





**Applicable Approval Criteria:**

**For this application to be approved, the proposal will need to meet applicable approval criteria below:**

**Multnomah County Code (MCC):** Violations, Enforcement and Fines: MCC 39.1515 Code Compliance and Applications, MCC 39.6850 Dark Sky Lighting Standards

Lot of Record: MCC 39.3005 Lot of Record – Generally, MCC 39.3050 Lot of Record – CFU-4

Commercial Forest Use-4 (CFU-4): MCC 39.4070(C) Farm Use, MCC 39.4070(T)(8) Structures in conjunction with a farm use, MCC 39.4110 Forest Practice Setbacks and Fire Safety Zone, and MCC 39.4115 Development Standards for Dwellings and Structures.

Copies of the referenced Multnomah County Code sections are available by contacting our office at (503) 988-3043 or by visiting our website at <https://multco.us/landuse/zoning-codes/> under the link:

**Chapter 39 - Zoning Code**

**Conditions of Approval**

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.

1. **Permit Expiration** – This land use permit shall expire as follows:[MCC 39.1185(B)]
  - a. When construction has not commenced within two (2) years of the date of the final decision. Commencement of construction shall mean actual construction of the foundation or frame of the approved structure.

- b. When the structure has not been completed within four years of the date of commencement of construction. Completion of the structure shall mean completion of the exterior surfaces(s) of the structure and compliance with all conditions of approval in the land use approval.

**Note:** The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 39.1195, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.

**2. Prior to land use sign-off** , the property owners or their representative shall:

- a. Record pages 1 through 4 of this Notice of Decision with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and shall be filed with the Land Use Planning Division. Recording shall be at the applicant's expense. [MCC 39.1175]
- b. Verify with the City of Gresham Building Department that the existing 21-ft by 28-ft livestock feeding building and the proposed 48-ft by 98-ft agricultural building are exempt from obtaining structural permits. [MCC 39.4115(C)]
- c. Submit an updated landscape plan to staff planner, Marisol Cervantes, via email at [Marisol.Cervantes@multco.us](mailto:Marisol.Cervantes@multco.us) to demonstrate:
  - i. That the trees within the Primary Fire Safety Zone for the proposed 48-ft x 98-ft and existing 21-ft x 28-ft Agricultural Buildings are spaced with greater than 15 feet between the crowns. All other vegetation shall be two feet tall or less within the Primary Fire Safety Zone. The site plan and landscape plan shall show the 30-ft Primary Fire Safety Zone and a 100-ft Secondary Fire Safety Zone around each building. [MCC 39.4110(D)(1) & (D)(2)]
- d. Revise the agricultural permit plans to provide building details that demonstrate the proposed and existing Agricultural Buildings will have a fire retardant roof and spark arrester on each chimney, if a chimney is to be constructed. [MCC 39.4115(C)(3) and (4)]
- e. Revise the agricultural permit plans to provide details that demonstrate that all exterior lighting complies with MCC 39.6850.
- f. Demonstrate compliance with the County's Ground Disturbing Activity and Stormwater regulations listed in MCC 39.6200 *et al.*

**3. Prior to occupancy of the 48-ft x 98-ft Agricultural Building**, the property owner shall:

- a. Develop the Primary and Secondary Fire Safety Zones around both buildings. If the property owner decides not to construct the new Agricultural Building, the Fire Safety Zones for the existing 21-ft by 28-ft Agricultural Building shall be completed by August 1, 2023.
  - i. Once the Fire Safety Zones are developed, the property owner shall contact staff planner, Marisol Cervantes via email at [Marisol.Cervantes@multco.us](mailto:Marisol.Cervantes@multco.us) and request a site inspection to verify construction of these zones. [MCC 39.4100]
- b. Install the Stormwater Drainage Control System in compliance with Exhibit A.9. [MCC 39.6235]

- i. Once the Stormwater Drainage Control System is installed, the property owner shall contact staff planner, Marisol Cervantes via email at [Marisol.Cervantes@multco.us](mailto:Marisol.Cervantes@multco.us) and request a site inspection to verify construction.
4. **Within 90 days of occupancy** of the new 48-ft by 98-ft Agricultural Building, the property owner shall demolish/remove the 35-ft by 72-ft outbuilding from the property (Exhibit A.25).
  - a. Once the 35-ft by 72-ft outbuilding is removed, the property owner shall contact staff planner, Marisol Cervantes via email at [Marisol.Cervantes@multco.us](mailto:Marisol.Cervantes@multco.us) and request a site inspection to verify its removal. [MCC 39.1515]
5. **The following are on-going conditions that must be maintained in perpetuity:**
  - a. Trees within the Primary Fire Safety Zone shall be pruned to remove low branches within 8 feet of the ground as the maturity of the tree. All other vegetation should be kept less than 2 feet in height. [MCC 39.4110(D)(1)].
  - b. The Primary (30-feet) and Secondary (100-feet) Fire Safety Zones shall be maintained by the property owner. [MCC 39.4110(D)(5)]
  - c. The proposed and existing Agricultural buildings shall only be used for the Agricultural use on-site of a Christmas Tree Farm and farm purposes.
  - d. The 48-ft by 98-ft and the 21-ft by 28-ft agricultural buildings shall be used for farm purposes only unless a new use is approved by Land Use Planning and, the buildings shall not be used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use. [MCC 39.4070(T)]

**Note:** Once this decision is final, application for building permits may be made with the City of Gresham if applicable. When ready to have building permits signed off by land use planning for the Agricultural Building application the applicant shall complete the following steps:

1. Read your land use decision, the conditions of approval and modify your plans, if necessary, to meet any condition that states, “Prior to land use sign-off ...” Be ready to demonstrate compliance with the conditions.
2. Contact Marisol Cervantes, Planner, at 503-988-9452 or [Marisol.Cervantes@multco.us](mailto:Marisol.Cervantes@multco.us), **for an appointment** for review of the conditions of approval and to sign the plans. Please ensure that any items required under, “At the time of land use sign-off ...” are ready for land use planning review. Land Use Planning must sign off on the plans before you can construct the building.

**Notice to Mortgagee, Lien Holder, Vendor, or Seller:**

ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.

## **Findings of Fact**

**FINDINGS:** Written findings are contained herein. The Multnomah County Code (MCC) criteria and Comprehensive Plan Policies are in **bold** font. Staff analysis and comments are identified as ‘**Staff:**’ and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

### **1.0 PROJECT & PROPERTY DESCRIPTION:**

**Staff:** The applicant request a Forest Development Standard permit for a new 48-ft x 98-ft farm structure and an existing 21-ft x 28-ft farm building in conjunction with the Christmas Tree Farm and livestock. Additionally, the applicant has requested a Lot of Record Verification for the subject property (1S5E20-00900).

Through the Lot of Record Verification process, the County reviews the creation or reconfiguration of each parcel, lot, or unit of land involved in the request. The County then verifies that the creation or reconfiguration of the parcel, lot, or unit of land satisfied all applicable zoning laws and all applicable land division laws in effect on the date of its creation or reconfiguration. If the parcel, lot, or unit of land met all applicable zoning laws, and applicable land division laws, it may be determined to be a Lot of Record.

The subject property borders the Multnomah and Clackamas County border. The property is zoned Commercial Forest Use – 4 (CFU-4). The property is currently being used as a Holiday/Christmas tree farm. The site is occupied by an existing Manufactured Home, which was retroactively permitted under BP-2014-3618. In addition, the site has an existing 35-ft by 72-ft outbuilding that will be demolished after the construction of the new 48-ft x 98-ft farm structure. A 21-ft by 28-ft outbuilding also exists on the site and will be permitted for livestock farming as part of this permit.

### **2.0 GENERAL PROVISIONS**

#### **2.1 § 39.1515 CODE COMPLIANCE AND APPLICATIONS.**

**Except as provided in subsection (A), the County shall not make a land use decision approving development, including land divisions and property line adjustments, or issue a building permit for any property that is not in full compliance with all applicable provisions of the Multnomah County Zoning Code and/or any permit approvals previously issued by the County.**

**(A) A permit or other approval, including building permit applications, may be authorized if:**

- (1) It results in the property coming into full compliance with all applicable provisions of the Multnomah County Zoning Code. This includes sequencing of permits or other approvals as part of a voluntary compliance agreement; or**
- (2) It is necessary to protect public safety; or**
- (3) It is for work related to and within a valid easement over, on or under an affected property.**

**Staff:** This standard provides that the County shall not make a land use decision approving development for a property that is not in full compliance with County Code or previously

issued County approvals, except in the following instances: approval will result in the property coming into full compliance, approval is necessary to protect public safety, or the approval is for work related to or within a valid easement.

This standard was originally codified in the Zoning Code chapter related to land use application procedures and, by its terms, expressly applies to the application review process. Although now codified in the enforcement Part of the Zoning Code as a result of the more recent code consolidation project, the language and intent was not changed during that project and remains applicable to the application review process and not to the post-permit-approval enforcement process.

Importantly, a finding of satisfaction of this standard does not mean that a property is in full compliance with the Zoning Code and all prior permit approvals (and, accordingly, does not preclude future enforcement actions relating to uses and structures existing at the time the finding is made). Instead, a finding of satisfaction of this standard simply means that there is not substantial evidence in the record affirmatively establishing one or more specific instances of noncompliance. As such, an applicant has no initial burden to establish that all elements of the subject property are in full compliance with the Zoning Code and all previously approved permits; instead, in the event of evidence indicating or establishing one or more specific instances of noncompliance on the subject property, the applicant bears the burden to either rebut that evidence or demonstrate satisfaction of one of the exceptions in MCC 39.1515.

The subject property does not have an open compliance case with the Code Compliance office. During the initial review of the proposed project, planning staff determined that the 21-ft by 28-ft and 35-ft by 72-ft existing outbuildings needed to be authorized by the County. The applicant has decided to remove the larger outbuilding and permit the smaller one along with his new 48-ft by 98-ft agricultural building. The smaller outbuilding will be used to feed livestock and store hay.

### **MCC 39.6850 Dark Sky Lighting Standards**

**(C) The following standards apply to all new exterior lighting supporting a new, modified, altered, expanded, or replaced use approved through a development permit and to all existing exterior lighting on property that is the subject of a development permit approval for enlargement of a building by more than 400 square feet of ground coverage.**

**(1) The light source (bulbs, lamps, etc.) must be fully shielded with opaque materials and directed downwards. “Fully shielded” means no light is emitted above the horizontal plane located at the lowest point of the fixture’s shielding. Shielding must be permanently attached.**

**(2) The lighting must be contained within the boundaries of the Lot of Record on which it is located. To satisfy this standard, shielding in addition to the shielding required in paragraph (C)(1) of this section may be required.**

**Staff:** A condition of approval is included in this decision requiring the applicant to demonstrate compliance with the Dark Sky Lighting Standards prior to zoning sign off of the agricultural buildings. *As conditioned, these criteria are met.*

### **3.0 LOT OF RECORD:**

#### **3.1 MCC 39.3005 Lot of Record - Generally**

**(A) An area of land is a “Lot of Record” if it meets the standards in Subsection (B) of this Section and meets the standards set forth in this Part for the Zoning District in which the area of land is located.**

**(B) A Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, either satisfied all applicable zoning laws and satisfied all applicable land division laws, or complies with the criteria for the creation of new lots or parcels described in MCC 39.9700. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.**

**(a) “Satisfied all applicable zoning laws” shall mean: the parcel, lot, or group thereof was created and, if applicable, reconfigured in full compliance with all zoning minimum lot size, dimensional standards, and access requirements.**

**(b) “Satisfied all applicable land division laws” shall mean the parcel or lot was created:**

**1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or**

**2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or**

**3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in recordable form prior to October 19, 1978; or**

**\*\*\***

**Staff:** To qualify as a Lot of Record, the subject property, when created or reconfigured, must meet (B) of this Section and meet the Lot of Record standards set forth in the CFU-4 zoning district. More specifically, Section (B) above requires demonstration that the subject property (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws. The Lot of Record standards set forth in the CFU-4 district establish additional requirements unique to the district, which are evaluated in section 3.2 of this decision.

The applicant provided a Warranty Deed recorded in 1956 (Exhibit A.27) that contains a legal description matching the current legal description for the subject property (Exhibit A.22). The subject property was ‘F-2’ in 1956 per the historic County Zoning Maps (Exhibit B.3). In 1956, the F-2 zone had a minimum lot size requirement of 2 acres (Exhibit B.4). The subject property in 1956 was 78.07 acres and remains in the same configuration as described in the current Statutory Bargain and Sale Deed recorded in 2020 (Exhibit A.22) and remains 78.07 acres in size. Based on the above, the subject property satisfied the applicable zoning laws of the F-2 zone in 1956.

In 1956, the process to divide a property required a deed or sales contract dated and signed by the parties to the transaction. The document needed to be in recordable form or recorded with the County Recorder prior to October 19, 1978. As evidenced by the Warranty Deed recorded in 1956 (Exhibit A.27) the applicable land division laws were satisfied. *The subject property satisfied all applicable land division laws in 1956.*

### **3.2 MCC 39.3050 Lot of Record- CFU-4**

**(A) In addition to the standards in MCC 39.3005, for the purposes of the CFU-4 district a Lot of Record is either:**

- (1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or**
- (2) A group of contiguous parcels or lots:**
  - (a) Which were held under the same ownership on February 20, 1990; and**
  - (b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.**

**Staff:** According to County tax records, the listed property owner for the subject property on February 20, 1990 was Elmer K & Dorothy B Williamson. A 1990 Timber Deed (Exhibit B.13) supports the tax record information. The County tax records did not list the Williamson family as owners of any contiguous parcels on February 20, 1990. The subject property is a stand-alone parcel of 78.07 acres. *Criteria met.*

**(B) In this district, significant dates and ordinances applicable for verifying zoning compliance may include, but are not limited to, the following:**

- (1) July 10, 1958, F-2 zone applied;**
- (2) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;**
- (3) October 6, 1977, MUF-20 and CFU-38 zones applied, Ord. 148 & 149;**
- (4) August 14, 1980, MUF-19 & 38 and CFU-80 zones applied, Ord. 236 & 238;**
- (5) February 20, 1990, Lot of Record definition amended, Ord. 643;**
- (6) January 7, 1993, MUF-19 & 38 zones changed to CFU-80, Ord. 743 & 745;**
- (7) August 8, 1998, CFU-4 zone applied, Ord. 916 (reenacted by Ord. 997);**
- (8) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.**

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**(C) A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements**



**of MCC 39.4135, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.**

**Staff:** Subsection (B) is for informational purposes. The subject property is just less than 80 acres in size when including the public right-of-way of Hogg Mill Road. It meets the minimum front lot line length and is adjacent to a public road. It may be occupied by any allowed, review or conditional use when in compliance with the other requirements of this district provided it remains a Lot of Record. The subject property is in the same configuration as described in the 1956 Warranty Deed (Exhibit A.27).

**(D) The following shall not be deemed a Lot of Record:**

- (1) An area of land described as a tax lot solely for assessment and taxation purposes.**
- (2) An area of land created by the foreclosure of a security interest.**
- (3) A Mortgage Lot.**
- (4) An area of land created by court decree.**

**Staff:** The subject property is not an area of land described as a tax-lot solely for assessment and taxation purposes, an area of land created by the foreclosure of a security interest, or an area of land created by court decree. *Criteria met.*

*The subject property is a single Lot of Record.*

## **4.0 COMMERCIAL FOREST USE (CFU-4)**

### **4.1 MCC 39.4070 Allowed Uses**

**The following uses and their accessory uses are allowed, subject to all applicable supplementary regulations contained in MCC Chapter 39.**

**(C) Farm use, as defined in ORS 215.203.**

**(T) Accessory Structures subject to the following:**

- (8) Buildings in conjunction with farm uses as defined in ORS 215.203 are not subject to these provisions. Such buildings shall be used for their allowed farm purposes only and, unless so authorized, shall not be used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.**

**Staff:** The proposed structure 48-ft x 98-ft will be used for the Christmas Tree Farm operation on-site to store, maintain and or repair the farm machinery and equipment (Exhibit A.12). The existing farm structure 21-ft x 28-ft is an open floor plan used for feeding livestock and hay storage (Exhibit A.25). The two structures are in conjunction with a farm use as defined in ORS 215.203 and according to Assessment and Taxation Records a portion of the subject property is in Farm Deferral (Exhibit B.1). A condition of approval has been included reminding present and future property owners that the use of the structures shall not include any residential purpose. *Criteria met.*

### **4.2 MCC 39.4110 Forest Practice Setbacks and Fire Safety Zones**

**The Forest Practice Setbacks and applicability of the Fire Safety Zones is based upon existing conditions, deviations are allowed through the exception process and the nature and location of the proposed use. The following requirements apply to all structures as specified:**

Use	Forest Practice Setbacks			Fire Safety Zones
Description of use and location	Nonconforming Setbacks	Front Property Line Adjacent to County Maintained Road (feet)	All Other Setbacks (feet)	Fire Safety Zone Requirements (FSZ)
Accessory structures located more than 100 ft. from the dwelling	N/A	30	130	Primary & Secondary required
Other Accessory Structures	N/A	30	130	Primary & Secondary required

**(A) Reductions to a Forest Practices Setback dimension shall only be allowed pursuant to approval of an adjustment or variance.**

**(B) Exception to the Secondary Fire Safety Zone shall be pursuant to MCC 39.4155 only. No reduction is permitted for a required Primary Fire Safety Zone through a nonconforming, adjustment or variance process.**

**(C) The minimum forest practices setback requirement shall be increased where the setback abuts a street having insufficient right-of-way width to serve the area. The county Road Official shall determine the necessary right-of-way widths based upon the county “Design and Construction Manual” and the Planning Director shall determine any additional setback requirements in consultation with the Road Official.**

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**Staff:** The proposed 48-ft x 98-ft farm building is 120’+/- from the northern property line, 140’ from the eastern property line and more than 500’ from the southern property line. The existing 21-ft x 28-ft farm building is also more than 500’ from the southern property line, 170’ from the eastern property line and more than 200 feet from the northern property line abutting Hogue/Hogg Mill Rd. (Exhibit A.25). The site plan clearly shows both structures meet the property line setbacks. *Criteria met.* The Primary and Secondary Fire Safety Zone provisions are addressed below.

**(D) Fire Safety Zones on the Subject Tract.**

**(1) Primary Fire Safety Zone.**

**(a) 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.**

**Staff:** According to the site plan (Exhibit A.25) the proposed 48-ft x 98-ft structure has a primary fire safety zone of 34-ft. Based off of the aerial imagery (GIS) the area to the west of the proposed building site has trees within the primary 30-ft fire safety zone. Prior to issuance of the Agricultural Exempt Building permit, the applicant shall provide an updated landscape plan to demonstrate that the trees within this safety zone are spaced with greater than 15 feet between the crowns. The existing 28-ft x 21-ft building has a fire safety zone of 30ft meeting the primary fire safety zone.

As an on-going condition of approval, the trees shall also be pruned to remove low branches within 8 feet of the ground and all other vegetation shall be kept less than 2 feet in height within the required Primary Fire Safety Zone. *As conditioned, this criterion is met.*

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

<b>Percent Slope</b>	<b>Distance In Feet</b>
Less than 10	No additional required
Less than 20	50 additional
Less than 25	75 additional
Less than 40	100 additional

**(c) The building site must have a slope less than 40 percent.**

**Staff:** The slopes for the proposed and existing farm buildings are less than 10 percent. *These criteria are met.*

**(2) Secondary Fire Safety Zone.**

**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. The secondary fire safety zone required for any dwelling or structure may be reduced under the provisions of MCC 39.4155.**

**Staff:** Pursuant to Table 1 MCC 39.4110, a Secondary Fire Safety zone is required for the proposed and existing farm building. A 100-ft Secondary Fire Safety zone in all directions around the Primary Fire Safety Zone is required. A condition of approval has been included

that the site plan and landscape plan shall show the entirety of the Secondary Fire Safety Zone before Land Use Planning signs off on the buildings. *As conditioned, this criterion can be met.*

**(3) No requirement in (1) or (2) 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**

**Staff:** The applicant did not provide a forest management plan approved by the State of Oregon Department of Forestry. *This criterion is not applicable.*

**(4) Required Primary and Secondary Fire Safety Zones shall be established within the subject tract as required by Table 1 above.**

**(5) Required Primary and Secondary Fire Safety Zones shall be maintained by the property owner in compliance with the above criteria listed under (1) and (2).**

**Staff:** The Primary Safety zone of 30 feet shall be established for the proposed farm building and the existing farm building and a condition requires it be maintained. A 100-foot Secondary Fire Safety zone shall be established and maintained for both buildings. *As conditioned, these criteria will be met.*

#### **4.3 MCC 39.4115 Development Standards for Dwellings and Structures**

**All dwellings and structures shall comply with the approval criteria in (B) through (D) below except as provided in (A). All exterior lighting shall comply with MCC 39.6850:**

**(A) For the uses listed in this subsection, the applicable development standards are limited as follows:**

**(3) Accessory buildings.**

**(b) Accessory buildings located farther than 100 feet from the existing dwelling: Shall meet the development standards of MCC 39.4115(B) and (C);**

**Staff:** The proposed farm building and existing farm building are located farther than 100 feet of the existing dwelling. The development standards of MCC 39.4115(B) and (C) are addressed below.

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**(B) New dwellings shall meet the following standards in (1) and (3) or (2) and (3); restored or replacement dwellings greater than 100-feet from an existing dwelling, and accessory buildings (or similar structures) greater than 100-feet from the existing dwelling shall meet the following standards in (1) and (3) or (2) and (3):**

**(1) The structure shall satisfy the following requirements:**

**(a) To meet the Forest Practices Setback, the structure shall be located a minimum of 30-feet from a front property line adjacent to a county maintained road and 130-feet from all other property lines;**

- (b) The structure shall be located in a cleared area of at least 10,000 square feet that meets the tree spacing standards of a primary fire safety zone;**
- (c) The entirety of the development site is less than 30,000 square feet in total cleared area, not including the driveway;**
- (d) The structure is sited within 300-feet of frontage on a public road and the driveway from the public road to the structure is a maximum of 500-feet in length;**
- (e) The local Fire Protection District verifies that their fire apparatus are able to reach the structure using the proposed driveway; or**

**Staff:** Due to the size of the subject property and the location of the proposed and existing structure and the location of the existing dwelling, subsection (B)(1) cannot be met.

*Development must meet the approval criteria listed under (B)(2) and (B)(3).*

**(2) The structure shall satisfy the following requirements:**

- (a) It has the least impact on nearby or adjoining forest or agricultural lands and satisfies the standards in MCC 39.4110;**
- (b) Adverse impacts on forest operations and accepted farming practices on the tract will be minimized;**
- (c) The amount of forest land used to site the dwelling or other structure, access road, and service corridor is minimized;**
- (d) 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**

**(3) The risks associated with wildfire are minimized. Provisions for reducing such risk shall include:**

- (a) Access roadways shall be approved, developed and maintained in accordance with the requirements of the structural fire service provider that serves the property. Where no structural fire service provider provides fire protection service, the access roadway shall meet the Oregon Fire Code requirements for fire apparatus access;**
- (b) Access for a pumping fire truck to within 15 feet of any perennial water source of 4,000 gallons or more within 100 feet of the driveway or road on the lot. The access shall meet the fire apparatus access standards of the Oregon Fire Code with permanent signs posted along the access route to indicate the location of the emergency water source;**

**Staff:** (2)(a): The subject property is adjacent to properties currently in forest practices. No farm uses were identified on adjacent properties by planning staff. Land Use Planning sent a 14-Day Opportunity to Comment to the surrounding property owners. No comments or concerns were received. As no issues were raised regarding the buildings in relation to forest practices or agricultural uses, staff finds that the proposed and existing farm buildings' will have the least impact on nearby or, adjoining farm and forest lands. In addition, the proposed outbuildings will both satisfy MCC 39.4110 through conditions.

(2)(b), (c) & (d): The two structures requested will support the Christmas Tree and livestock farm uses on-site. The location of the proposed and existing structures will be using the existing driveway off of Hogue Mill Rd. (Exhibit A.11 & A.25). The existing access road is approximately 250 feet +/- to both structures minimizing development to be close to the existing road. The area where the buildings are proposed/currently located is used to store farm equipment at present in an existing building. No areas of active agricultural activity will be affected by the buildings location. *Criteria met.*

(3) Wildfire risk is minimized as both structures are to maintain a 30-foot primary safety zone and 100-foot secondary fire safety zone in all surrounding areas of the existing and proposed structure (Exhibit A.3). The Fire Official at Corbett Fire has reviewed the proposed development and found the proposed development to be in compliance with the fire apparatus access standards of the Oregon Fire Code Standards. No perennial water sources exist on the subject property. *Criteria met.*

**(C) The dwelling or structure shall:**

**(1) Comply with the standards of the applicable building code or as prescribed in ORS 446.003 through 446.200 relating to mobile homes;**

**(2) If a mobile home, have a minimum floor area of 600 square feet and be attached to a foundation for which a building permit has been obtained;**

**Staff:** The subject property is currently being used as a tree farm and for livestock. The new 48-ft by 98-ft agricultural building is likely exempt from obtaining a structural permit, but trade permits (electrical, plumbing, mechanical) are applicable to agricultural buildings. The 21-ft by 28-ft existing outbuilding will be used to feed livestock and store hay. This building is also likely to be exempt from obtaining a structural permit. A condition of approval has been included requiring the property owner verify with our building department at the City of Gresham that the buildings are exempt from obtaining structural permits. The applicant is not proposing to establish a mobile home. *These criteria are not applicable.*

**(3) Have a fire retardant roof; and**

**(4) Have a spark arrester on each chimney.**

**Staff:** The applicant has not identified the types of materials to be used for the roof on the proposed farm building nor existing farm building. A condition of approval has been included to ensure that (C)(3) and (C)(4) will be met prior to land use sign off of the agricultural building permits. *As conditioned, these criteria are met.*

**5.0 PUBLIC COMMENT:**

**Staff:** Staff mailed a notice of application and invitation to comment on the proposed application to the required parties per MCC 39.1105. Staff did not receive any public comments during the 14-day comment period.

As staff did not receive any public comments, this decision has satisfied the requirements of MCC 39.1105.

## 6.0 CONCLUSION:

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Forest Development Standards to authorize an existing building used to feed livestock and establish an agricultural building to support the existing Christmas Tree Farm in the Commercial Forest Use zone. This approval is subject to the conditions of approval established in this report.

## 7.0 EXHIBITS:

- 'A' Applicant's Exhibits
- 'B' Staff Exhibits
- 'C' Procedural Exhibits

Exhibits with a “\*” after the exhibit # have been included as part of the mailed decision. Those exhibits have been reduced to a size of 8.5” x 11” for mailing purposes. All other exhibits are available for review in Case File T1-2020-14068 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form (amended)	12.20.2021
A.2	1	Scaled Site Plan with Fire Safety Zones	02.15.2021
A.3	5	Fire Service Agency Review	12.20.2021
A.4	13	Real Estate Contract	12.20.2021
A.5	4	Agricultural Exempt Building Application	02.15.2021
A.6	1	Storm water Certificate	02.15.2021
A.7	1	Sisul Engineering Stormwater certificate to include 28'x 21' existing building	02.15.2021
A.8	17	Storm water Report	02.15.2021
A.9	1	Sisul Engineering Site Plan	02.15.2021
A.10	3	Septic Certification Form	02.15.2021
A.11	56	Transportation Planning Review Form	02.15.2021
A.12	4	Christmas Tree farm photos	02.15.2021
A.13	3	Timber Deed recorded in Book 2369 Pages 892-894 on December 6, 1990	02.15.2021
A.14	4	Timber Deed recorded in Book 2386 Pages 627-630 on February 12, 1991	02.15.2021
A.15	1	Certificate of Death issued on January 27, 1994	02.15.2021
A.16	1	Warranty Deed recorded in Book 15607 Page 96 on January 31, 1996	02.15.2021

A.17	4	Statutory Warranty Deed recording instrument #: 2000-144677 on October 18, 2000	02.15.2021
A.18	3	Statutory Bargain and Sale Deed recording instrument 2006-193633 on October 18, 2006	02.15.2021
A.19	12	Real Estate Contract recording instrument #: 2006-193634 on October 18, 2006	02.15.2021
A.20	2	Statutory Quit Claim Deed recording instrument #: 2014-110988 on November 5, 2014	02.15.2021
A.21	4	Statutory Special Warranty Deed recording instrument #: 2020-144249 on October 30, 2020	02.15.2021
A.22	2	Statutory Bargain and Sale Deed recording instrument #: 2020-144250 on October 30, 2020	02.15.2021
A.23	5	Revised Agricultural application including both agricultural buildings	03.31.2021
A.24	2	Agricultural Building Floor plans	03.31.2021
A.25*	1	Revised site plan to include Fire Safety Zones for 21' x 28' Agricultural Building	03.31.2021
A.26	1	Quit Claim Deed recorded in Book 1490, Page 439 on August 6, 1951	07.28.2021
A.27	1	Warranty Deed recorded in Book 1767, Page 275 on February 1, 1956	07.28.2021
<b>'B'</b>	<b>#</b>	<b>Staff Exhibits</b>	<b>Date</b>
B.1	2	Division of Assessment, Recording, and Taxation (DART): Property Information for R343001 (Alt Acct#R995200070)	12.20.2021
B.2	2	Parcel Record Card for tax-lot 1S5E20-00900	07.27.2021
B.3	1	Zoning map for tax-lot 1S5E20-00900	07.28.2021
B.4	2	1955-4-19 Zoning Ordinance	07.28.2021
<b>'C'</b>	<b>#</b>	<b>Administration &amp; Procedures</b>	<b>Date</b>
C.1	4	Incomplete letter	1.15.2021
C.2	1	Applicant's acceptance of 180 day clock	02.12.2021
C.3	2	Second Incomplete letter	03.26.2021
C.4	1	Complete letter (day 1)	04.19.2021
C.5	4	Opportunity to Comment and mailing list	05.04.2021
C.6	16	Administrative decision and mailing list	08.12.2021