPACTED BY URBAN SERVICES; AND
- E. COHESIVE FOREST AREAS; OR
- F. OTHER AREAS WHICH ARE:
 - 1. NECESSARY FOR WATERSHED PROTECTION OR ARE SUBJECT TO LANDSLIDES, EROSION OR SLUMPING; OR
 - 2. WILDLIFE AND FISHERY HABITAT AREAS, POTENTIAL RECREATION AREAS OR OF SCENIC SIGNIFICANCE.

THE COUNTY'S POLICY IS TO ALLOW FOREST MANAGEMENT WITH RELATED AND COMPATIBLE USES, BUT TO RESTRICT INCOMPATIBLE USES FROM THE COMMERCIAL FOREST LAND AREA,

water quality and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment;

(1) (c) Locationally dependent uses, such as communication towers, mineral and aggregate resources, etc.;

(1) (d) Dwellings authorized by ORS 215.720 to 215.750; and

(1) (e) Other dwellings under prescribed conditions.

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RECOGNIZING THAT THE INTENT IS TO PRESERVE FOREST LANDS FROM INAPPROPRIATE AND INCOMPATIBLE DEVELOPMENT.

STRATEGIES

A. The following strategies shall be addressed as part of the ~~[Community Development Ordinance]~~ implementing Codes, Ordinances and Programs, including the Zoning (MCC 11.15), Land Division (MCC 11.45) and Street Standards Codes. The strategies are designed to make land divisions and allowed uses compatible with forest operations and agriculture consistent with Statewide Planning Goal 4 and Oregon Administrative Rule (OAR) 660, Division 6:

1. The Zoning Code should include a Commercial Forest Zone with:
 - a. A base minimum lot size of no less than 80 acres appropriate to commercial forestry, with aggregation of lots in single ownership required in conformance with OAR standards;
 - b. Forest and farm uses as primary uses;
 - c. ~~[Forest management dwellings]~~ Large acreage dwellings authorized by OAR 660-06-027(1)(c) (December, 1995) and [dwellings not related to forest management] template dwellings authorized by OAR 660-06-027(1)(d) (December, 1995) as conditional uses with criteria of approval that may be more restrictive than allowed by Statute or Rule. (fewer dwellings may meet the criteria of approval). Such dwellings are to be allowed under approval criteria and siting standards designed to assure conservation of the natural resource base, protection from hazards, and protection of big game winter habitat;
 - d. Compatible community service uses allowed by OAR 660, Division 6, mineral and aggregate extraction, and support services for forestry activities as conditional uses;

Comment: In the Rural Area Planning process, a larger minimum lot size for certain areas of the county has been discussed.

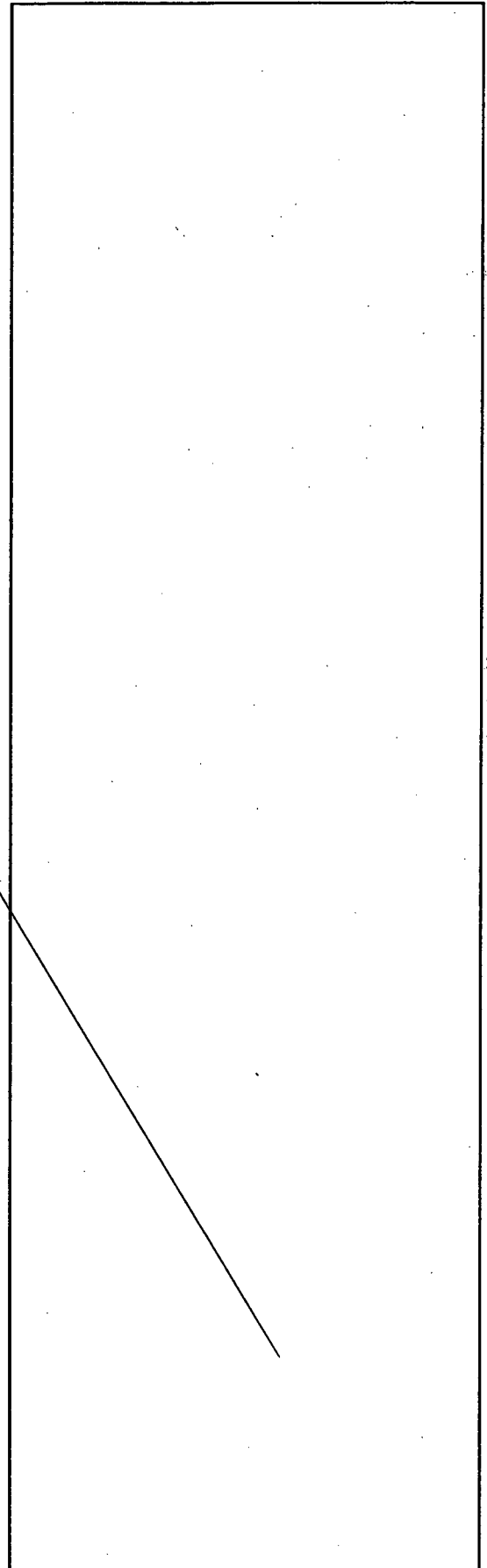
e. Lots of Record provisions; and

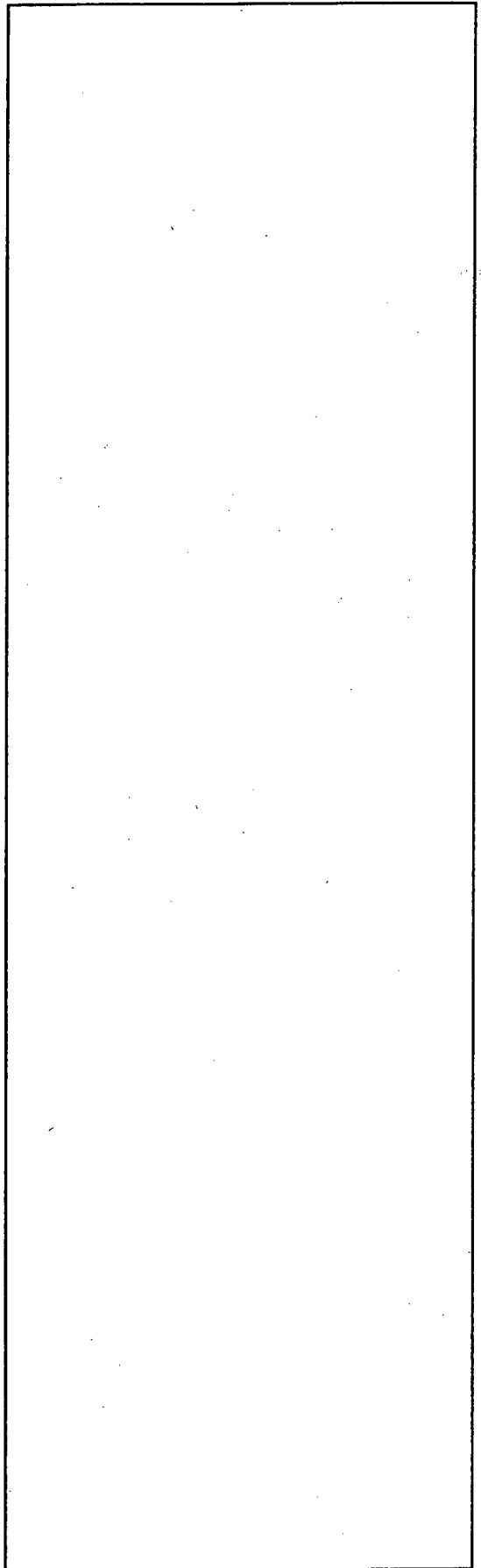
f. Mortgage lot provisions.

2. The County Street and Road Standards Code should include criteria related to street width, road construction standards, and required improvements appropriate to the function of the road.

3. The Capital Improvements Program should not program public sewers to this area, and the County should not support the formation or expansion of existing service district areas for the provision of water service.

B. The conversion of land to another broad land use classification should be in accord with the standards set forth by the LCDC Goals, OAR's and in this Plan.





BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ORDINANCE NO. 859

An Ordinance amending the Commercial Forest Use section of MCC 11.15 and Comprehensive Framework Plan Policy 11, Commercial Forest Use to include mandatory provisions of Oregon Revised Statutes and Oregon Administrative Rules regarding land uses on forest lands, and declaring an emergency.

(Underlined sections are new or replacements; [~~bracketed~~] sections are deleted.)

Multnomah County Ordains as follows:

Section I. Findings.

(A) Under Oregon's Statewide Land Use Planning Program the purpose of Statewide Planning Goal 4, Forest Lands is to conserve forest lands and carry out the legislative policy in Oregon Revised Statute (ORS) section 215.700.

(B) The State of Oregon Land Conservation and Development Commission (LCDC) has adopted Oregon Administrative Rules (OAR) Chapter 660, Division 6 as the implementing regulations to carry out Statewide Planning Goal 4. Statewide Planning Goal 4 and OAR Chapter 660, Division 6 require that counties adopt comprehensive plans and zoning code provisions that allow only those land uses allowed in the administrative rules.

(C) In December, 1992, Multnomah County last amended the county comprehensive plan and zoning regulations for forest lands (Commercial Forest Use zoning district). At that time the county was in full compliance with all Goal 4 and OAR requirements. Since that date, the 1993 Legislature made several changes to statute regarding approval standards for some categories of land uses, in particular those for new dwellings.

1 (D) The LCDC followed up the new 1993 statute requirements with amendments to OAR Chapter
2 660, Division 6 in February, 1994. Until those state changes are added to the Multnomah County Code
3 Chapter 11.15, the Planning Director and Hearings Officers evaluate new land use applications by apply-
4 ing the existing Commercial Forest Use (CFU) section of the Zoning Code along with the new mandatory
5 provisions of statute and rule. The policy is that the county code is still in effect except as may be in direct
6 conflict with state requirements by being "less restrictive" and where mandatory state requirements are not
7 yet in the code.

8 (E) The delay in including the new state requirements into the county code has come from the full
9 evaluation of all the available options that the 1993 House Bill 3661 included. That evaluation is occur-
10 ring in the program of adopting new Rural Area Plans for Multnomah County.

11 (F) Recognizing that the Rural Area Plans are not yet completed, this ordinance will add the
12 mandatory provisions of statute and rule into the zoning code and the comprehensive plan, leave in place
13 existing provisions where they are equal or more restrictive, and delay evaluation of other land use options
14 to the Rural Area Plans. This action will assist greatly in clarifying to applicants, staff, and hearing
15 authorities which provisions of the complicated state requirements are mandatory. This ordinance is only
16 an interim step in the full evaluation of state law and rule changes of the last few years.

17 (G) A 47 page findings document further explaining these amendments is on file with the
18 Multnomah County Department of Environmental Services, Transportation and Land Use Planning
19 Division. The findings have the title "Exhibit A, C 2-96, "Findings Associated with Amending the Zoning
20 Code to Include Mandatory Provisions of the Oregon Administrative Rules on Forest Lands and Oregon
21 Revised Statutes; with the Objective of Retaining Existing Local Options". They are attached hereto, are
22 incorporated by reference, and are adopted.

23 (H) On June 3, 1996, the Planning Commission held a public hearing which concluded in their
24 unanimous recommendation of approval to the Board. A hearing before the Board of County
25 Commissioners followed on July 9, 1996. At each of the hearings all interested persons were given an
26 opportunity to appear and be heard.

1

2 Section II. Amendments to County Code.

3 Multnomah County Code Chapter 11.15 is amended to read as follows:

4

5 **Commercial Forest Use CFU**

6 **11.15.2042 Purposes**

7 The purposes of the Commercial Forest Use District are to conserve and protect designated lands for
8 continued commercial growing and harvesting of timber and the production of wood fiber and other
9 forest uses; to conserve and protect watersheds, wildlife habitats and other forest associated uses; to
10 protect scenic values; to provide for agricultural uses; to provide for recreational opportunities and
11 other uses which are compatible with forest use ; implement Comprehensive Framework Plan Policy
12 11. Commercial Forest Land and to minimize potential hazards or damage from fire, pollution, erosion
13 or urban development.

14 **11.15.2044 Area Affected**

15 MCC .2042 through .2074 shall apply to those lands designated CFU on the Multnomah County
16 Zoning Map.

17 **11.15.2045 Definitions**

18 As used in MCC .2042 through .2074, unless otherwise noted, the following words and their deriva-
19 tions shall have the following meanings:

20 [~~(A) Accessory to~~ ~~As applied to forest dwellings, a dwelling that is incidental and subordinate to the~~
21 ~~main forest use.~~]

22 (A) [~~(B)~~] *Auxiliary* – For the purposes of MCC .2048(A)(2) to (3), the use or alteration of a structure or
23 land which provides temporary help, or is directly associated with the conduct of a particular forest
24 practice. An auxiliary structure shall be located on site, be temporary in nature, and be designed
25 not to remain for the entire growth cycle of the forest from planting to harvesting. An auxiliary use
26 shall be removed when the particular forest practice for which it was approved is concluded.

1 (B) [(C)] Campground – An area devoted to overnight temporary use for vacation, recreational or
2 emergency purposes, but not for residential purposes. A camping site may be occupied by a tent,
3 travel trailer or recreational vehicle. A campground shall not include intensively developed recre-
4 ational uses such as swimming pools, tennis courts, retail stores or gas stations.

5 ~~[(D) Necessary for~~ As applied to forest management dwellings, the principal purpose for locating the
6 dwelling is to enable the resident(s) to contribute substantially to the effective and efficient man-
7 agement of the forest land. A resident contributes substantially when the resident spends an exten-
8 sive amount of time performing forest management activities which increase timber yields, quality
9 or productivity, and which are recognized by the Forest Practices Act. ~~Necessary for~~ precludes a
10 dwelling which simply "enhances" forest management. ~~Necessary for~~ also does not demand that a
11 dwelling be absolutely required for forest management or that the production of trees is physically
12 possible only with a dwelling.]

13 (C) Commercial Tree Species – Trees recognized under rules adopted under ORS 527.715 (1996) for
14 commercial production.

15 (D) Cubic Foot Per Acre – The average annual increase in cubic foot volume of wood fiber per acre
16 for fully stocked stands at the culmination of mean annual increment as reported by the USDA
17 Soil Conservation Service. Where SCS data are not available or are shown to be inaccurate, an
18 alternative method for determining productivity may be used. An alternative method must provide
19 equivalent data and be approved by the Department of Forestry.

20 (E) Cubic Foot Per Tract Per Year – The average annual increase in cubic foot volume of wood fiber
21 per tract for fully stocked stands at the culmination of mean annual increment as reported by the
22 USDA Soil Conservation Service. Where SCS data are not available or are shown to be inaccurate,
23 an alternative method for determining productivity may be used. An alternative method must pro-
24 vide equivalent data and be approved by the Department of Forestry.

25 (F) Date of Creation and Existence – When a lot, parcel or tract is reconfigured pursuant to applicable
26 law after November 4, 1993, the effect of which is to qualify a lot of record pursuant to MCC

1 .2062 or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or
2 existence. Reconfigured means any change in the boundary of the lot of record or tract.

3 (G) Forest Operation – Any commercial activity relating to the growing or harvesting of any forest
4 tree species as defined in ORS 527.620 (6) (1996).

5 (H) Tract – One or more contiguous Lots of Record, pursuant to MCC .2062, in the same ownership. A
6 tract shall not be considered to consist of less than the required acreage because it is crossed by a
7 public road or waterway. Lots that are contiguous with a common boundary of only a single point
8 are not a tract.

9 **11.15.2046 Uses**

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

12 **11.15.2048 Uses Permitted Outright**

13 (A) The following uses pursuant to the Forest Practices Act and Statewide Planning Goal 4:

14 (1) Forest operations or forest practices including, but not limited to, reforestation of forest land,
15 road construction and maintenance, harvesting of a forest tree species, application of chemi-
16 cals, and disposal of slash;

17 (2) Temporary on site structures which are auxiliary to and used during the term of a particular
18 forest operation; or

19 (3) Physical alterations to the land auxiliary to forest practices including, but not limited to, those
20 for purposes of exploration, mining, commercial gravel extraction and processing, landfills,
21 dams, reservoirs, road construction or recreational facilities;

22 (B) A temporary portable facility for the primary processing of forest products;

23 (C) Farm use, as defined in ORS 215.203;

24 (D) ~~[Maintenance, repair, or expansion]~~ Alteration of an existing lawfully established single family
25 dwelling that:

26 (1) Has intact exterior walls and roof structures;

1 (2) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a
2 sanitary waste disposal system;

3 (3) Has interior wiring for interior lights; and

4 (4) Has a heating system;

5 (E) Replacement of an existing lawfully established single family dwelling on the same lot, subject to
6 the following:

7 (1) The replacement dwelling will be located within 200 feet of the existing dwelling; and

8 (2) The existing dwelling : ~~[shall be habitable, served by a reliable sanitary supply of running~~
9 ~~water for domestic use, and contain a cooking/eating area, a sleeping area, and bathroom~~
10 ~~facilities connected to a sewage disposal system]~~

11 (a) Has intact exterior walls and roof structures;

12 (b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected
13 to a sanitary waste disposal system;

14 (c) Has interior wiring for interior lights;

15 (d) Has a heating system; and

16 (e) Is removed, demolished or converted to an allowable nonresidential use within three
17 months of the completion of the replacement dwelling;

18 (F) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources,
19 including a public or private wildlife and fisheries resources conservation area;

20 (G) An uninhabitable structure accessory to fish and wildlife enhancement;

21 (H) A caretaker residence for a public park or a fish hatchery;

22 (I) Local distribution lines (e.g., electric, telephone, natural gas, etc.) and accessory equipment (e.g.,
23 electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment
24 which provides service hookups, including water service hookups;

25 (J) Climbing and passing lanes within the right of way existing as of July 1, 1987;

26 (K) Reconstruction or modification of public roads and highways, not including the addition of vehicu-

lar travel lanes, where no removal or displacement of buildings will occur, or no new land parcels result;

(L) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed;

(M) Minor betterment of existing public roads and highway related facilities such as maintenance yards, weigh stations and rest areas, within a right-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways;

(N) A lookout tower for forest fire protection;

(O) A water intake facility, canal and distribution lines for farm irrigation and ponds;

(P) A temporary forest labor camp;

(Q) Exploration for mineral and aggregate resources as defined in ORS Chapter 517;

(R) Exploration for geothermal resources;

(S) A site for the disposal of solid waste that has been ordered to be established by the Environmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings necessary for its operation.

11.15.2049 Uses Permitted Under Prescribed Conditions

(A) Replacement of an existing lawfully established single family dwelling on the same lot more than 200 feet from the existing dwelling, subject to the following:

(1) The existing dwelling : ~~[is habitable, is served by a reliable sanitary supply of running water for domestic use, and contains a cooking/eating area, a sleeping area, and bathroom facilities connected to a sewage disposal system; and]~~

(a) Has intact exterior walls and roof structures;

(b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(c) Has interior wiring for interior lights;

1 (d) Has a heating system; and

2 (e) Is removed, demolished or converted to an allowable nonresidential use within three
3 months of the completion of the replacement dwelling;

4 (2) The replacement dwelling location meets the development standards of MCC .2074.

5 (B) Restoration or replacement of a lawfully established single family dwelling on the same lot when
6 the restoration or replacement is made necessary by fire, other casualty or natural disaster, subject
7 to the following:

8 (1) Restoration or replacement shall be commenced within one year from the occurrence of the
9 fire, casualty or natural disaster; and

10 (2) A replacement dwelling located more than 200 feet from the prior dwelling location shall be
11 subject to the development standards of MCC .2074;

12 (3) The existing dwelling at the time of the fire, casualty, or natural disaster:

13 (a) Had intact exterior walls and roof structures;

14 (b) Had indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected
15 to a sanitary waste disposal system;

16 (c) Had interior wiring for interior lights; and

17 (d) Had a heating system.

18 **11.15.2050 Conditional Uses**

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

21 (A) A [~~Forest Management Dwelling~~] Large Acreage Dwelling pursuant to the provisions of MCC
22 .2051 and .2074.

23 (B) A [~~dwelling not related to forest management~~] Template Dwelling pursuant to the provisions of
24 MCC .2052 and .2074.

25 (C) The following Community Service Uses pursuant to the provisions of MCC .2053, .2074, .7005
26 through .7015, and .7035 through .7072.

- 1 (1) Campground.
- 2 (2) Cemetery.
- 3 (3) Fire station for rural and forest fire protection.
- 4 (4) Aid to navigation and aviation.
- 5 (5) Water intake facility, related treatment facility, pumping station, and distribution line.
- 6 (6) Reservoir and water impoundment.
- 7 (7) New distribution line (e.g., gas, oil, geothermal) with a right-of-way 50 feet or less in width
- 8 or new electric transmission line with a right-of-way width of up to 100 feet as specified in
- 9 ORS 772.210.
- 10 (8) Forest management research and experimentation facility as defined by ORS 526.215.
- 11 (9) Park, including a public or private wildlife and fisheries resources conservation area with
- 12 accessory structures for educational or instructional use.
- 13 (10) Utility facility for the purpose of generating power provided the facility not preclude more
- 14 than 10 acres from use as a commercial forest operation unless an exception is taken pursuant
- 15 to OAR 660, Division 4.
- 16 (11) Radio, microwave, and television transmission towers subject to the definitions, restrictions
- 17 and standards in MCC .7020(15) and .7035 through .7041.
- 18 (12) Refuse dump or sanitary landfill for which the Department of Environmental Quality has
- 19 granted a permit under ORS 459.245, together with equipment, facilities or buildings neces-
- 20 sary for its operation.
- 21 (13) Regional Sanitary Landfill for which the Department of Environmental Quality has granted a
- 22 permit under ORS 459.245, together with equipment, facilities or buildings necessary for its
- 23 operation subject to the definitions, restrictions and standards in MCC .7045 through .7072.
- 24 (14) Private hunting and fishing operation without any lodging accommodations.
- 25 (15) Private seasonal accommodations for a fee hunting operation or fishing, provided:
- 26 (a) Accommodations are limited to no more than 15 guest rooms as that term is defined in

1 the Oregon Structural Speciality Code;

2 (b) Only minor incidental and accessory retail sales are permitted;

3 (c) Accommodations are occupied temporarily for the purpose of hunting during game bird
4 and big game hunting seasons or fishing during fishing seasons authorized by the Oregon
5 Fish and Wildlife Commission; and

6 (d) Accommodations for fishing must be located within 1/4 mile of fish bearing Class I
7 waters.

8 (16) Mining, processing and production of geothermal resources.

9 (D) The following uses pursuant to the provisions of MCC .2053, .2074, .7105 through .7120, .7125
10 through .7135, .7305 through .7335, and .7605 through .7640.

11 (1) Mining and processing of aggregate and other mineral or subsurface resources as defined in
12 ORS Chapter 517;

13 (2) Permanent facility for the primary processing of forest products;

14 (3) Permanent logging equipment repair and storage;

15 (4) Log scaling and weigh stations;

16 (5) Construction of additional passing and travel lanes requiring the acquisition of right of way
17 but not resulting in the creation of new land parcels;

18 (6) Reconstruction or modification of public roads and highways involving the removal or dis-
19 placement of buildings but not resulting in the creation of new land parcels;

20 (7) Improvement of public roads and highway related facilities, such as maintenance yards,
21 weigh stations and rest areas, where additional property or right of way is required but not
22 resulting in the creation of new land parcels; and

23 (8) Expansion of aircraft landing areas auxiliary to forestry practices, notwithstanding the provi-
24 sions of MCC .6050 through .6058.

1 **11.15.2051 ~~[Forest Management Dwelling]~~ Large Acreage Dwelling**

2 A ~~[forest management dwelling]~~ large acreage dwelling may be ~~[allowed when]~~ sited on a tract, sub-
3 ject to the following:

4 (A) The lot or lots in the tract ~~[size meets the standards of MCC .2058(A) with a minimum area~~
5 ~~requirement of 80 acres or]~~ meet(s) the lot of record standards of MCC .2062(A) and (B) ~~[-but~~
6 ~~shall not be less than 10 acres];~~

7 (B) The tract contains at least 160 contiguous acres in one ownership zoned for forest use;

8 ~~[The dwelling is necessary for and accessory to forest operations [including cultured Christmas~~
9 ~~trees as defined in ORS 215.203(3)]. Such determination shall be based at a minimum on the fol-~~
10 ~~lowing information provided by the applicant:~~

11 (1) ~~Completed forms available from the Division of Planning and Development or its equivalent~~
12 ~~regarding the condition and productivity of the lands to be managed;~~

13 (2) ~~A plan for management of the land, including a chronological description of commercial for-~~
14 ~~est management activities to be undertaken by the residents, or under contract and estimates~~
15 ~~of yield, labor and expenses;~~

16 (3) ~~Maps, showing the site for the proposed dwelling and a description of related fire safety mea-~~
17 ~~sures;~~

18 (4) ~~The information must be sufficient to enable the Oregon Department of Forestry within 45~~
19 ~~days to determine that:~~

20 (a) ~~The information describing the productivity and current condition of the forest land to be~~
21 ~~managed is complete and accurate;~~

22 (b) ~~Fulfillment of the forest management plan will result in use of the parcel for the required~~
23 ~~management purpose in terms of stocking, stand density, and harvest; and~~

24 (c) ~~The siting and safety standards in MCC .2074, derived from OAR 660-06-029 and OAR~~
25 ~~660-06-035, have been satisfied;~~

26 (5) ~~Christmas trees and other types of agricultural production may be a part of the management~~

1 ~~plan. However, such uses shall not be the predominant use on the property nor the basis for~~
2 ~~determining that the dwelling is necessary.]~~

3 (C) There ~~is~~ [are] no other dwelling [s] on the tract and no other dwellings are allowed on other lots
4 (or parcels) that make up the tract [property which are vacant or currently occupied by persons not
5 engaged in forestry, which could be used as the principal forest dwelling for the forest operation];

6 ~~[(D) The property qualifies for and is enrolled in one of the State of Oregon forest tax programs;]~~

7 ~~[(E) The dwelling will not significantly interfere with, significantly increase the costs of, or impede~~
8 ~~accepted forestry or farming practices on surrounding forest or agricultural lands;]~~

9 (D) ~~[(F)]~~ The dwelling will be located outside a big game winter habitat area as defined by the Oregon
10 Department of Fish and Wildlife, or that agency has certified that the impacts of the additional
11 dwelling, considered with approvals of other dwellings in the area since acknowledgment of the
12 Comprehensive Plan in 1980, will be acceptable;

13 (E) ~~[(G)]~~ A statement has been recorded with the Division of Records that the owner and the succes-
14 sors in interest acknowledge the rights of owners of nearby property to conduct forest operations
15 consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices;

16 (F) ~~[(H)]~~ Proof of a long-term road access use permit or agreement shall be provided if road access to
17 the dwelling is by a road owned and maintained by a private party or by the Oregon Department of
18 Forestry, the Bureau of Land Management, or the United States Forest Service. The road use per-
19 mit may require the applicant to agree to accept responsibility for road maintenance;

20 (G) ~~[(I) The forest lands to be managed by the resident of the proposed dwelling meet the stocking and~~
21 ~~survival requirements of the Forest Practices Rules for the Northwest Region (as specified in OAR~~
22 ~~629-24-502) at the time the permanent dwelling is requested;]~~ A condition of approval requires
23 the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract
24 is reasonably expected to meet Department of Forestry stocking requirements at the time specified
25 in Department of Forestry administrative rules, provided, however, that:

26 (1) The planning department shall notify the county assessor of the above condition at the time

1 the dwelling is approved:

2 (2) The property owner shall submit a stocking survey report to the county assessor and the
3 assessor will verify that the minimum stocking requirements have been met by the time
4 required by Department of Forestry rules. The assessor will inform the Department of
5 Forestry in cases where the property owner has not submitted a stocking survey report or
6 where the survey report indicates that minimum stocking requirements have not been met:

7 (3) Upon notification by the assessor the Department of Forestry will determine whether the
8 tract meets minimum stocking requirements of the Forest Practices Act. If the department
9 determines that the tract does not meet those requirements, the department will notify the
10 owner and the assessor that the land is not being managed as forest land. The assessor will
11 then remove the forest land designation pursuant to ORS 321.359 and impose the additional
12 tax pursuant to ORS 321.372;

13 (H) Evidence is provided, prior to the issuance of a building permit, that the covenants, conditions and
14 restrictions form adopted as "Exhibit A" to the Oregon Administrative Rules (OAR), Chapter 660,
15 Division 6 (December, 1995) has been recorded with the county Division of Records:

16 (1) The covenants, conditions and restrictions as specified in "Exhibit A" above shall specify that
17 it is not lawful to use the acreage of the subject tract to qualify another tract for the siting of
18 a dwelling:

19 (2) The covenants, conditions and restrictions as specified in "Exhibit A" are irrevocable, unless
20 a statement of release is signed by an authorized representative of Multnomah County and
21 any other county where the property subject to the covenants, conditions and restrictions is
22 located:

23 (3) Enforcement of the covenants, conditions and restrictions shall be as specified in OAR 660-
24 06-027 (December, 1995).

25 ~~[(J) A temporary forest management dwelling may be approved if the lands to be managed meet all of~~
26 ~~the requirements for approval of a forest management dwelling except for the stocking and sur-~~

1 ~~vival requirements of the Forest Practices Rules of OAR 629-24-502, subject to the following:~~

2 ~~(1) The temporary dwelling shall be a manufactured or mobile home;~~

3 ~~(2) A written agreement has been recorded with the Division of Records which states the tempo-~~
4 ~~rary dwelling and any accessory structures will be removed by the applicant within 60 days~~
5 ~~of the determination by the Planning Director that the property has not met the stocking and~~
6 ~~survival requirements of OAR 629-24-502 within 5 years of the dwelling approval date, or~~
7 ~~within 7 years of that date if an extension is approved pursuant to MCC .2051(J)(4); and~~

8 ~~(3) A commitment to pay all costs associated with the removal of the dwelling and any accessory~~
9 ~~structures in the form of either a cash deposit, irrevocable letter of credit, or other form of~~
10 ~~financial security determined acceptable by County Counsel in an amount sufficient to pay~~
11 ~~for all removal costs in the event the property has not met the stocking and survival require-~~
12 ~~ments of OAR 629-24-502 within 5 years of the dwelling approval date, or within 7 years of~~
13 ~~that date if an extension is approved pursuant to MCC .2051(J)(4).~~

14 ~~(4) The Planning Director may grant an extension of not more than 2 years upon a finding that~~
15 ~~the applicant has submitted, before expiration of the 5 year time limit, substantial evidence~~
16 ~~demonstrating that completion of the requirements of OAR 629-24-502 was not possible due~~
17 ~~to natural disaster or illness.~~

18 ~~(5) Within 5 years of the dwelling approval date, the applicant shall either provide evidence that~~
19 ~~the stocking and survival requirements of OAR 629-24-502 have been met, or provide evi-~~
20 ~~dence required for an extension pursuant to MCC .2051(J)(4).~~

21 ~~(6) Within 60 days of the expiration of the 5 year stocking time period, the Planning Director~~
22 ~~shall make a determination whether the prospective resident has complied with the require-~~
23 ~~ments of MCC .2051(J), or whether the resident has provided sufficient support for an exten-~~
24 ~~sion.~~

25 ~~(7) The Planning Director shall enforce the terms of the agreements specified in MCC~~
26 ~~.2051(J)(2) and (3) if the prospective resident fails to meet the stocking and survival require-~~

1 ~~ments within 5 years, unless the temporary dwelling and accessory structures already have~~
2 ~~been removed or unless an extension has been granted.~~

3 ~~(8) Upon determination by the Planning Director that all requirements of MCC .20511(J) have~~
4 ~~been met, the temporary forest dwelling may be replaced by a permanently constructed~~
5 ~~dwelling, or a permanent placement permit may be issued for the manufactured or mobile~~
6 ~~home already in place.~~

7 ~~(K) An application for a forest management dwelling is not complete for the purpose of requiring the~~
8 ~~County to take final action on the permit within 120 days, as required by ORS 215.428, until all~~
9 ~~the required information, including the review and evaluation by the Oregon Department of~~
10 ~~Forestry required by OAR 660-06-027(1), is submitted to the Division of Planning and~~
11 ~~Development.]~~

12 **11.15.2052 Template Dwelling [Not Related to Forest Management]**

13 (A) A template dwelling [~~not related to forest management~~] may be [~~allowed~~] sited on a tract, subject
14 to the following:

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

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

21 (3) The [~~lot~~] tract shall meet the following standards:

22 (a) The [~~lot~~] tract shall be composed primarily of soils which are capable of producing 0 to
23 49 cubic feet of Douglas Fir timber per acre per year (cflac/yr); and

24 (i) The lot upon which the dwelling is proposed to be sited and at least all or part of 3
25 other lawfully created lots existed on January 1, 1993 within a 160-acre square when
26 centered on the center of the subject [~~lot~~] tract parallel and perpendicular to section

1 lines; and

2 (ii) ~~[One]~~ At least 3 dwellings lawfully existed[s] on January 1, 1993 within the 160-acre
3 square, or

4 (b) The ~~[lot]~~ tract shall be composed primarily of soils which are capable of producing 50 to
5 85 *cf/ac/yr* of Douglas Fir timber; and

6 (i) The lot upon which the dwelling is proposed to be sited, and at least all or part of 7
7 other lawfully created lots existed on January 1, 1993 within a 160-acre square when
8 centered on the center of the subject ~~[lot]~~ tract parallel and perpendicular to section
9 lines; and

10 (ii) At least [F] three dwellings lawfully existed on January 1, 1993 within the 160-acre
11 square, or

12 (c) The ~~[lot]~~ tract shall be composed primarily of soils which are capable of producing above
13 85 *cf/ac/yr* of Douglas Fir timber; and

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

18 (ii) At least [F] five dwellings lawfully existed on January 1, 1993 within the 160-acre
19 square.

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

22 ~~[(e) The lot is not capable of producing 5,000 cubic feet of wood fiber per year from commer-~~
23 ~~cial tree species recognized by the Forest Practices Rules.]~~

24 (e) There is no other dwelling on the tract;

25 (f) No other dwellings are allowed on other lots (or parcels) that make up the tract;

26 (g) Except as provided for a replacement dwelling, all lots (or parcels) that are part of the

1 tract shall be precluded from all future rights to site a dwelling; and

2 (h) No lot (or parcel) that is part of the tract may be used to qualify another tract for the sit-
3 ing of a dwelling;

4 ~~[(4) The dwelling will not force a significant change in, significantly increase the costs of, or~~
5 ~~impede accepted forestry or farming practices on surrounding forest or agricultural lands;]~~

6 (4) ~~[(5)]~~ The dwelling will be located outside a big game winter habitat area as defined by the
7 Oregon Department of Fish and Wildlife, or that agency has certified that the impacts of the
8 additional dwelling, considered with approvals of other dwellings in the area since acknowl-
9 edgment of the Comprehensive Plan in 1980, will be acceptable;

10 ~~[(6) The proposed dwelling will be located on a lot within a rural fire protection district, or the~~
11 ~~proposed resident has contracted for residential fire protection;]~~

12 (5) ~~[(7)]~~ Proof of a long-term road access use permit or agreement shall be provided if road
13 access to the dwelling is by a road owned and maintained by a private party or by the Oregon
14 Department of Forestry, the Bureau of Land Management, or the United States Forest
15 Service. The road use permit may require the applicant to agree to accept responsibility for
16 road maintenance;

17 (6) ~~[(8) The parcel on which the dwelling will be located has been disqualified from receiving a~~
18 ~~farm or forest tax deferral]~~ A condition of approval requires the owner of the tract to plant a
19 sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to
20 meet Department of Forestry stocking requirements at the time specified in Department of
21 Forestry administrative rules, provided, however, that:

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

24 (b) The property owner shall submit a stocking survey report to the county assessor and the
25 assessor will verify that the minimum stocking requirements have been met by the time
26 required by Department of Forestry rules. The assessor will inform the Department of

1 Forestry in cases where the property owner has not submitted a stocking survey report
2 or where the survey report indicates that minimum stocking requirements have not been
3 met;

4 (c) Upon notification by the assessor the Department of Forestry will determine whether
5 the tract meets minimum stocking requirements of the Forest Practices Act. If the
6 department determines that the tract does not meet those requirements, the department
7 will notify the owner and the assessor that the land is not being managed as forest land.
8 The assessor will then remove the forest land designation pursuant to ORS 321.359 and
9 impose the additional tax pursuant to ORS 321.372;

10 (7) [(9)] The dwelling meets the applicable development standards of MCC .2074;

11 (8) [(10)] A statement has been recorded with the Division of Records that the owner and the
12 successors in interest acknowledge the rights of owners of nearby property to conduct forest
13 operations consistent with the Forest Practices Act and Rules, and to conduct accepted farm-
14 ing practices;

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

19 (a) The covenants, conditions and restrictions shall specify that:

20 (i) All lots (or parcels) that are part of the tract shall be precluded from all future rights
21 to site a dwelling; and

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

24 (b) The covenants, conditions and restrictions are irrevocable, unless a statement of release
25 is signed by an authorized representative of Multnomah County. That release may be
26 given if the tract is no longer subject to protection under Statewide Planning Goals for

1 forest or agricultural lands;

2 (c) Enforcement of the covenants, conditions and restrictions shall be as specified in OAR
3 660-06-027 (December, 1995).

4 (B) ~~[Dwellings not related to forest management shall not be allowed upon the effective date of a small~~
5 ~~scale resource land program adopted pursuant to the requirements of OAR 660, Divisions 6 and~~
6 ~~33.] (Deleted 1996. Ord. _____)~~

7 **11.15.2053 Use Compatibility Standards**

8 Specified uses of MCC .2050(C) and (D) and .2056 may be allowed upon a finding that:

9 (A) The use will:

10 (1) Not force a significant change in, or significantly increase the cost of, accepted forestry or
11 farming practices on surrounding forest or agricultural lands;

12 (2) Not significantly increase fire hazard, or significantly increase fire suppression costs, or sig-
13 nificantly increase risks to fire suppression personnel; and

14 (B) A statement has been recorded with the Division of Records that the owner and the successors in
15 interest acknowledge the rights of owners of nearby property to conduct forest operations consis-
16 tent with the Forest Practices Act and Rules, and to conduct accepted farming practices.

17 **11.15.2054 Accessory Uses**

18 The following structures or uses may be authorized in this district provided they are customarily acces-
19 sory or incidental to a permitted use:

20 (A) Signs, pursuant to the provisions of MCC 11.15.7902-.7982;

21 (B) Off-street parking and loading as required by MCC .6100 through .6148;

22 (C) Home occupations pursuant to the definition and restrictions of MCC .0010. Home occupations as
23 defined by MCC .0010 do not allow the level of activity defined in ORS 215.448; and

24 (D) Other structures or uses determined by the Planning Director to be customarily accessory or inci-
25 dental to any use permitted or approved in this district.

1 **11.15.2056 Temporary Uses**

2 (A) A mobile home, in conjunction with an existing dwelling, upon obtaining an annual Temporary
3 Health Hardship Permit pursuant to MCC .2053 and .8710.

4 (B) An asphalt and concrete batch plant accessory to a specific highway project pursuant to MCC
5 .2053.

6 **11.15.2058 Dimensional Requirements**

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

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

11 (C) Minimum Yard Dimensions - Feet:

12	Frontage on	Other	Side	Rear
13	County Main-	Front		
14	tained Road			
15	60 from	200	200	200
16	centerline			

17 Maximum Structure Height – 35 feet

18 Minimum Front Lot Line Length – 50 feet.

19 These yard dimensions and height limits shall not be applied to the extent they would have the
20 effect of prohibiting a use permitted outright. Variances to dimensional standards shall be pursuant
21 to MCC .8505 through .8525, as applicable.

22 (D) To allow for clustering of dwellings and potential sharing of access, a minimum yard requirement
23 may be decreased to 30 feet if there is a dwelling on an adjacent lot within a distance of 100 feet of
24 the new dwelling.

25 (E) The minimum yard requirement shall be increased where the yard abuts a street having insufficient
26 right-of-way width to serve the area. The Planning Commission shall determine the necessary

right-of-way widths and additional yard requirements not otherwise established by ordinance.

(F) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirements.

(G) *[Repealed 1994, Ord. 804 § III]*

11.15.2060 Lots of Exception

The Planning Director may grant an exception to permit the creation of a lot of less than the minimum specified in MCC .2058(A) subject to the following:

(A) The Lot of Record to be divided exceeds the area requirements of MCC .2058(A);

(B) The Lot of Exception will contain a dwelling which existed prior to January 25, 1990;

(C) The Lot of Exception will be no larger than 5 acres;

(D) The division will create no more than one lot which is less than the minimum area required in MCC .2058(A); ~~and~~

(E) The division complies with the dimensional requirements of MCC .2058 (C) through (F); ~~and~~

~~(F) The parcel not containing the dwelling is not entitled to a dwelling.~~

~~(1) A condition of approval shall require that covenants, conditions and restrictions stating that requirement shall be recorded with the county Division of Records.~~

~~(2) 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 parcel is no longer subject to protection under Statewide Planning Goals for forest or agricultural lands.~~

11.15.2061 Lot Line Adjustment

(A) The Planning Director may approve an adjustment of the common lot line between contiguous Lots of Record based on a finding that:

(1) The permitted number of dwellings will not thereby be increased above that otherwise allowed in this district;

(2) The resulting lot configuration is at least as appropriate for the continuation of the existing

commercial forest practices in the area as the lot configuration prior to adjustment;

(3) The new lot line is in compliance with the dimensional requirements of MCC .2058 (C) through (G); and

(4) Neither of the properties is developed with a dwelling approved under the provisions for a mobile home on a Health Hardship, or a dwelling for the housing of help required to carry out a farm or forest use.

11.15.2062 Lot of Record

(A) For the purposes of this district, a Lot of Record is:

(1) A parcel of land:

(a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to August 14, 1980;

(b) Which satisfied all applicable laws when the parcel was created; and

(c) Which satisfies the minimum lot size requirements of MCC .2058, or

(2) A parcel of land:

(a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to February 20, 1990;

(b) Which satisfied all applicable laws when the parcel was created;

(c) Does not meet the minimum lot size requirements of MCC .2058; and

(d) Which is not contiguous to another substandard parcel or parcels under the same ownership, or

(3) A group of contiguous parcels of land:

(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;

(b) Which satisfied all applicable laws when the parcels were created;

(c) Which individually do not meet the minimum lot size requirements of MCC .2058, but,

1 when considered in combination, comply as nearly as possible with a minimum lot size
2 of nineteen acres, without creating any new lot line; and

3 (d) Which are held under the same ownership.

4 (B) For the purposes of this subsection:

5 (1) *Contiguous* refers to parcels of land which have any common boundary, excepting a single
6 point, and shall include, but not be limited to, parcels separated only by an alley, street or
7 other right-of-way;

8 (2) *Substandard Parcel* refers to a parcel which does not satisfy the minimum lot size require-
9 ments of MCC .2058; and

10 (3) *Same Ownership* refers to parcels in which greater than possessory interests are held by the
11 same person or persons, spouse, minor age child, single partnership, or business entity, sep-
12 arately, or in tenancy in common.

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

21 (D) A Lot of Record may be comprised of a separate parcel, containing an area less than that required
22 by MCC .2058(A), created solely for the purposes of financing a dwelling. Such a parcel shall be
23 considered a Mortgage Lot, subject to the following:

24 (1) A Mortgage Lot may be created without review providing the remainder of the Lot of Record
25 is not developed with a residence.

26 (2) The remainder of the Lot of Record shall be ineligible for a permit for a dwelling.

(3) A Mortgage Lot shall not be conveyed as a lot separate from the tract out of which it was created.

(4) The tax roll accounts of the Mortgage Lot and parent lot shall be consolidated into one account when title to both parcels is secured.

11.15.2064 Lot Size for Conditional Uses

Lots less than the minimum specified in MCC .2058(A) may be created for the uses listed in MCC .2048(S) and .2050(C)(1) through (6), (9) through (13), and (16) and (D)(1) through (4), after approval is obtained pursuant to MCC .2053 and based upon:

(A) A finding that the new lot is the minimum [S]site size [needs] necessary for [of] the proposed use;

(B) The nature of the proposed use in relation to its impact on nearby properties; and

(C) Consideration of the purposes of this district.

11.15.2066 Off-Street Parking and Loading

Off-street parking and loading permitted as an accessory use shall be provided as required by MCC .6100 through .6148.

11.15.2068 Access

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

11.15.2070 Exemptions From Non-Conforming Use Provisions

(A) Conditional Uses listed in MCC .2050, legally established prior to October 6, 1977, shall be deemed conforming and not subject to the provisions of MCC .8805 through .8810, provided, however, that any change of use shall be subject to approval pursuant to the provisions of MCC .2050.

(B) The term "change of use", as used in this section, means the change from one Conditional Use listed in MCC .2050 to another such Conditional Use.

1 **11.15.2072 Right to Complete Single-Family Dwelling**

2 (A) A single family dwelling may be completed under the provisions of a building permit issued prior
3 to January 7, 1993.

4 (1) The building permit shall be subject only to the regulations in effect prior to January 7, 1993.

5 (2) The building permit must continue to be kept valid under the permit regulations of the appli-
6 cable government issuer until completion of the dwelling.

7 (B) A building permit for a new single family dwelling may be issued up to 180 days after January 7,
8 1993 if approval from the Planning Director was obtained on a building permit application prior to
9 January 7, 1993.

10 (1) The building permit shall be subject only to the regulations in effect prior to January 7, 1993.

11 (2) The building permit must continue to be kept valid under the permit regulations of the appli-
12 cable government issuer until completion of the dwelling.

13 (C) A building permit for a new single family dwelling may be issued up to two years after January 7,
14 1993 if approval from the Planning Director was given in an administrative proceeding for a "resi-
15 dential use, in conjunction with a primary use" pursuant to the applicable Use Under Prescribed
16 Conditions provisions of MCC .2050(A) or MCC .2170(A) in effect prior to January 7, 1993.

17 (1) The building permit shall be subject only to the regulations in effect prior to January 7, 1993.

18 (2) The building permit must continue to be kept valid under the permit regulations of the appli-
19 cable government issuer until completion of the dwelling.

20 (3) Pursuant to the provisions and requirements of ORS 215.428, application for a "residential
21 use, in conjunction with a primary use" referenced above will be accepted until January 7,
22 1993.

23 (D) A building permit for a new single family dwelling may be issued after January 7, 1993 for a
24 dwelling approved as a "residential use, not in conjunction with a primary use" by a Hearing
25 Authority in an action proceeding pursuant to the applicable Conditional Use provisions of MCC
26 .2052(C) or MCC .2172(C) in effect prior to January 7, 1993 if the approval has not expired pur-

1 suant to MCC .7110(C).

2 (1) The building permit shall be subject only to the regulations in effect prior to January 7, 1993.

3 (2) The building permit must continue to be kept valid under the permit regulations of the appli-
4 cable government issuer until completion of the dwelling.

5 (3) Pursuant to the provisions and requirements of ORS 215.428, application for a "residential
6 use, not in conjunction with a primary use" referenced above will be accepted until January 7,
7 1993.

8 **11.15.2074 Development Standards for Dwellings and Structures**

9 Except as provided for the alteration, replacement or restoration of dwellings under MCC .2048(D),
10 .2048(E) and .2049 (B), all dwellings and structures located in the CFU district after January 7, 1993
11 shall comply with the following:

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

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

15 (2) ~~[Forest operations and accepted farming practices will not be curtailed or impeded]~~ Adverse
16 impacts on forest operations and accepted farming practices on the tract will be minimized;

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

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

22 (5) The risks associated with wildfire are minimized. Provisions for reducing such risk shall
23 include:

24 (a) The proposed dwelling will be located upon a tract within a fire protection district or
25 the dwelling shall be provided with residential fire protection by contract;

26 (b) [(a)] Access for a pumping fire truck to within 15 feet of any perennial water source on

1 the lot. The access shall meet the driveway standards of MCC .2074(D) with permanent
2 signs posted along the access route to indicate the location of the emergency water
3 source;

4 (c) [(b)] Maintenance of a primary and a secondary fire safety zone on the subject tract.

5 (i) A primary fire safety zone is a fire break extending a minimum of 30 feet in all direc-
6 tions around a dwelling or structure. Trees within this safety zone shall be spaced
7 with greater than 15 feet between the crowns. The trees shall also be pruned to
8 remove low branches within 8 feet of the ground as the maturity of the tree and
9 accepted silviculture practices may allow. All other vegetation should be kept less
10 than 2 feet in height.

11 (ii) On lands with 10 percent or greater slope the primary fire safety zone shall be
12 extended down the slope from a dwelling or structure as follows:

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

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19 (iii) A secondary fire safety zone is a fire break extending a minimum of 100 feet in all
20 directions around the primary safety zone. The goal of this safety zone is to reduce
21 fuels so that the overall intensity of any wildfire is lessened. Vegetation should be
22 pruned and spaced so that fire will not spread between crowns of trees. Small trees
23 and brush growing underneath larger trees should be removed to prevent the spread
24 of fire up into the crowns of the larger trees. Assistance with planning forestry prac-
25 tices which meet these objectives may be obtained from the State of Oregon
26 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) ~~(e)~~ The building site must have a slope less than 40 percent.

(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; ~~and~~

(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.

(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

1 required for the use described in the application. If the proposed water supply is from a
2 well and is exempt from permitting requirements under ORS 537.545, the applicant
3 shall submit the well constructor's report to the county upon completion of the well.

4 (D) A private road (including approved easements) accessing two or more dwellings, or a driveway
5 accessing a single dwelling, shall be designed, built, and maintained to:

- 6 (1) Support a minimum gross vehicle weight (GVW) of 52,000 lbs. Written verification of com-
7 pliance with the 52,000 lb. GVW standard from an Oregon Professional Engineer shall be
8 provided for all bridges or culverts;
- 9 (2) Provide an all-weather surface of at least 20 feet in width for a private road and 12 feet in
10 width for a driveway;
- 11 (3) Provide minimum curve radii of 48 feet or greater;
- 12 (4) Provide an unobstructed vertical clearance of at least 13 feet 6 inches;
- 13 (5) Provide grades not exceeding 8 percent, with a maximum of 12 percent on short segments,
14 except as provided below:
- 15 (a) Rural Fire Protection District No. 14 requires approval from the Fire Chief for grades
16 exceeding 6 percent;
- 17 (b) The maximum grade may be exceeded upon written approval from the fire protection
18 service provider having responsibility;
- 19 (6) Provide a turnaround with a radius of 48 feet or greater at the end of any access exceeding
20 150 feet in length;
- 21 (7) Provide for the safe and convenient passage of vehicles by the placement of:
- 22 (a) Additional turnarounds at a maximum spacing of 500 feet along a private road; or
23 (b) Turnouts measuring 20 feet by 40 feet along a driveway in excess of 200 feet in length
24 at a maximum spacing of 1/2 the driveway length or 400 feet whichever is less.
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1 Section III. Amendments to Comprehensive Framework Plan Policies.

2 Multnomah County Comprehensive Framework Plan Policy 11, Commercial Forest Land, is
3 amended to read as follows:

4
5 **POLICY 11: COMMERCIAL FOREST LAND**

6 INTRODUCTION

7 The purpose of the Commercial Forest Land Area Classification is to conserve forest lands by main-
8 taining the forest land base and to protect the state's forest economy by making possible economically
9 efficient forest practices that assure the continuous growing and harvesting of forest tree species as the
10 leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife
11 resources and to provide for recreational opportunities and agriculture.

12
13 The intent of the Commercial Forest Land Area Classification is to allocate lands which are suitable for
14 commercial forest management including adjacent or nearby lands which are necessary to permit forest
15 operations or practices and other forested lands that maintain soil, air, water and fish and wildlife
16 resources.

17
18 Forest operations, practices and auxiliary uses shall be allowed on forest lands subject only to such reg-
19 ulation of uses as are found in ORS 527.722. Uses which may be allowed subject to standards set forth
20 in Statewide Planning Goal 4 and Oregon Administrative Rule 660, Division 6 are: (1) uses related to
21 and in support of forest operations; (2) uses to conserve soil, water and air quality, and to provide for
22 fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environ-
23 ment; (3) locationally dependent uses; (4) ~~[forest management dwellings that are necessary for, and~~
24 ~~accessory to, forest operations]~~ large acreage dwellings authorized by OAR 660-06-027(1)(c)
25 (December, 1995); and (5) ~~[other dwellings under prescribed conditions]~~ template dwellings authorized
26 by OAR 660-06-027(1)(d) (December, 1995). It is the policy of Multnomah County to allow only the

1 two types of dwellings in (4) and (5) above from the listing of authorized types of dwellings in Oregon
2 Revised Statutes and Oregon Administrative Rules. Further, the implementing Zoning Code criteria of
3 approval of those two types of dwellings may be more restrictive than the permitted standards in
4 Statute and Rule.

5
6 THE COUNTY'S POLICY IS TO DESIGNATE AND MAINTAIN AS COMMERCIAL FOREST
7 LAND, AREAS WHICH ARE:

- 8 A. PREDOMINANTLY IN FOREST CUBIC FOOT SITE CLASS I, II, AND III, FOR DOUGLAS
9 FIR AS CLASSIFIED BY THE U.S. SOIL CONSERVATION SERVICE;
10 B. SUITABLE FOR COMMERCIAL FOREST USE AND SMALL WOODLOT MANAGEMENT;
11 C. POTENTIAL REFORESTATION AREAS, BUT NOT AT THE PRESENT USED FOR COMMER-
12 CIAL FORESTRY;
13 D. NOT IMPACTED BY URBAN SERVICES; AND
14 E. COHESIVE FOREST AREAS; OR
15 F. OTHER AREAS WHICH ARE:
16 1. NECESSARY FOR WATERSHED PROTECTION OR ARE SUBJECT TO LANDSLIDES,
17 EROSION OR SLUMPING; OR
18 2. WILDLIFE AND FISHERY HABITAT AREAS, POTENTIAL RECREATION AREAS OR OF
19 SCENIC SIGNIFICANCE.

20 THE COUNTY'S POLICY IS TO ALLOW FOREST MANAGEMENT WITH RELATED AND
21 COMPATIBLE USES, BUT TO RESTRICT INCOMPATIBLE USES FROM THE COMMERCIAL
22 FOREST LAND AREA, RECOGNIZING THAT THE INTENT IS TO PRESERVE FOREST LANDS
23 FROM INAPPROPRIATE AND INCOMPATIBLE DEVELOPMENT.

1 STRATEGIES

2 A. The following strategies shall be addressed as part of the [~~Community Development Ordinance~~]
3 implementing Codes, Ordinances and Programs, including the Zoning (MCC 11.15), Land Division
4 (MCC 11.45) and Street Standards Codes. The strategies are designed to make land divisions and
5 allowed uses compatible with forest operations and agriculture consistent with Statewide Planning
6 Goal 4 and Oregon Administrative Rule (OAR) 660, Division 6:

7 1. The Zoning Code should include a Commercial Forest Zone with:

- 8 a. A base minimum lot size of no less than 80 acres appropriate to commercial forestry, with
9 aggregation of lots in single ownership required in conformance with OAR standards;
- 10 b. Forest and farm uses as primary uses;
- 11 c. [~~Forest management dwellings~~] Large acreage dwellings authorized by OAR 660-06-
12 027(1)(c) (December, 1995) and [dwellings not related to forest management] template
13 dwellings authorized by OAR 660-06-027(1)(d) (December, 1995) as conditional uses with
14 criteria of approval that may be more restrictive than allowed by Statute or Rule. (fewer
15 dwellings may meet the criteria of approval). Such dwellings are to be allowed under
16 approval criteria and siting standards designed to assure conservation of the natural resource
17 base, protection from hazards, and protection of big game winter habitat;
- 18 d. Compatible community service uses allowed by OAR 660, Division 6, mineral and aggre-
19 gate extraction, and support services for forestry activities as conditional uses;
- 20 e. Lots of Record provisions; and
- 21 f. Mortgage lot provisions.

22 2. The County Street and Road Standards Code should include criteria related to street width, road
23 construction standards, and required improvements appropriate to the function of the road.

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1 3. The Capital Improvements Program should not program public sewers to this area, and the
2 County should not support the formation or expansion of existing service district areas for the
3 provision of water service.

4 B. The conversion of land to another broad land use classification should be in accord with the stan-
5 dards set forth by the LCDC Goals, OAR's and in this Plan.
6

7 Section IV. Adoption.

8 This ordinance, being necessary for the health, safety, and general welfare of the people of
9 Multnomah County, an emergency is declared and the ordinance shall take effect upon its execution by the
10 County Chair, pursuant to section 5.50 of the Charter of Multnomah County.

11 ADOPTED THIS 9th day of July, 1996, being the date of its first reading before the Board of
12 County Commissioners of Multnomah County.
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BOARD OF COUNTY COMMISSIONERS
MULTNOMAH COUNTY, OREGON

Dan Saltzman, Vice-Chair

REVIEWED:

LAURENCE KRESSEL, COUNTY COUNSEL
MULTNOMAH COUNTY, OREGON

Sandra N. Duffy, Chief Assistant



DEPARTMENT OF ENVIRONMENTAL SERVICES
TRANSPORTATION AND LAND USE PLANNING DIVISION
2115 SE MORRISON STREET
PORTLAND, OREGON 97214 (503) 248-3043

EXHIBIT A

Case # C 2-96, June, 1996

Report of the Planning Commission to the Board of County Commissioners

FINDINGS ASSOCIATED WITH AMENDING THE ZONING CODE TO INCLUDE MANDATORY PROVISIONS OF THE OREGON ADMINISTRATIVE RULES ON FOREST LANDS AND OREGON REVISED STATUTES; WITH THE OBJECTIVE OF RETAINING EXISTING LOCAL OPTIONS

I. INTRODUCTION

The Zoning Code Provisions for forest lands in Multnomah County were first acknowledged by the Land Conservation and Development Commission (LCDC) to be in conformance with Statewide Planning Goal 4, Forest Lands in July, 1980. Since that date LCDC has adopted Oregon Administrative Rules (OARs) and the Legislature has adopted laws into the Oregon Revised Statutes (ORS) to carry out the purposes of Goal 4 and address specific development issues on forest lands. A short history of recent state and county regulatory actions can be summarized as follows:

- LCDC adopted OAR 660, Division 6 on January 25, 1990
- LCDC amended OAR 660, Division 6 on March 1, 1990
- LCDC amended OAR 660, Division 6 on December 3, 1992
- Multnomah County amends Commercial Forest Use (CFU) Zone on December 6, 1992 (effective 1/7/93) and is fully in compliance with all state standards
- Legislature passes HB 3661, signed by Governor, effective date in November, 1993
- At this point the Multnomah County Planning Director initiates the policy of applying both the CFU and Statute (and later amended OAR) provisions based upon the concept that the county code is still in effect except as may be in direct conflict with state requirements by being **less restrictive**. For example, Zoning Code standards that included additional standards of approval for new dwellings were retained in the review of applications — with the addition of any more restrictive state standards. It was also determined that the "Lot of Record Dwelling" and the rectangular template variations for a "Template Dwelling" were optional provisions for which the county would not accept applications unless those options were included in the Zoning Code.
- LCDC amended OAR 660, Division 6 on February 18, 1994
- Legislature and Governor pass minor amendments (2 different times) during 1995

Planning staff, various citizen groups, and the Planning Commission are in the process of adopting and updating Rural Area Plans in the county. In reviewing the Rural Area Plans all the various optional uses and provisions allowed by the OARs and ORSs will be examined. **This proposal is an interim step before those plans are completed. Following are the minimum OAR and ORS required amendments to the Zoning Code.** In a few instances, where existing land uses in the Zoning Code have been repealed by Statute then the closest equivalent current OAR and ORS provisions have been substituted. Existing standards in the CFU Zone, even if more restrictive than allowed, have been retained. Following the CFU Zoning section is Plan Policy 11, Commercial Forest Land.

II. PROPOSED CODE AMENDMENTS

NOTE: Proposed amendments are shown with new wording underlined and language to be deleted in [~~brackets and crossed through~~].

Commercial Forest Use CFU

11.15.2042 Purposes

The purposes of the Commercial Forest Use District are to conserve and protect designated lands for continued commercial growing and harvesting of timber and the production of wood fiber and other forest uses; to conserve and protect watersheds, wildlife habitats and other forest associated uses; to protect scenic values; to provide for agricultural uses; to provide for recreational opportunities and other uses which are compatible with forest use ; implement Comprehensive Framework Plan Policy 11, Commercial Forest Land and to minimize potential hazards or damage from fire, pollution, erosion or urban development.

11.15.2044 Area Affected

MCC .2042 through .2074 shall apply to those lands designated CFU on the Multnomah County Zoning Map.

11.15.2045 Definitions

As used in MCC .2042 through .2074, unless otherwise noted, the following words and their derivations shall have the following meanings:

~~[(A) Accessory to — As applied to forest dwellings, a dwelling that is incidental and subordinate to the main forest use.]~~

(A) ~~[(B)]~~ Auxiliary — For the purposes of MCC .2048(A)(2) to (3), the use or alteration of a structure or land which provides temporary help, or is

Oregon Administrative Rules (OAR),
Chapter 660, Division 6 — Land
Conservation and Development
Commission (December, 1995),
Goal 4 Forest Lands;

Oregon Revised Statutes (ORS),
Chapter 215;

and Staff Comments

NOTE: The relevant Administrative Rules and Statutes are not quoted in their entirety. Given below are only those portions of the Rules and Statutes which apply directly to needed updates of the Zoning Code.

Comments and explanations are preceded by the introduction "*Comment*:".

OAR 660-06-003 (1) OAR Chapter 660, Division 6 applies to all forest lands as defined by Goal 4.

(2) Governing bodies shall amend their comprehensive plan and land use regulations to comply with requirements of OAR 660-06-035(2) and 660-06-040 by September 6, 1994.

Comment: "Accessory to" was a term used for evaluating applications for forest management dwellings. That dwelling type is no longer in the Rule.

June, 1996

directly associated with the conduct of a particular forest practice. An auxiliary structure shall be located on site, be temporary in nature, and be designed not to remain for the entire growth cycle of the forest from planting to harvesting. An auxiliary use shall be removed when the particular forest practice for which it was approved is concluded.

- (B) [(C)] Campground** – An area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes. A camping site may be occupied by a tent, travel trailer or recreational vehicle. A campground shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

~~**(D) Necessary for** – As applied to forest management dwellings, the principal purpose for locating the dwelling is to enable the resident(s) to contribute substantially to the effective and efficient management of the forest land. A resident contributes substantially when the resident spends an extensive amount of time performing forest management activities which increase timber yields, quality or productivity, and which are recognized by the Forest Practices Act. Necessary for precludes a dwelling which simply "enhances" forest management. Necessary for also does not demand that a dwelling be absolutely required for forest management or that the production of trees is physically possible only with a dwelling.]~~

- (C) Commercial Tree Species** – Trees recognized under rules adopted under ORS 527.715 (1996) for commercial production.

- (D) Cubic Foot Per Acre** – The average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service. Where SCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be

Comment: "Necessary for" was a term used for evaluating applications for forest management dwellings. That dwelling type is no longer in the Rule.

OAR 660-06-027 (5) (b) "Commercial Tree Species" means trees recognized under rules adopted under ORS 527.715 for commercial production.

OAR 660-06-005 (2) "Cubic Foot Per Acre" means the average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service. Where SCS data

used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

(E) Cubic Foot Per Tract Per Year – The average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service. Where SCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

(F) Date of Creation and Existence – When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot of record pursuant to MCC .2062 or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot of record or tract.

(G) Forest Operation – Any commercial activity relating to the growing or harvesting of any forest tree species as defined in ORS 527.620 (6) (1996).

(H) Tract – One or more contiguous Lots of Record pursuant to MCC .2062, in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway. Lots that are contiguous with a common boundary of only a single point are not a tract.

are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

OAR 660-06-005 (3) "Cubic Foot Per Tract Per Year" means the average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Soil Conservation Service. Where SCS data are not available or are shown to be inaccurate, an alternative method for determining productivity may be used. An alternative method must provide equivalent data and be approved by the Department of Forestry.

OAR 660-06-005 (4) "Date of Creation and Existence". When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract.

OAR 660-06-005 (6) "Forest Operation" means any commercial activity relating to the growing or harvesting of any forest tree species as defined in ORS 527.620 (6).

OAR 660-06-027 (5) (a) "Tract" means one or more contiguous lots or parcels in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway;

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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.

11.15.2048 Uses Permitted Outright

(A) The following uses pursuant to the Forest Practices Act and Statewide Planning Goal 4:

- (1) Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash;
- (2) Temporary on site structures which are auxiliary to and used during the term of a particular forest operation; or
- (3) Physical alterations to the land auxiliary to forest practices including, but not limited to, those for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities;

(B) A temporary portable facility for the primary processing of forest products;

(C) Farm use, as defined in ORS 215.203;

(D) ~~[Maintenance, repair, or expansion]~~ Alteration of an existing lawfully established single family dwelling that:

- (1) Has intact exterior walls and roof structures;
- (2) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

OAR 660-06 025 (3) (p) Alteration, restoration or replacement of a lawfully established dwelling that:

(3) (p) (A) Has intact exterior walls and roof structures;

(3) (p) (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(3) Has interior wiring for interior lights; and

(4) Has a heating system;

(E) Replacement of an existing lawfully established single family dwelling on the same lot, subject to the following:

(1) The replacement dwelling will be located within 200 feet of the existing dwelling; and

(2) The existing dwelling : ~~[shall be habitable, served by a reliable sanitary supply of running water for domestic use, and contain a cooking/eating area, a sleeping area, and bathroom facilities connected to a sewage disposal system]~~

(a) Has intact exterior walls and roof structures;

(b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(c) Has interior wiring for interior lights;

(d) Has a heating system; and

(e) Is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling;

(F) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources, including a public or private wildlife and fisheries resources conservation area;

(G) An uninhabitable structure accessory to fish and

(3) (p) (C) Has interior wiring for interior lights;

(3) (p) (D) Has a heating system; ...

Comment: This subsection is for those replacement dwellings that will be located within 200 feet of the existing house. For those proposed to be farther away than that distance, the approval criteria are in the next section as a "use under prescribed conditions".

OAR 660-06 025 (3) (p) Alteration, restoration or replacement of a lawfully established dwelling that:

(3) (p) (A) Has intact exterior walls and roof structures;

(3) (p) (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(3) (p) (C) Has interior wiring for interior lights;

(3) (p) (D) Has a heating system; and

(3) (p) (E) In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.

Comment: Listed uses to follow have not been changed in the OAR since adoption of the present CFU Zone.

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wildlife enhancement;

- (H) A caretaker residence for a public park or a fish hatchery;
- (I) Local distribution lines (e.g., electric, telephone, natural gas, etc.) and accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups;
- (J) Climbing and passing lanes within the right of way existing as of July 1, 1987;
- (K) Reconstruction or modification of public roads and highways, not including the addition of vehicular travel lanes, where no removal or displacement of buildings will occur, or no new land parcels result;
- (L) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed;
- (M) Minor betterment of existing public roads and highway related facilities such as maintenance yards, weigh stations and rest areas, within a right-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways;
- (N) A lookout tower for forest fire protection;
- (O) A water intake facility, canal and distribution lines for farm irrigation and ponds;
- (P) A temporary forest labor camp;
- (Q) Exploration for mineral and aggregate resources as defined in ORS Chapter 517;
- (R) Exploration for geothermal resources;
- (S) A site for the disposal of solid waste that has been ordered to be established by the Environmental

Quality Commission under ORS 459.049, together with equipment, facilities or buildings necessary for its operation.

11.15.2049 Uses Permitted Under Prescribed Conditions

(A) Replacement of an existing lawfully established single family dwelling on the same lot more than 200 feet from the existing dwelling, subject to the following:

(1) The existing dwelling : ~~[is habitable, is served by a reliable sanitary supply of running water for domestic use, and contains a cooking/eating area, a sleeping area, and bathroom facilities connected to a sewage disposal system; and]~~

(a) Has intact exterior walls and roof structures;

(b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(c) Has interior wiring for interior lights;

(d) Has a heating system; and

(e) Is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling;

(2) The replacement dwelling location meets the development standards of MCC .2074.

(B) Restoration or replacement of a lawfully established single family dwelling on the same lot when the restoration or replacement is made necessary by fire, other casualty or natural disaster, subject to

Comment: This subsection is for those replacement dwellings that will be located more than 200 feet from the existing house.

OAR 660-06 025 (3) (p) Alteration, restoration or replacement of a lawfully established dwelling that:

(3) (p) (A) Has intact exterior walls and roof structures;

(3) (p) (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(3) (p) (C) Has interior wiring for interior lights;

(3) (p) (D) Has a heating system; and

(3) (p) (E) In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.

Comment: This subsection is for replacement of a dwelling that no longer exists due to fire, casualty or natural disaster. The time frame is from

the following:

- (1) Restoration or replacement shall be commenced within one year from the occurrence of the fire, casualty or natural disaster; and
- (2) A replacement dwelling located more than 200 feet from the prior dwelling location shall be subject to the development standards of MCC .2074;
- (3) The existing dwelling at the time of the fire, casualty, or natural disaster:
 - (a) Had intact exterior walls and roof structures;
 - (b) Had indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
 - (c) Had interior wiring for interior lights; and
 - (d) Had a heating system.

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:

- (A) A ~~[Forest Management Dwelling]~~ Large Acreage Dwelling pursuant to the provisions of MCC .2051 and .2074.

Statute for "non-conforming uses" and was required by DLCD during their review of the CFU amendments in 1992.

OAR 660-06 025 (3) (p) Alteration, restoration or replacement of a lawfully established dwelling that:

(3) (p) (A) Has intact exterior walls and roof structures;

(3) (p) (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

(3) (p) (C) Has interior wiring for interior lights;

(3) (p) (D) Has a heating system; ...

OAR 660-06-027 (4) A proposed dwelling under this rule is not allowed:

(4) (a) If it is prohibited by or will not comply with the requirements of an acknowledged comprehensive plan or acknowledged land use regulations or other provisions of law;

Comment: The above reinforces the ability of a county to not choose some of the optional dwelling types, (such as the "dwelling based upon ownership prior to 1985" option). Included in this

(B) A ~~[dwelling not related to forest management]~~
Template Dwelling pursuant to the provisions of
MCC .2052 and .2074.

(C) The following Community Service Uses pursuant
to the provisions of MCC .2053, .2074, .7005
through .7015, and .7035 through .7072.

- (1) Campground.
- (2) Cemetery.
- (3) Fire station for rural and forest fire protection.
- (4) Aid to navigation and aviation.
- (5) Water intake facility, related treatment facility, pumping station, and distribution line.
- (6) Reservoir and water impoundment.
- (7) New distribution line (e.g., gas, oil, geothermal) with a right-of-way 50 feet or less in width or new electric transmission line with a right-of-way width of up to 100 feet as specified in ORS 772.210.

proposal are only the dwelling types, or the closest equivalent, that are now in the code.

Comment: The listing and criteria for forest management dwellings was repealed by the 1993 Legislature in HB 3661. The classification of dwelling that replaced the management dwelling is sometimes called a "large acreage dwelling". The concept is that a sufficient number of acres would likely ensure that the resident of the dwelling was engaged in forestry practices.

Comment: The listing and criteria for dwellings not related to forest management was repealed by the 1993 Legislature in HB 3661. Most of the criteria of approval were retained for another classification of dwelling now commonly referred to as a "template dwelling".

Comment: Listed uses to follow have not been changed in the OAR since adoption of the present CFU Zone. The only remaining difference in the CFU listing of these type of uses and the list in the OAR is the 1992 decision of the Board of County Commissioners to exclude "firearms training facilities" in the county CFU Zoned lands.

- (8) Forest management research and experimentation facility as defined by ORS 526.215.
- (9) Park, including a public or private wildlife and fisheries resources conservation area with accessory structures for educational or instructional use.
- (10) Utility facility for the purpose of generating power provided the facility not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR 660, Division 4.
- (11) Radio, microwave, and television transmission towers subject to the definitions, restrictions and standards in MCC .7020(15) and .7035 through .7041.
- (12) Refuse dump or sanitary landfill for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.
- (13) Regional Sanitary Landfill for which the Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation subject to the definitions, restrictions and standards in MCC .7045 through .7072.
- (14) Private hunting and fishing operation without any lodging accommodations.
- (15) Private seasonal accommodations for a fee hunting operation or fishing, provided:
 - (a) Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
 - (b) Only minor incidental and accessory retail sales are permitted;

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(c) Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons or fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and

(d) Accommodations for fishing must be located within 1/4 mile of fish bearing Class I waters.

(16) Mining, processing and production of geothermal resources.

(D) The following uses pursuant to the provisions of MCC .2053, .2074, .7105 through .7120, .7125 through .7135, .7305 through .7335, and .7605 through .7640.

(1) Mining and processing of aggregate and other mineral or subsurface resources as defined in ORS Chapter 517;

(2) Permanent facility for the primary processing of forest products;

(3) Permanent logging equipment repair and storage;

(4) Log scaling and weigh stations;

(5) Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels;

(6) Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels;

(7) Improvement of public roads and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not

resulting in the creation of new land parcels;
and

- (8) Expansion of aircraft landing areas auxiliary to forestry practices, notwithstanding the provisions of MCC .6050 through .6058.

11.15.2051 [~~Forest Management Dwelling~~] Large Acreage Dwelling

A [~~forest management dwelling~~] large acreage dwelling may be [~~allowed when~~] sited on a tract, subject to the following:

- (A) The lot or lots in the tract [~~size meets the standards of MCC .2058(A) with a minimum area requirement of 80 acres or~~] meet(s) the lot of record standards of MCC .2062(A) and (B) [~~, but shall not be less than 10 acres~~];
- (B) The tract contains at least 160 contiguous acres in one ownership zoned for forest use;
[~~The dwelling is necessary for and accessory to forest operations [including cultured Christmas trees as defined in ORS 215.203(3)]. Such determination shall be based at a minimum on the following information provided by the applicant:~~
- (1) ~~Completed forms available from the Division of Planning and Development or its equivalent regarding the condition and productivity of the lands to be managed;~~
 - (2) ~~A plan for management of the land, including a chronological description of commercial forest management activities to be undertaken by the residents, or under contract and estimates of yield, labor and expenses;~~
 - (3) ~~Maps, showing the site for the proposed dwelling and a description of related fire safety measures;~~
 - (4) ~~The information must be sufficient to enable the Oregon Department of Forestry within 45~~

OAR 660-06-027 (1) Dwellings authorized by OAR 660-06-025(1)(d) are: ...

OAR 660-06-027 (1) (c) If a dwelling is not allowed pursuant to subsection (a) or (b) of this section, a dwelling may be allowed on land zoned for forest use if it complies with other provisions of law and is sited on a tract: ...

OAR 660-06-027 (1) (c) (B) In western Oregon of at least 160 contiguous acres or 200 acres in one ownership that are not contiguous but are in the same county or adjacent counties and zoned for forest use. A deed restriction shall be filed pursuant to section (6) of this rule for all tracts that are used to meet the acreage requirements of this paragraph.

Comment: The prior forest management dwelling standards did not include the ability to count non-contiguous acreage and therefore that provision is not included in this proposal. However, consideration of adding the provision is appropriate during the review of the Rural Area Plans. The deed restriction provision is in a following standard.

days to determine that:

~~(a) The information describing the productivity and current condition of the forest land to be managed is complete and accurate;~~

~~(b) Fulfillment of the forest management plan will result in use of the parcel for the required management purpose in terms of stocking, stand density, and harvest; and~~

~~(c) The siting and safety standards in MCC .2074, derived from OAR 660-06-029 and OAR 660-06-035, have been satisfied;~~

~~(5) Christmas trees and other types of agricultural production may be a part of the management plan. However, such uses shall not be the predominant use on the property nor the basis for determining that the dwelling is necessary.]~~

(C) There ~~is~~ [are] no other dwelling [s] on the tract and no other dwellings are allowed on other lots (or parcels) that make up the tract [~~property which are vacant or currently occupied by persons not engaged in forestry, which could be used as the principal forest dwelling for the forest operation];~~

~~[(D) The property qualifies for and is enrolled in one of the State of Oregon forest tax programs;]~~

~~[(E) The dwelling will not significantly interfere with, significantly increase the costs of, or impede accepted forestry or farming practices on surrounding forest or agricultural lands;]~~

OAR 660-06-027 (4) A proposed dwelling under this rule is not allowed:

...

(4) (c) Unless no dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under section (6) of this rule for the other lots or parcels that make up the tract are met;

(4) (d) If the tract on which the dwelling will be sited includes a dwelling.

Comment: See new MCC .2051(G) below for proposed tax deferral and tree stocking requirements.

Comment: The 1993 legislation and the resulting OAR dropped this criteria of approval for dwellings and changed the emphasis from trying to judge an amount of interference (if "significant") to a standard of attempting to minimize and reduce potential impacts on nearby forestry and farming. That is done in

(D) ~~[(F)]~~ 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;

(E) ~~[(G)]~~ 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;

(F) ~~[(H)]~~ 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;

(G) ~~[(I) The forest lands to be managed by the resident of the proposed dwelling meet the stocking and survival requirements of the Forest Practices Rules for the Northwest Region (as specified in OAR 629-24-502) at the time the permanent dwelling is requested;]~~ 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:

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

the evaluation of the location of the dwelling on the subject lot [OAR 660-06-029 (5)]. Those standards are found in MCC .2074 at the end of the CFU district regulations.

OAR 660-06-029 (5) Approval of a dwelling shall be subject to the following requirements:

(5) (a) Approval of a dwelling 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;

(5) (b) The planning department shall notify the county assessor of the above condition at the time the

(2) 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;

(3) 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;

(H) 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) has been recorded with the county Division of Records;

(1) The covenants, conditions and restrictions as specified in "Exhibit A" above shall specify that it is not lawful to use the acreage of the subject tract to qualify another tract for the siting of a dwelling;

(2) The covenants, conditions and restrictions as specified in "Exhibit A" are irrevocable, unless a statement of release is signed by an

dwelling is approved;

(5) (c) 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;

(5) (d) 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.

OAR 660-06-027 (6)(a) The applicant for a dwelling authorized by paragraph (1)(c)(A) or (B) of this rule that requires one or more lot or parcel to meet minimum acreage requirements shall provide evidence that the covenants, conditions and restrictions form adopted as "Exhibit A" has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located;

(b) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county

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authorized representative of Multnomah County and any other county where the property subject to the covenants, conditions and restrictions is located;

- (3) Enforcement of the covenants, conditions and restrictions shall be as specified in OAR 660-06-027 (December, 1995).

- ~~[(J) A temporary forest management dwelling may be approved if the lands to be managed meet all of the requirements for approval of a forest management dwelling except for the stocking and survival requirements of the Forest Practices Rules of OAR 629-24-502, subject to the following:~~

- ~~(1) The temporary dwelling shall be a manufactured or mobile home;~~
- ~~(2) A written agreement has been recorded with the Division of Records which states the temporary dwelling and any accessory structures will be removed by the applicant within 60 days of the determination by the Planning~~

or counties where the property subject to the covenants, conditions and restrictions is located;

(c) Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located;

(d) The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section;

(e) The county planning director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting tracts which do not qualify for the siting of a dwelling under the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.

Comment: This type of dwelling would have allowed someone to occupy a mobile home during the time that the property was stocked to Forest Practices standards. Provision repealed along with the forest management dwelling.

~~Director that the property has not met the stocking and survival requirements of OAR 629-24-502 within 5 years of the dwelling approval date, or within 7 years of that date if an extension is approved pursuant to MCC .2051(J)(4); and~~

- ~~(3) A commitment to pay all costs associated with the removal of the dwelling and any accessory structures in the form of either a cash deposit, irrevocable letter of credit, or other form of financial security determined acceptable by County Counsel in an amount sufficient to pay for all removal costs in the event the property has not met the stocking and survival requirements of OAR 629-24-502 within 5 years of the dwelling approval date, or within 7 years of that date if an extension is approved pursuant to MCC .2051(J)(4).~~
- ~~(4) The Planning Director may grant an extension of not more than 2 years upon a finding that the applicant has submitted, before expiration of the 5 year time limit, substantial evidence demonstrating that completion of the requirements of OAR 629-24-502 was not possible due to natural disaster or illness.~~
- ~~(5) Within 5 years of the dwelling approval date, the applicant shall either provide evidence that the stocking and survival requirements of OAR 629-24-502 have been met, or provide evidence required for an extension pursuant to MCC .2051(J)(4).~~
- ~~(6) Within 60 days of the expiration of the 5 year stocking time period, the Planning Director shall make a determination whether the prospective resident has complied with the requirements of MCC .2051(J), or whether the resident has provided sufficient support for an extension.~~
- ~~(7) The Planning Director shall enforce the terms of the agreements specified in MCC~~

~~.2051(J)(2) and (3) if the prospective resident fails to meet the stocking and survival requirements within 5 years, unless the temporary dwelling and accessory structures already have been removed or unless an extension has been granted.~~

~~(8) Upon determination by the Planning Director that all requirements of MCC .2051I(J) have been met, the temporary forest dwelling may be replaced by a permanently constructed dwelling, or a permanent placement permit may be issued for the manufactured or mobile home already in place.~~

~~(K) An application for a forest management dwelling is not complete for the purpose of requiring the County to take final action on the permit within 120 days, as required by ORS 215.428, until all the required information, including the review and evaluation by the Oregon Department of Forestry required by OAR 660-06-027(1), is submitted to the Division of Planning and Development.]~~

11.15.2052 Template Dwelling [~~Not Related to Forest Management~~]

(A) A template dwelling [~~not related to forest management~~] may be [~~allowed~~] 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;
- (2) The [~~lot~~] 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;

Comment: The January 25, 1990 date is not in the current OAR.

(3) The ~~[lot]~~ tract shall meet the following standards:

(a) The ~~[[lot]~~ tract shall be composed primarily of soils which are capable of producing 0 to 49 *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 3 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject ~~[lot]~~ tract parallel and perpendicular to section lines; and

(ii) ~~[One]~~ At least 3 dwellings lawfully existed[s] on January 1, 1993 within the 160-acre square, or

(b) The ~~[lot]~~ tract shall be composed primarily of soils which are capable of producing 50 to 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 7 other lawfully created lots existed on January 1, 1993 within a 160-acre square when centered on the center of the subject ~~[lot]~~ tract parallel and perpendicular to section lines;

OAR 660-06-027 (1) (d) In western Oregon, a governing body of a county or its designate may allow the establishment of a single-family dwelling on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:

(1) (d) (A) Capable of producing 0 to 49 cubic feet per acre per year of wood fiber if:

(1) (d) (A) (i) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

Comment: The requirement that the template be perpendicular to section lines is no longer in the Rule. Any change to allow "turning" will be evaluated in the Rural Area Plans process.

(1) (d) (A) (ii) At least three dwellings existed on January 1, 1993 on the other lots or parcels.

Comment: The Rule does not require that the dwellings be within the square; they only need to be somewhere on the lots that fall inside the square. This option can be evaluated with the Rural Area Plans.

(1) (d) (B) Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:

(1) (d) (B) (i) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

Comment: The requirement that the template be perpendicular to section

and

- (ii) At least [F] three dwellings lawfully existed on January 1, 1993 within the 160-acre square, or

- (c) The ~~[lot]~~ 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 ~~[lot]~~ tract parallel and perpendicular to section lines; and

- (ii) At least [F] five dwellings lawfully existed on January 1, 1993 within the 160-acre square.

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

lines is no longer in the Rule. Any change to allow "turning" will be evaluated in the Rural Area Plans process.

- (1) (d) (B) (ii) At least three dwellings existed on January 1, 1993 on the other lots or parcels.

Comment: The Rule does not require that the dwellings be within the square; they only need to be somewhere on the lots that fall inside the square. This option can be evaluated with the Rural Area Plans.

- (1) (d) (C) Capable of producing more than 85 cubic feet per acre per year of wood fiber if:

- (1) (d) (C) (i) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

Comment: The requirement that the template be perpendicular to section lines is no longer in the Rule. Any change to allow "turning" will be evaluated in the Rural Area Plans process.

- (1) (d) (C) (ii) At least three dwelling existed on January 1, 1993 on the other lots or parcels.

Comment: This proposal retains the requirement of the 1992 OAR. Evaluation of the option to reduce the number to 3 is taking place during the update of the Rural Area Plans. Another option is that the dwellings only need to be somewhere on the lots that fall inside the square, (the dwellings could fall outside the square).

Comment: Not in current OAR. However, this requirement is in ORS 215.750(3).

~~[(e) The lot is not capable of producing 5,000 cubic feet of wood fiber per year from commercial tree species recognized by the Forest Practices Rules.]~~

(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;

~~[(4) The dwelling will not force a significant change in, significantly increase the costs of, or impede accepted forestry or farming practices on surrounding forest or agricultural lands;]~~

Comment: This requirement is not in the current OAR. The standard affects, typically, forest lots of approximately 40 acres or larger. Such lots could under the prior Rules apply for a forest management dwelling. Elimination of the forest management dwelling provisions results in lots of from approximately 40 acres to less than 160 acres without the ability to apply for a dwelling if the existing language is retained.

OAR 660-06-027 (4) A proposed dwelling under this rule is not allowed:

...

(4) (d) If the tract on which the dwelling will be sited includes a dwelling.

Comment: The requirement for (f), (g), and (h) is given below at MCC .2052(A)(9). The requirements are found in ORS 215.750 (4) (c) and 215.740 (3) (b), but not yet in the OAR's.

Comment: The 1993 legislation and the resulting OAR dropped this criteria of approval for dwellings and changed the emphasis from trying to judge an amount of interference (if "significant") to a standard of attempting to minimize and reduce potential impacts on nearby forestry and farming. That is done in the evaluation of the location of the dwelling on the subject lot [OAR 660-06-029 (5)]. Those standards are found in MCC .2074 at the end of the CFU district regulations.

(4) ~~[(5)]~~ 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;

~~[(6) The proposed dwelling will be located on a lot within a rural fire protection district, or the proposed resident has contracted for residential fire protection;]~~

(5) ~~[(7)]~~ 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;

(6) ~~[(8) The parcel on which the dwelling will be located has been disqualified from receiving a farm or forest tax deferral]~~ 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;

Comment: This provision has been expanded in the current OAR and the new proposed language is moved to the development standards section of MCC .2074. That change makes the requirement also apply to the Large Acreage Dwelling and more closely matches the organization of the OAR.

OAR 660-06-029 (5) Approval of a dwelling shall be subject to the following requirements:

(5) (a) Approval of a dwelling 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;

(5) (b) 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;

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

(8) [(10)] 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;

(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

(5) (c) 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;

(5) (d) 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.

Comment: Not in current OAR. However, it is in the 1995 Statutes.

ORS 215.750 (4) A proposed dwelling under this subsection is not allowed: . . .

ORS 215.750 (4) (c) Unless no

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).

(B) ~~[Dwellings not related to forest management shall not be allowed upon the effective date of a small scale resource land program adopted pursuant to the requirements of OAR 660, Divisions 6 and 33.]~~
~~(Deleted 1996, Ord. _____)~~

11.15.2053 Use Compatibility Standards

Specified uses of MCC .2050(C) and (D) and .2056 may be allowed upon a finding that:

(A) The use will:

(1) Not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands;

dwellings are allowed on other lots or parcels that make up the tract and deed restrictions established under ORS 215.740 (3) for the other lots or parcels that make up the tract are met.

ORS 215.740 (3) (b) (First part of paragraph omitted) . . . The deed restrictions shall preclude all future rights to construct a dwelling on the tracts or to use the tracts to total acreage for future siting of dwellings for present and any future owners unless the tract is no longer subject to protection under goals for agricultural lands or forestlands.

Small-Scale Resource Land

OAR 660-06-070 [Repealed by LCDC 1-1994]

Comment: The uses cited do not include dwellings because the OAR has different "compatibility" standards for dwellings, (see the Development Standards in MCC .2074).

- (2) Not significantly increase fire hazard, or significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel; and

- (B) 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.

11.15.2054 Accessory Uses

The following structures or uses may be authorized in this district provided they are customarily accessory or incidental to a permitted use:

- (A) Signs, pursuant to the provisions of MCC 11.15.7902-.7982;
- (B) Off-street parking and loading as required by MCC .6100 through .6148;
- (C) Home occupations pursuant to the definition and restrictions of MCC .0010. Home occupations as defined by MCC .0010 do not allow the level of activity defined in ORS 215.448; and
- (D) Other structures or uses determined by the Planning Director to be customarily accessory or incidental to any use permitted or approved in this district.

11.15.2056 Temporary Uses

- (A) A mobile home, in conjunction with an existing dwelling, upon obtaining an annual Temporary Health Hardship Permit pursuant to MCC .2053 and .8710.
- (B) An asphalt and concrete batch plant accessory to a specific highway project pursuant to MCC .2053.

11.15.2058 Dimensional Requirements

- (A) Except as provided in MCC .2060, .2061, .2062, and .2064, the minimum lot size shall be 80 acres.
- (B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the size of such lot.
- (C) Minimum Yard Dimensions - Feet:

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

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

These yard dimensions and height limits shall not be applied to the extent they would have the effect of prohibiting a use permitted outright. Variances to dimensional standards shall be pursuant to MCC .8505 through .8525, as applicable.

- (D) To allow for clustering of dwellings and potential sharing of access, a minimum yard requirement may be decreased to 30 feet if there is a dwelling on an adjacent lot within a distance of 100 feet of the new dwelling.
- (E) The minimum yard requirement shall be increased where the yard abuts a street having insufficient right-of-way width to serve the area. The Planning Commission shall determine the necessary right-of-way widths and additional yard requirements not otherwise established by ordinance.
- (F) Structures such as barns, silos, windmills, antennae, chimneys, or similar structures may exceed the height requirements.
- (G) *[Repealed 1994, Ord. 804 § III]*

Comment: The ability to create a small lot for an existing house from a greater than 80 acre lot (MCC .2060) was deleted from the 1993 Statutes and the current OAR. However, a similar version was added by the 1995 Legislature to ORS 215.780(2)(b), [see below at MCC .2060 Lots of Exception].

11.15.2060 Lots of Exception

The Planning Director may grant an exception to permit the creation of a lot of less than the minimum specified in MCC .2058(A) subject to the following:

- (A) The Lot of Record to be divided exceeds the area requirements of MCC .2058(A);
- (B) The Lot of Exception will contain a dwelling which existed prior to January 25, 1990;
- (C) The Lot of Exception will be no larger than 5 acres;
- (D) The division will create no more than one lot which is less than the minimum area required in MCC .2058(A); ~~and~~
- (E) The division complies with the dimensional requirements of MCC .2058 (C) through (F); and
- (F) The parcel not containing the dwelling is not entitled to a dwelling.
 - (1) A condition of approval shall require that covenants, conditions and restrictions stating that requirement shall be recorded with the county Division of Records.
 - (2) 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 parcel is no longer subject to protection under Statewide Planning Goals for forest or agricultural lands.

11.15.2061 Lot Line Adjustment

- (A) The Planning Director may approve an adjustment of the common lot line between contiguous Lots of Record based on a finding that:
 - (1) The permitted number of dwellings will not thereby be increased above that otherwise

Comment: This provision was in the 1992 OAR, was later deleted from the OAR, then was added to the ORSs in 1995: ORS 215.780(2)(b).

ORS 215.780 (2) (b) (B) The dwelling existed prior to June 1, 1995;

ORS 215.780 (2) (b) (D) The remaining parcel, not containing the dwelling, is not entitled to a dwelling unless subsequently authorized by law or goal.

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allowed in this district;

- (2) The resulting lot configuration is at least as appropriate for the continuation of the existing commercial forest practices in the area as the lot configuration prior to adjustment;
- (3) The new lot line is in compliance with the dimensional requirements of MCC .2058 (C) through (G); and
- (4) Neither of the properties is developed with a dwelling approved under the provisions for a mobile home on a Health Hardship, or a dwelling for the housing of help required to carry out a farm or forest use.

11.15.2062 Lot of Record

(A) For the purposes of this district, a Lot of Record is:

(1) A parcel of land:

- (a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to August 14, 1980;
- (b) Which satisfied all applicable laws when the parcel was created; and
- (c) Which satisfies the minimum lot size requirements of MCC .2058, or

(2) A parcel of land:

- (a) For which a deed or other instrument creating the parcel was recorded with the Department of General Services, or was in recordable form prior to February 20, 1990;
- (b) Which satisfied all applicable laws when the parcel was created;

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- (c) Does not meet the minimum lot size requirements of MCC .2058; and
 - (d) Which is not contiguous to another sub-standard parcel or parcels under the same ownership, or
- (3) A group of contiguous parcels of land:
- (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;
 - (b) Which satisfied all applicable laws when the parcels were created;
 - (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
 - (d) Which are held under the same ownership.

(B) For the purposes of this subsection:

- (1) *Contiguous* refers to parcels of land which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels separated only by an alley, street or other right-of-way;
- (2) *Substandard Parcel* refers to a parcel which does not satisfy the minimum lot size requirements of MCC .2058; and
- (3) *Same Ownership* refers to parcels in which greater than possessory interests are held by the same person or persons, spouse, minor age child, single partnership, or business entity, separately, or in tenancy in common.

- (C) A Lot of Record which has less than the front lot line minimums required may be occupied by any permitted or approved use when in compliance with the other requirements of this district.
- (D) A Lot of Record may be comprised of a separate parcel, containing an area less than that required by MCC .2058(A), created solely for the purposes of financing a dwelling. Such a parcel shall be considered a Mortgage Lot, subject to the following:
- (1) A Mortgage Lot may be created without review providing the remainder of the Lot of Record is not developed with a residence.
 - (2) The remainder of the Lot of Record shall be ineligible for a permit for a dwelling.
 - (3) A Mortgage Lot shall not be conveyed as a lot separate from the tract out of which it was created.
 - (4) The tax roll accounts of the Mortgage Lot and parent lot shall be consolidated into one account when title to both parcels is secured.

11.15.2064 Lot Size for Conditional Uses

Lots less than the minimum specified in MCC .2058(A) may be created for the uses listed in MCC .2048(S) and .2050(C)(1) through (6), (9) through (13), and (16) and (D)(1) through (4), after approval is obtained pursuant to MCC .2053 and based upon:

- (A) A finding that the new lot is the minimum [S]site size [needs] necessary for [of] the proposed use;
- (B) The nature of the proposed use in relation to its impact on nearby properties; and

OAR 660-06-026 (2) New land divisions less than the parcel size in section (1) of this rule may be approved only for the uses listed in OAR 660-06-025(3)(m) through (o) and (4)(a) through (n) provided that such uses have been approved pursuant to OAR 660-06-025(5). Such divisions shall create a parcel that is the minimum size necessary for the use.

Comment: The change in the OAR was the addition of the last sentence in the above.

(C) Consideration of the purposes of this district.

11.15.2066 Off-Street Parking and Loading

Off-street parking and loading permitted as an accessory use shall be provided as required by MCC .6100 through .6148.

11.15.2068 Access

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

11.15.2070 Exemptions From Non-Conforming Use Provisions

(A) Conditional Uses listed in MCC .2050, legally established prior to October 6, 1977, shall be deemed conforming and not subject to the provisions of MCC .8805 through .8810, provided, however, that any change of use shall be subject to approval pursuant to the provisions of MCC .2050.

(B) The term "change of use", as used in this section, means the change from one Conditional Use listed in MCC .2050 to another such Conditional Use.

11.15.2072 Right to Complete Single-Family Dwelling

(A) A single family dwelling may be completed under the provisions of a building permit issued prior to January 7, 1993.

(1) The building permit shall be subject only to the regulations in effect prior to January 7, 1993.

(2) The building permit must continue to be kept valid under the permit regulations of the applicable government issuer until completion of the dwelling.

(B) A building permit for a new single family dwelling may be issued up to 180 days after January 7, 1993

Comment: Citation correction.

if approval from the Planning Director was obtained on a building permit application prior to January 7, 1993.

- (1) The building permit shall be subject only to the regulations in effect prior to January 7, 1993.
 - (2) The building permit must continue to be kept valid under the permit regulations of the applicable government issuer until completion of the dwelling.
- (C) A building permit for a new single family dwelling may be issued up to two years after January 7, 1993 if approval from the Planning Director was given in an administrative proceeding for a "residential use, in conjunction with a primary use" pursuant to the applicable Use Under Prescribed Conditions provisions of MCC .2050(A) or MCC .2170(A) in effect prior to January 7, 1993.
- (1) The building permit shall be subject only to the regulations in effect prior to January 7, 1993.
 - (2) The building permit must continue to be kept valid under the permit regulations of the applicable government issuer until completion of the dwelling.
 - (3) Pursuant to the provisions and requirements of ORS 215.428, application for a "residential use, in conjunction with a primary use" referenced above will be accepted until January 7, 1993.
- (D) A building permit for a new single family dwelling may be issued after January 7, 1993 for a dwelling approved as a "residential use, not in conjunction with a primary use" by a Hearing Authority in an action proceeding pursuant to the applicable Conditional Use provisions of MCC .2052(C) or MCC .2172(C) in effect prior to January 7, 1993 if the approval has not expired pursuant to MCC .7110(C).

- (1) The building permit shall be subject only to the regulations in effect prior to January 7, 1993.
- (2) The building permit must continue to be kept valid under the permit regulations of the applicable government issuer until completion of the dwelling.
- (3) Pursuant to the provisions and requirements of ORS 215.428, application for a "residential use, not in conjunction with a primary use" referenced above will be accepted until January 7, 1993.

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);

Comment: See MCC .2048.

OAR 660-06-029 The following siting criteria or their equivalent shall apply to all new dwellings and structures in forest and agriculture/forest zones. These criteria are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on forest lands. A governing body shall consider the criteria in this rule together with the requirements OAR 660-06-035 to identify the building site:

(1) Dwellings and structures shall be sited on the parcel so that:

- (1) (a) They have the least impact on nearby or adjoining forest or agricultural lands;

(2) ~~[Forest operations and accepted farming practices will not be curtailed or impeded]~~
Adverse impacts on forest operations and accepted farming practices on the tract will be minimized;

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

(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

(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;

(1) (b) The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;

(1) (c) The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized, and

(1) (d) The risks associated with wildfire are minimized.

Comment: This provision is moved to this location from the Template Dwelling subsection so that it will also apply to Large Acreage Dwellings. The language is basically unchanged because, as far as staff can determine, all potential homesites are either in a fire protection district or the owner could petition to a district for contracted service.

OAR 660-06-035 The following fire siting standards or their equivalent shall apply to new dwelling or structures in a forest or agriculture/forest zone:

(1) The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such dis-

(b) ~~(a)~~ 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) ~~(b)~~ 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

tract. If the governing body determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards. The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use. Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fires season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.

OAR 660-06-035 (3) The owners of the dwellings and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991 and published by the Oregon Department of Forestry.

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:

Percent Slope	Distance In Feet
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

Comment: The CFU Zoning Standards for fire siting concerns were drafted using the Department of Forestry booklet.

Comment: The added language recognizes that although the standard yard

only to the extent possible within the area of an approved yard (setback to property line).

(d) ~~(e)~~ The building site must have a slope less than 40 percent.

(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; ~~and~~

(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.

(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.

requirement is 200 feet, which can accommodate the maximum primary and secondary fire zones, a dwelling may actually be approved located closer to the property line. For example: front yard minimums are only 30 feet; there is an option for a reduced yard to cluster the home near a neighbors house; or there could be an approval of a variance to the standard due to unusual site characteristics such as the lot being less than 400 feet in width (see MCC .2058).

OAR 660-06-035 (4) The dwelling shall have a fire retardant roof.

OAR 660-06-035 (6) If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

OAR 660-06-029 (3) The applicant shall provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water and not from a Class II stream as

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- (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.

- (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

defined in the Forest Practices rules (OAR Chapter 629). For purposes of this section, 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.

June, 1996

Exhibit A, Findings, C 2-96

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.

III. PROPOSED COMPREHENSIVE FRAMEWORK PLAN AMENDMENTS

NOTE: Proposed amendments are shown with new wording underlined and language to be deleted in [~~brackets and crossed through~~].

POLICY 11: COMMERCIAL FOREST LAND

INTRODUCTION

The purpose of the Commercial Forest Land Area Classification is to conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

The intent of the Commercial Forest Land Area Classification is to allocate lands which are suitable for commercial forest management including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources.

Oregon Administrative Rules (OAR),
Oregon Revised Statutes (ORS)
and Staff Comments

Forest operations, practices and auxiliary uses shall be allowed on forest lands subject only to such regulation of uses as are found in ORS 527.722. Uses which may be allowed subject to standards set forth in Statewide Planning Goal 4 and Oregon Administrative Rule 660, Division 6 are: (1) uses related to and in support of forest operations; (2) uses to conserve soil, water and air quality, and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment; (3) locationally dependent uses; (4) ~~[forest management dwellings that are necessary for, and accessory to, forest operations]~~ large acreage dwellings authorized by OAR 660-06-027(1)(c) (December, 1995); and (5) [other dwellings under prescribed conditions] template dwellings authorized by OAR 660-06-027(1)(d) (December, 1995). It is the policy of Multnomah County to allow only the two types of dwellings in (4) and (5) above from the listing of authorized types of dwellings in Oregon Revised Statutes and Oregon Administrative Rules. Further, the implementing Zoning Code criteria of approval of those two types of dwellings may be more restrictive than the permitted standards in Statute and Rule.

OAR 660-06 025 (1) Goal 4 requires that forest land be conserved. Forest lands are conserved by adopting and applying comprehensive plan provisions and zoning regulations consistent with the goals and this rule. In addition to forest practices and operations and uses auxiliary to forest practices, as set forth in ORS 527.722, the Commission has determined that five general types of uses, as set forth in the goal, may be allowed in the forest environment, subject to the standards in the goal and in this rule. These general types of uses are:

(1) (a) Uses related to and in support of forest operations;

(1) (b) Uses to conserve soil, air and water quality and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment;

(1) (c) Locationally dependent uses, such as communication towers, mineral and aggregate resources, etc.;

(1) (d) Dwellings authorized by ORS 215.720 to 215.750; and

(1) (e) Other dwellings under prescribed conditions.

THE COUNTY'S POLICY IS TO DESIGNATE AND MAINTAIN AS COMMERCIAL FOREST LAND, AREAS WHICH ARE:

- A. PREDOMINANTLY IN FOREST CUBIC FOOT SITE CLASS I, II, AND III, FOR DOUGLAS FIR AS CLASSIFIED BY THE U.S. SOIL CONSERVATION SERVICE;
- B. SUITABLE FOR COMMERCIAL FOREST USE AND SMALL WOODLOT MANAGEMENT;
- C. POTENTIAL REFORESTATION AREAS, BUT NOT AT THE PRESENT USED FOR COMMERCIAL FORESTRY;
- D. NOT IMPACTED BY URBAN SERVICES; AND
- E. COHESIVE FOREST AREAS; OR
- F. OTHER AREAS WHICH ARE:
 - 1. NECESSARY FOR WATERSHED PROTECTION OR ARE SUBJECT TO LANDSLIDES, EROSION OR SLUMPING; OR
 - 2. WILDLIFE AND FISHERY HABITAT AREAS, POTENTIAL RECREATION AREAS OR OF SCENIC SIGNIFICANCE.

THE COUNTY'S POLICY IS TO ALLOW FOREST MANAGEMENT WITH RELATED AND COMPATIBLE USES, BUT TO RESTRICT INCOMPATIBLE USES FROM THE COMMERCIAL FOREST LAND AREA, RECOGNIZING THAT THE INTENT IS TO PRESERVE FOREST LANDS FROM INAPPROPRIATE AND INCOMPATIBLE DEVELOPMENT.

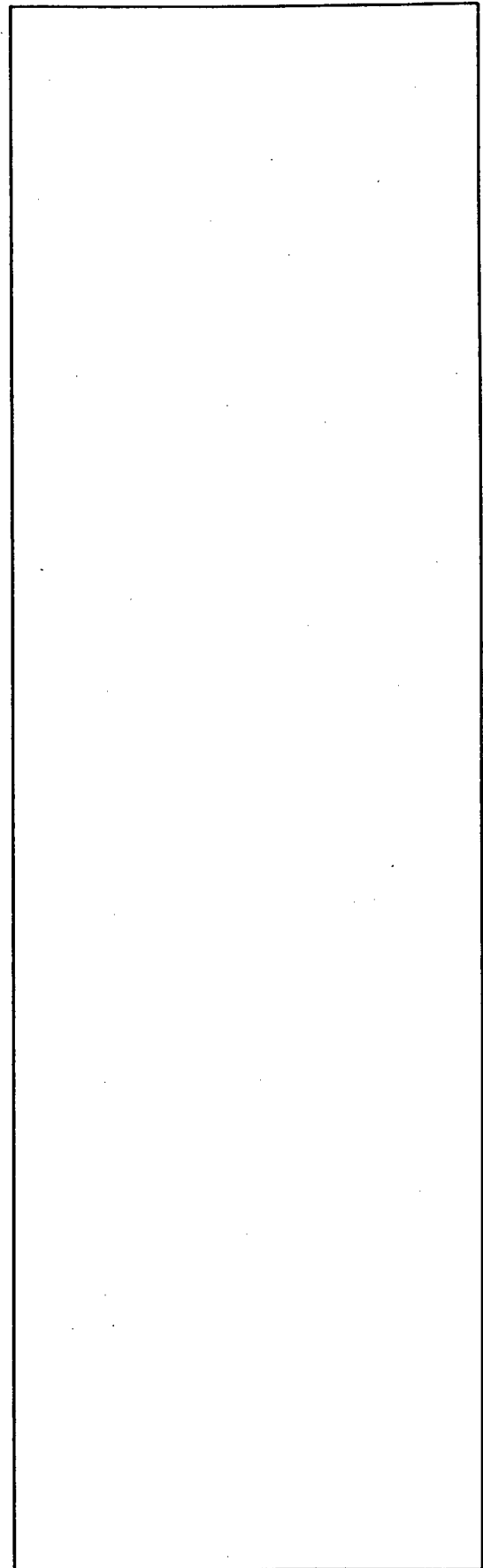
STRATEGIES

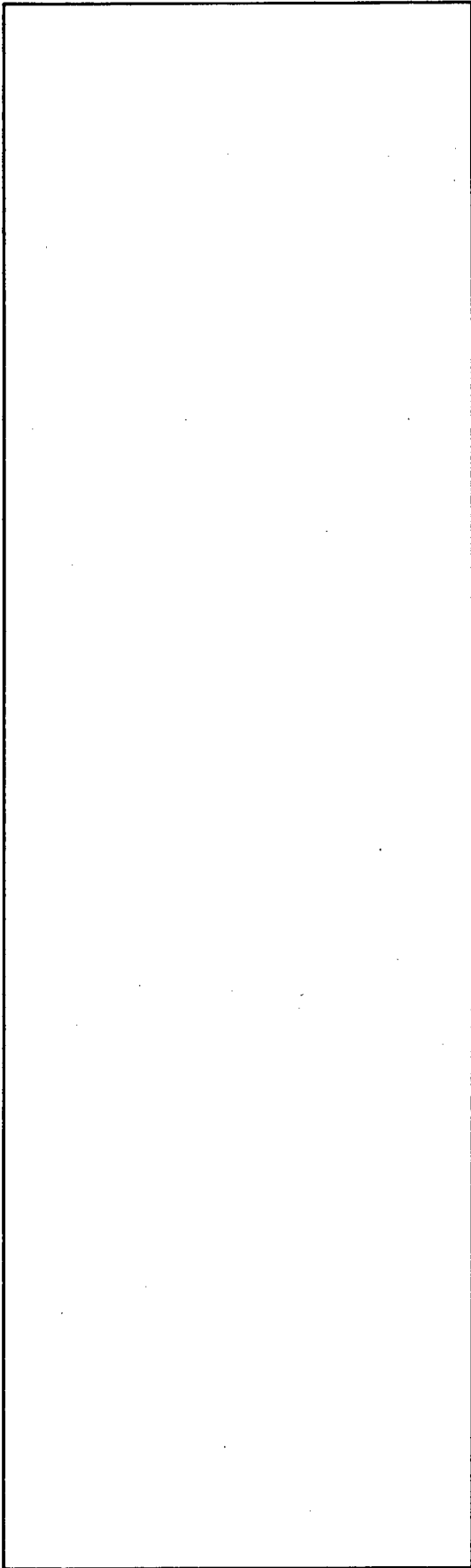
A. The following strategies shall be addressed as part of the ~~[Community Development Ordinance]~~ implementing Codes, Ordinances and Programs, including the Zoning (MCC 11.15), Land Division (MCC 11.45) and Street Standards Codes. The strategies are designed to make land divisions and allowed uses compatible with forest operations and agriculture consistent with Statewide Planning Goal 4 and Oregon Administrative Rule (OAR) 660, Division 6:

1. The Zoning Code should include a Commercial Forest Zone with:
 - a. A base minimum lot size of no less than 80 acres appropriate to commercial forestry, with aggregation of lots in single ownership required in conformance with OAR standards;
 - b. Forest and farm uses as primary uses;
 - c. ~~[Forest management dwellings]~~ Large acreage dwellings authorized by OAR 660-06-027(1)(c) (December, 1995) and [dwellings not related to forest management] template dwellings authorized by OAR 660-06-027(1)(d) (December, 1995) as conditional uses with criteria of approval that may be more restrictive than allowed by Statute or Rule. (fewer dwellings may meet the criteria of approval). Such dwellings are to be allowed under approval criteria and siting standards designed to assure conservation of the natural resource base, protection from hazards, and protection of big game winter habitat;

Comment: In the Rural Area Planning process, a larger minimum lot size for certain areas of the county has been discussed.

- d. Compatible community service uses allowed by OAR 660, Division 6, mineral and aggregate extraction, and support services for forestry activities as conditional uses;
 - e. Lots of Record provisions; and
 - f. Mortgage lot provisions.
- 2. The County Street and Road Standards Code should include criteria related to street width, road construction standards, and required improvements appropriate to the function of the road.
 - 3. The Capital Improvements Program should not program public sewers to this area, and the County should not support the formation or expansion of existing service district areas for the provision of water service.
- B. The conversion of land to another broad land use classification should be in accord with the standards set forth by the LCDC Goals, OAR's and in this Plan.





Meeting Date: JUL 09 1996
Agenda No: P-2
Est. Start Time: N/A

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: DeNovo Hearing in the Matter of an Appeal of Hearings Officer's decision on CU 1-96, HV 1-96 & SEC 1-96.

BOARD BRIEFING Date Requested:
 Amt. of Time Needed:
 Requested By:

REGULAR MEETING Date Requested: July 9, 1996
 Amt. of Time Needed: 1.5 hours

DEPARTMENT: DES **DIVISION:** Transportation & Land Use Planning
CONTACT: Bob Hall **TELEPHONE:** 248-3043
 BLDG/ROOM: 412 / 109

PERSON(S) MAKING PRESENTATION: Bob Hall

ACTION REQUESTED

☐ Informational Only ☐ Policy Direction ☐ Approval ☐ Other

SUGGESTED AGENDA TITLE

DeNovo Hearing in the Matter of an Appeal of Hearings Officer's regarding a Conditional Use Permit to allow a dwelling not related to forest management.

SIGNATURES REQUIRED

Elected Official: _____

or

Department Manager: KB Larry F. Nicholas

BOARD OF
COUNTY COMMISSIONERS
96 JUN 26 PM 2:48
MULTNOMAH COUNTY
OREGON



BOARD HEARING OF July 9, 1996

TIME 9:30am

CASE NAME Hackett Conditional Use Request

NUMBER CU 1-96, HV 1-96 & SEC 1-96

1. Applicant Name/Address

June Hackett
3130 NW Forest Lane
Portland 97229

2. Action Requested by Applicant

Lot area variances of 78.17 acres and 77.67 acres from the 80 acre minimum lot size requirement of the Commercial Forest Use district [MCC 11.15.2058(A)] to "...create two individual Lots of Record out of an existing 4.03 acre Lot of Record." The southerly parcel would be 1.71 acres in size and 120.25 feet in width with an existing dwelling, and the northerly parcel would be 2.32 acres and 224.09 feet in width. Consequently, variances from the 200 foot side yard setbacks of the CFU-80 district [MCC 11.15.2058(C)] were also requested. Applicant further requested Conditional Use approval of a non-resource related single family residence on the northerly 2.23 acre parcel. The property is within an SEC_n overlay district which requires a Significant Environmental Concern (Habitat) permit for the proposed residence. The request also necessitated a variance from the 200 foot required front yard setback.

ACTION REQUESTED OF BOARD

- ☐ Affirm Plan.Com./Hear.Of
- ☒ Hearing/Rehearing
- ☐ Scope of Review
 - ☐ On the record
 - ☒ De Novo
 - ☐ New Information allowed

3. Planning Staff Recommendation

Denial

4. Hearings Officer Decision:

Denial

5. If recommendation and decision are different, why?

ISSUES
(who raised them?)

The applicant argued that the aggregation provisions for undersized lots of the Commercial Forest Use section of the Zoning Code denied her an economically viable use of her lot.

**BEFORE THE HEARINGS OFFICER
FOR MULTNOMAH COUNTY, OREGON**

Regarding an application by June Hackett for a
Conditional Use permit for a single family residence
not related to forest management, lot size and set
back variances, and a Significant Environmental
Concern Permit in the Commercial Forest Use
(CFU-80 and SEC-h Wildlife Habitat) zones located
at 3130 Forest Lane in unincorporated Multnomah
County, Oregon.

) FINAL ORDER
) CU 1-96, HV 1-96, SEC 1-96
) (Hackett)
)
)
)
)
)
)

RECEIVED
JUN 14 1996

Multnomah County
Zoning Division

I. FINDINGS

The Hearings Officer adopts and incorporates by reference the findings and conclusions set forth in the staff report (Exhibit 9), except to the extent expressly modified or supplemented below.

II. HEARING AND RECORD

A public hearing was held concerning this matter on April 16, 1996. The written record was left open until May 7, 1996.

The following exhibits were received and made part of the record by the Hearings Officer.

1. Applicant's Submittal
2. April 4, 1996 Bargain and Sale deed from William D. Hackett and June Welby Hackett, Trustees of the Hackett Family Trust to June Welby Hackett for Tax Lot '106', Section 25, TIN, R1W.
3. Warranty deeds of November 30, 1967 and October 22, 1981 transferring property to William D. Hackett and Donna D. Hackett, and William D. Hackett, respectively.
4. Assessment & Taxation data regarding Tax Lot '50', Section 30, TIN, R1E.
5. Assessment & Taxation data for all properties within the identified surrounding areas.
6. Table of lot sizes for all properties within the identified surrounding area.

BOARD OF
COUNTY COMMISSIONERS
JUN 14 1996
Final Order
June 13, 1996
MULTNOMAH COUNTY
OREGON

7. Application by William D. Hackett for Designation of Land as Forest Land dated March 11, 1988 and letter of qualification from Neil Galash to William D. Hackett dated June 2, 1988.
8. Certification of Private On-Site Sewage Disposal dated 2/14/96 signed by Michael Ebeling of the Environmental Soils Section of the City of Portland Bureau of Buildings.
9. Staff Report
10. Letters from Atkinson (2) to Grillo (3/18/96)
11. Letter from Robinson to staff (3/20/96)
12. Letter from Forest Park Neighborhood Association to Hearings Officer (3/18/96)
13. Letter from staff to Hackett (1/12/96)
14. Letter from Robinson to staff (4/23/96)
15. Letter from Forest Park Neighborhood Association to Hearings Officer (4/30/96)
16. Letter from Robinson to staff (5/7/96)

III. DISCUSSION

The applicant, June Hackett, has requested the following development permits:

1. A conditional use permit to allow a dwelling not related to forest management.
2. A lot size variance of 78.17 and 77.67 acres from the 80 acre minimum lot size requirement to create two individual lots of record containing 1.83 acres (Tax Lot 77) and 2.33 acres (Tax Lot 78), otherwise known as Tax Lot 108.
3. A setback variance from the required 200 foot side and front yard setbacks.
4. A significant environmental concern (habitat) permit.

Supplemental findings for these permits are set out below:

Lot Size Variances

Staff maintains that a Lot of Record cannot be created by a quasi-judicial action. They indicate that Lots of Record are created through a legislative action that defines circumstances by which properties qualify as Lots of Record (Staff Report at page 9).

The applicant in this case is seeking two Major Variances for lot size, one of 97.1 percent and one of 97.9 percent, in order to create two separate Lots of Record. Furthermore, the applicant disagrees with the County's interpretation of MCC 11.15.2062(A)(2) concerning the County's lot aggregation requirement as it applies to Lots

77 and 78. The applicant has requested that the Hearings Officer render such an interpretation because:

"If the variance is granted in conjunction with a determination that the sale of the lot to June Hackett "disaggregates" Tax Lot 106 from Lot 77, the applicant could receive an approval for a conditional use permit, assuming other applicable approval criteria were satisfied." Page 3, April 23 letter from Mike Robinson (Note: Tax Lot 106 is otherwise known as Tax Lot 78).

The Hearings Officer finds that the County's act of defining a Lot of Record is a legislative action. However, if a proper request for a determination of whether or not a particular set of facts meets the County's Lot of Record definition is made, such a determination would be a quasi-judicial action.

Here, the applicant is seeking a lot size variance as a method of seeking relief from the legislative definition of a Lot of Record. The Hearings Officer has previously ruled that an applicant cannot lawfully request a lot size variance in order to avoid the deaggregation requirements that have been legislatively adopted by the County. (See Nance.) Furthermore, the question of whether or not the applicant could obtain alternative relief by selling one or more of the lots is not properly before the Hearings Officer. The Hearings Officer agrees with Mr. Rochlin in that such a request is a request for an advisory opinion. Although the Hearings Officer conceivably has broad authority under MCC 11.15.8115(I), the question of whether or not a building permit is possible for Tax Lot 106 (78), if it is sold to a third party, requires the application of then existing law to speculative facts. The Hearings Officer elects not to extend his quasi-judicial authority in that sort of a request. It should be noted however, that the code provides a process for hearing, acting upon and appealing an administrative interpretation of the Planning Director. See 11.115.8115(E). However, such an appeal is not presently before the Hearings Officer.

With regard to the substantive issue presented by the lot size variance request, the Hearings Officer agrees with staff that the applicant has not identified any circumstances or conditions that have changed in the vicinity of the district since the Board's previous final order in 93-359 was issued that would change the conclusions reached by the Board at that time. Since this criteria is not met, the lot size variances cannot be granted.

As noted above, Mr. Rochlin has properly pointed out that in this case, as in the Nance case, the applicant is seeking relief not only from the lot size request of the code, but also from the provisions of Ordinance 786, which requires these lots to be aggregated. The Hearings Officer finds that unless specific exceptions already exist for disaggregation, the Hearings Officer is not authorized to create such an exemption to the quasi-judicial process. The Hearings Officer therefore adopts and incorporates the relevant reasoning in Nance, by reference here.

In summary, even if a variance were available to deaggregate these parcels, or if the parcels were somehow not subject to aggregation, the applicant has not satisfied the relevant variance approval criteria and therefore the variance must be denied.

Takings Claim

The applicant argues that the aggregation provision in the code "takes" the applicant's property by denying her an economically viable use of her lot. Further, the applicant indicates that these permit applications are necessary to obtain the local government's final determination as to how local regulations will be applied to her property.

The Hearings Officer finds that although the applicant has raised the takings issue and in making these permit requests, is in the process of exhausting her administrative remedies, unless or until the Board issues a final determination on these permits, the applicant's takings claim is not yet ripe for review. For these reasons then, the Hearings Officer finds that it would be premature for the Hearings Officer to rule on the applicant's takings claim.

To the extent that the Board may be called upon to rule on the takings claim on appeal, the Hearings Officer nonetheless finds as follows:

1. The written testimony of Mr. Watson indicates that in his opinion as a real estate broker, the property "has no value" for commercial processing of forest products because the market for these uses requires good access to highway and rail connections in proximity to forest products.
2. The staff report indicates that the site has been used for growing timber and the applicant, in taking forest deferral, has so affirmed this forest use with the County.
3. Mr. Watson has not considered the value of Lot 78 in conjunction with Lot 77. The value to the owner of an adjoining lot is relevant to the economic value of the property.
4. The applicant has not provided substantial evidence in the record that the property, either alone or in conjunction with adjoining properties, lacks any economically viable use as a result of the County's existing land use regulations.
5. The property is presently zoned CFU-80 (SEC). Neither Mr. Watson, nor any other witnesses have reviewed all of the permitted or conditional uses under the applicable zoning section. Therefore, the applicant has not provided substantial evidence that there is no economically viable use of the property by the current zoning restrictions. Mr. Watson reviewed code sections

11.15.7020 and 11.15.2172, which are not relevant to the current zoning of the site.

6. The evidence in the record indicates that the SCS soil classification for the site is suitable for growing Douglas fir. The fact that the existing trees on the site are of poor quality does not rebut the other information in the record which clearly indicates that the site can support timber production. However, the ability of the site to be economically logged is uncertain based upon the evidence in the record. Although Mr. Walker, an urban planner and geographer, asserts that "most of the property is too steep to be logged by Cat", it is clear that in the past, the site has been logged. Whether or not the site was or can be logged in an economically viable manner is simply not clear based upon the evidence in the record. Furthermore, since Mr. Walker is not qualified as a forester, his written opinion is not considered by the Hearings Officer to be expert testimony and instead should be regarded as lay opinion and thereby subject to less weight.
7. Overall, the applicant has not provided substantial evidence in the whole record that applicable zoning restrictions eliminate any viable economic use for the property.

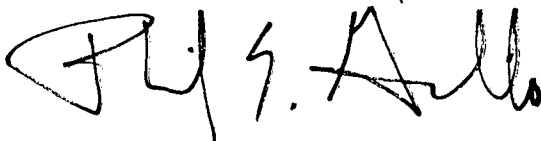
IV. CONCLUSION

Based upon the above findings and discussion, the Hearings Officer concludes that CU 1-96, HV 1-96, SEC 1-96 should be denied because they do not and cannot meet the applicable approval criteria.

V. DECISION

CU 1-96, HV 1-96, SEC 1-96 are hereby **Denied**.

It is so ordered this 14th day of June, 1996.



Phillip E. Grillo
Hearings Officer
Multnomah County

STOEL RIVES LLP

A T T O R N E Y S

STANDARD INSURANCE CENTER
900 SW FIFTH AVENUE, SUITE 2300
PORTLAND, OREGON 97204-1268
Phone (503) 224-3380 Fax (503) 220-2480
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Internet: www.stoel.com

June 21, 1996

MICHAEL C. ROBINSON

Direct Dial

(503) 294-9194

email mcrobinson@stoel.com

VIA MESSENGER

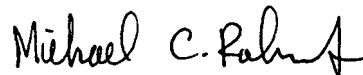
Multnomah County Department of Environmental Services
Transportation and Land Use Planning Division
2115 SE Morrison Street
Portland, OR 97214

Re: Appeal of CU 1-96, HV 1-96 and SEC 1-96

To Whom It May Concern:

This office represents the applicant, June Hackett. Please find enclosed a completed and signed Notice of Review form containing the information required by MCC 11.15.8260(B)(1)-(4) and a check in the amount of \$300 pursuant to MCC 11.15.8260(C). Please provide me with a copy of the tapes of the April 16, 1996 public hearing before the Hearings Officer. Please provide me with notice of the date of the hearing before the Board of County Commissioners. Finally, please provide me with notice of the time and date at which the Board will consider my request pursuant to MCC 11.15.8270(E) for a scope of review on the record plus additional testimony and evidence as I wish to be present.

Very truly yours,



Michael C. Robinson

MCR:ipc

Enclosures

cc (w/encl.): Mr. and Mrs. William D. Hackett
Ms. Dorothy Cofield



DEPARTMENT OF ENVIRONMENTAL SERVICES
DIVISION OF PLANNING AND DEVELOPMENT
2115 SE MORRISON STREET
PORTLAND, OREGON 97214 (503) 248-3043

11#
ZONING

700.00

TOTAL 300.00
0000-001 6/21/96
4424 DEBBIE 1:27PM

NOTICE OF REVIEW

1. Name: HACKETT , JUNE

*Last**Middle**First*
2. Address: 3130 NW Forest Lane , Portland , OR 97229

*Street or Box**City**State and Zip Code*
3. Telephone: (503) 292 - 5508
4. If serving as a representative of other persons, list their names and addresses:
N/A

5. What is the decision you wish reviewed (e.g., denial of a zone change, approval of a subdivision, etc.)?
CU 1-96, HV 1-96 and SEC 1-95

6. The decision was announced by the Planning Commission on June 14 , 1996
7. On what grounds do you claim status as a party pursuant to MCC 11.15.8225?
Pursuant to MCC 11.15.8225(A)(1), June Hackett was the applicant and was
represented before the Hearings Officer by her attorney, Michael C. Robinson.
June Hackett, as the applicant, was entitled to notice of decision pursuant
to MCC 11.15.8220(C)(1).

8. Grounds for Reversal of Decision (*use additional sheets if necessary*):

(1) The Hearings Officer erred by determining that he did not have the authority to grant the lot size variances or that the approval criteria for the variances was not satisfied. (2) The Hearings Officer erred by not finding a taking of the lot of record. (3) The Hearings Officer's decision did not address the criteria for approval for SEC 1-96.

9. Scope of Review (*Check One*):

- (a) ☐ On the Record
- (b) ☒ On the Record plus Additional Testimony and Evidence
- (c) ☐ *De Novo* (i.e., Full Rehearing)

10. If you checked 9(b) or (c), you must use this space to present the grounds on which you base your request to introduce new evidence (Use additional sheets if necessary). For further explanation, see handout entitled *Appeal Procedure*.

Pursuant to MCC 11.15.8270(E)(1), petitioner asks the Board to hear the matter on the record plus additional testimony and evidence regarding the takings issue. The Board should hear additional testimony or other evidence in light of the Hearings Officer's determination because until that determination, such evidence could not have reasonably been presented. There is no prejudice to parties by allowing an on the record plus additional testimony and evidence review. As noted above, need for additional evidence was not apparent prior to the Hearings Officer's determination. There can be no surprise to opposing parties as the opposing party is well aware of this basis for the application. Finally, evidence offered will be competent, relevant and material to the issue of whether a taking has occurred.

Signed: M.C. Palm Date: 6.21.96

For Staff Use Only

Fee:

Notice of Review = \$500.00

~~Transcription Fee:~~

~~Length of Hearing~~ ~~x \$3.50/minute = \$~~

Total Fee = \$

\$5.00 / tape

48 hrs transcription

Received by: _____ Date: _____ Case No. _____

STOEL RIVES LLP**ATTORNEYS**

STANDARD INSURANCE CENTER
900 SW FIFTH AVENUE, SUITE 2300
PORTLAND, OREGON 97204-1268
Telephone (503) 224-3380
Fax (503) 220-2480

Name:	Fax No.	Company/Firm:	Office No.
TO: Debbie Bogstad	248-5256 5242		
Name:	Sender's Direct Dial:		
FROM: Michael C. Robinson	(503) 294-9194		

Client: 25769	Matter: 1
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DATE: July 3, 1996

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COMMENTS: See attached.

STOEL RIVES LLP

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July 3, 1996

MICHAEL C. ROBINSON

Direct Dial

(503) 294-9194

email mrobinson@stoel.com

Mr. Stuart Farmer
Administrative Analyst Senior
Multnomah County Planning Department
2115 SE Morrison
Portland, OR 97214

Re: Appeal by June Hackett


Dear Mr. Farmer:

I represent the applicant, June Hackett. I have requested that the Board of County Commissioners continue to a date certain of August 13, 1996 at 9:30 a.m. the appeal hearing presently scheduled for July 9, 1996 at 9:30 a.m. I explained that I have an oral argument at the Land Use Board of Appeals at 9:00 a.m. on July 9 and cannot avoid this conflict. I have discussed this matter previously with my client and she agrees to waive the 120-day provision in ORS 215.416(3) through August 13 contingent upon the county continuing the hearing until August 13 and granting a de novo review as I have requested.

Enclosed is a check in the amount of \$200 as payment for the applicable fee.

Thank you very much for your assistance.

Very Truly Yours,



Michael C. Robinson

MCR:lxh

enclosure

cc: Mr. and Mrs. William D. Hackett

BOARD OF
COUNTY COMMISSIONERS
MULTNOMAH COUNTY
OREGON
96 JUL -3 PM 12:57

PDX1A-38850.1 25769-1

SEATTLE

PORTLAND

VANTOINER, WA

BOISE

SALT LAKE CITY

WASHINGTON, D.C.