



Clackamas County Planning and Zoning Division  
Department of Transportation and Development

Development Services Building  
150 Beaver Creek Road | Oregon City, OR 97045

503-742-4500 | [zoninginfo@clackamas.us](mailto:zoninginfo@clackamas.us)  
[www.clackamas.us/planning](http://www.clackamas.us/planning)

**DECISION ON A TYPE II LAND USE PERMIT**

**Decision:** Approved with Conditions

**Permit Type:** Forest Dwelling

**File No.** Z0224-24

**Applicant's Proposal:** The applicant proposes a 160-acre forest template test dwelling.

**Decision Date:** August 1, 2024

**Deadline for Filing Appeal:** August 13, 2024, at 4:00 pm.

**Issued By :** Nick Hart, Planner I, [NHart@clackamas.us](mailto:NHart@clackamas.us)

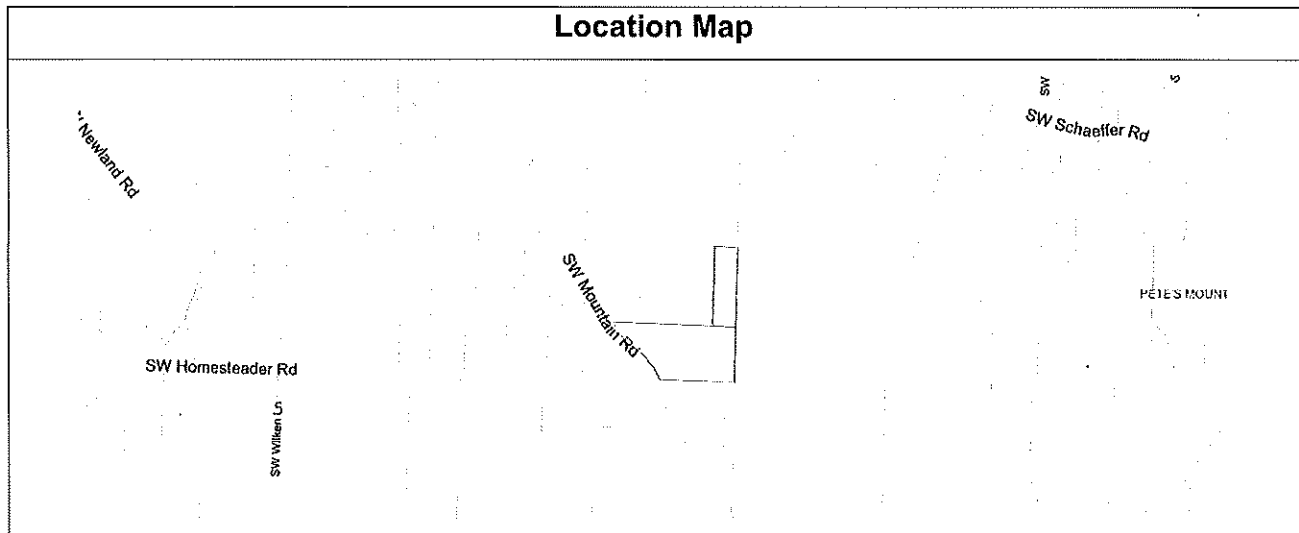
**Applicant:** Dean Pollman

**Owner of Property:** Gunnar, LLC

**Zoning:** TBR

**Assessor's Map & Tax Lot(s):** T03S R01E Section 04 Tax Lots 601, 602

**Location:** The subject tract is located directly to the east of the intersection of SW Homesteader Road and SW Mountain Road.



### **Community Planning Organization (CPO) for Area:**

Far West, Sparkle Anderson, [sparklefanderson@gmail.com](mailto:sparklefanderson@gmail.com), 503.382.1132

Community Planning Organizations (CPOs) are part of the county's community involvement program. They are advisory to the Board of County Commissioners, Planning Commission and Planning and Zoning Division on land use matters affecting their communities. CPOs are notified of proposed land use actions and decisions on land within their boundaries and may review these applications, provide recommendations or file appeals. If this CPO currently is inactive and you are interested in becoming involved in land use planning in your area, please contact Clackamas County Community Engagement at 503-655-8751.

**Opportunity to Review the Record and Decision:** The complete decision, including findings and conditions of approval, and the submitted application are available for review online at <https://accela.clackamas.us/citizenaccess/>. Select the **Planning** tab and enter the file number to search. Select **Record Info** and then select **Attachments** from the dropdown list, where you will find the submitted application. A copy of the decision, application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost by contacting the Planner listed above. Copies of all documents may be purchased at a cost established by the County fee schedule.

**Appeal Rights:** This decision will not become final or effective until the period for filing an appeal with the County has expired without the filing of an appeal. Any person who is adversely affected or aggrieved or who is entitled to written notice of the decision pursuant to Subsection 1307.09(C) of the Clackamas County Zoning and Development Ordinance may appeal this decision to the Clackamas County Land Use Hearings Officer by filing a written appeal. An appeal must include a completed Appeal Form available at [www.clackamas.us/planning/supplemental.html](http://www.clackamas.us/planning/supplemental.html) and a \$250.00 filing fee and must be **received** by the Planning and Zoning Division by the appeal deadline identified above.

Appeals may be submitted in person during office hours (8:00 am to 4:00 pm Monday through Thursday, closed Friday and holidays). Appeals may also be submitted by email or US mail.

A person who is mailed written notice of this decision cannot appeal this decision directly to the Land Use Board of Appeals under ORS 197.830.

**NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.**

*Clackamas County is committed to providing meaningful access and will make reasonable accommodations, modifications, or provide translation, interpretation or other services upon request. Please contact us at 503-742-4545 or email [DRenhard@clackamas.us](mailto:DRenhard@clackamas.us).*

503-742-4545: ¿Traducción e interpretación? | Требуется ли вам устный или письменный перевод?  
| 翻译或口译? | Cán Biên dịch hoặc Phiên dịch? | 번역 또는 통?





### Tax Lots within the Template

APN	LOR	Count
31E04 00300	unknown	
31E04 00500		
31E04 00501	yes, combined with 501, 502	1
31E04 00502		
31E04 00600	yes, combined with 31E05D 00700	1
31E04 00601	subject parcel	
31E04 00602	tract w/subject parcel	
31E04 00603	unknown	
31E04 00700		
31E04 00790	yes, combined	1
31E04 00800		
31E05D 00502	yes, combined with 31E05D 500, 501	1
31E05D 00600	yes, per 2005 research	1
31E05D 00700	yes, combined w/31E04 600	
31E05D 00800	unknown	
31E05D 00900	unknown	
31E05D 01003	yes	1
31E05D 01400	unknown	
31E05D 01500		
31E05D 01501	yes, combined	1
31E05D 01600	unknown	
31E08 00101	yes, combined with 31E08 100	1
31E09 00700		
31E09 00701	yes, combined	1
31E09 00800	yes	1
31E09 00801	yes	1
31E09 00802	yes	1
31E09 00804	yes	1
31E09 00900		
31E09 00902	yes, combined	1
31E09 00903	unknown	
		14

## CONDITIONS OF APPROVAL

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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 parentheses.

1. Approval of this land use permit is based on the submitted written narrative and plan(s) filed with the County on 5/30/2024, and additional materials submitted on 6/13/2024 and 6/25/2024. Additionally, County Staff performed a site visit on 6/27/2024. No work shall occur under this permit other than which is specified within these documents, unless otherwise required or specified in the conditions below. It shall be the responsibility of the property owner(s) to comply with these documents and the limitation of any approval resulting from the decision described herein.
2. **Approval Period:** This approval is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented. **"Implemented" means a building permit for the dwelling or manufactured dwelling placement permit shall be obtained and maintained.** Prior to expiration of this approval, the applicant may be able to apply for a two-year time extension, approval of which would be subject to compliance with the regulations in effect at that time. (ZDO Section 406.11.A and B)
3. **Prior to Planning and Zoning approval of an onsite wastewater treatment, building, or manufactured dwelling placement permit for the dwelling authorized by this land use permit,** the landowner for the dwelling shall sign and record in the deed records for Clackamas County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937. A sample of the required document may be obtained from Planning and Zoning. **A copy of the recorded document shall be submitted to Planning and Zoning.** (ZDO 406.05.A.3)
4. The following fire fuel break standards shall be required. Maintenance of the fuel-free breaks shall be the continuing responsibility of the property owner. **Prior to Planning and Zoning approval of an onsite wastewater treatment, building, or manufactured dwelling placement permit for the dwelling authorized by this land use permit,** the applicant shall submit a signed and notarized form acknowledging compliance with the fuel-free fire break standards. A copy of the Fuel-Free Break Standards Compliance Form may be obtained from Planning and Zoning. (ZDO 406.08.A)
  - a. The primary safety zone is a fire fuel break extending a minimum distance around structures. The minimum distance is established by Table 406-2, *Minimum Primary Safety Zone* and Figure 406-1, *Example of Primary Safety Zone*. Vegetation within the primary safety zone may include green lawns and shrubs less than 24 inches in height. Trees shall be spaced with greater than 15 feet between the crowns and pruned to

remove dead and low (less than eight feet) branches. Accumulated leaves, needles, limbs, and other dead vegetation shall be removed from beneath trees. Nonflammable materials (i.e., rock) instead of flammable materials (i.e., bark mulch) shall be placed next to the structure. As slope increases, the primary safety zone shall increase away from the structure and down the slope at a 45-degree angle from the structure, in accordance with Table 406-2 and Figure 406-1.

- b. A secondary fuel-free break area shall be cleared and maintained on land surrounding the dwelling that is owned or controlled by the owner. The secondary fuel-free break extends around the required primary safety zone. Vegetation within the secondary fuel-free break shall be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees shall be removed to prevent spread of fire up into the crowns of the larger trees. Dead fuels shall be removed. The minimum width of the secondary fuel-free break shall be the lesser of 100 feet or the distance from the dwelling to the edge of land surrounding the dwelling that is owned or controlled by the owner.
  - c. The fire fuel break area delineated on the submitted site plan may overlap with mapped Habitat Conservation Areas, as regulated by ZDO Section 706. Work performed for the purposes of complying with the Fire Fuel Break Standards as required by this land use permit may require subsequent permitting pursuant to Section 706 of the Zoning and Development Ordinance (*ZDO 706.02(A)*).
5. The proposed development shall comply with the requirements of Tualatin Valley Fire & Rescue. **Prior to Planning and Zoning approval of an onsite wastewater treatment, building, or manufactured dwelling placement permit for the dwelling authorized by this land use permit,** the applicant shall submit to Planning and Zoning documentation from the fire district acknowledging compliance with district development standards. (*ZDO 406.08.B.1*)
  6. The dwelling shall have a fire retardant roof. (*ZDO 406.08.B.2*)
  7. The dwelling shall not be sited on a slope greater than 40 percent. Development on slopes of greater than 20% but less than 40% shall require additional land use review pursuant to ZDO Section 1002. (*ZDO 406.08.B.3*)
  8. If the dwelling has a chimney, or chimneys, each chimney shall have a spark arrester. (*ZDO 406.08.B.4*)
  9. **Prior to Planning and Zoning approval of an onsite wastewater treatment, building, or manufactured dwelling placement permit for the dwelling authorized by this land use permit,** the applicant shall submit to Planning and Zoning a well constructor's report and well log or a "water availability letter". If the well has already been drilled, the applicant shall submit a well constructor's report and well log. If the well has not been drilled, the applicant shall submit a "water availability letter" from a well constructor. The drilling of the well must be completed prior to final plumbing inspection for the new dwelling. Upon completion of the well, the owner shall submit the well constructor's report and well log to Planning and Zoning. (*ZDO 406.08.D*)

10. **Prior to Planning and Zoning approval of an onsite wastewater treatment, building, or manufactured dwelling placement permit for the dwelling authorized by this land use permit,** a deed restriction shall be recorded with the County Clerk stating no other lots of record that make up the tract may have a dwelling. A sample of the required document may be obtained from Planning and Zoning. (406.08(D)(3)(b))

## **APPLICABLE APPROVAL CRITERIA**

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This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Section(s) 202, 406, 706, and 1307.

## **PUBLIC AND AGENCY COMMENTS**

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Notice was sent to applicable agencies and owners of property within 750 feet. Comments received relating to the applicable approval criteria listed above are addressed in the Findings Section. Comments from the following were received:

No comments were received for this application.

## **FINDINGS**

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The findings below identify the standards and criteria that are relevant to this decision, state the facts relied upon in rendering the decision, and explain the justification for the decision.

1. **Project Overview:** The applicant requests approval of a Forest Template Test Dwelling to establish a new single-family dwelling based on the density of residential development and parcelization of land in the immediate surrounding area. The dwelling is proposed in the southeastern area of Tax Lot 601.

The subject tract is located on SW Mountain Rd. and consists of approximately 13.17 acres in timber use with no structural development. The property contains an unnamed stream along the northern property line. The stream is unclassified by ZDO Section 704, *River and Stream Conservation Area (RSCA)*, which negates the applicability of that code section. The stream is regulated by ZDO Section 709 *Water Quality Resource Area District (WQRAD)*, however no new development within the established buffers of this section is proposed with this application. Portions of the property contain slopes greater than 20%; however, no new development is proposed on steep slopes with this application. A portion of the property contains mapped Habitat Conservation Areas of Moderate and High values. The proposed homesite does not fall within the Habitat Conservation Areas but work to meet the required Fire Fuel Break Standards may require future permitting pursuant to ZDO Section 706, *Habitat Conservation Area District*.



## **2. ZDO Section 406, Timber District (TBR)**

Section 406 regulates the Timber District, which includes the subject property. This application is for a Forest Template Test Dwelling. Table 406-1 identifies that use as subject to Subsections 406.05(A)(3), (4), (5) & (D)(3).

**406.05(A)(3):** *The landowner for the dwelling shall sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.*

**Finding:** There is no evidence in the record that the required deed restriction has been recorded. A condition of approval requires the recording of the deed restriction.

**As conditioned, this criterion is met.**

**406.05(A)(4):** *An approval to construct a dwelling may be transferred to any other person after the effective date of the land use decision.*

**Finding:** This provision is informational only.

**406.05(A)(5):** *If road access to the use is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the United States Bureau of Land Management (BLM), or the United States Forest Service (USFS), then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.*

**Finding:** The subject property takes access directly from SW Mountain Road Rd, a county road.

**This criterion is not applicable.**

**406.05(D)(3)** *Forest template dwelling, subject to the following criteria:*

a. *No dwellings are allowed on other lots of record that make up the tract;*

**Finding:** ZDO Subsection 406.03(M) defines tract as:

*One or more contiguous lots of record under the same ownership, including lots of record divided by a County or public road, or land contiguous at a common point. Lots of record divided by a state highway are not considered contiguous.*

Staff research completed in 2004 found that Tax Lot 601 and Tax Lot 602 combined formed a single lot of record, however, a subsequent change in the definition of 'Legal Lot of Record' as established in ZDO Section 202 has created a situation where this finding is no longer valid.

Document number 1970-9906 is a sales contract that includes the two tax lots as Parcel 1 and Parcel 2, described as separate units of land on a single transaction. As the two separately described parcels each met the minimum lot size of the General Use zone that had been applied to the property in 1967 and was in effect in 1970, and because this sale predates the subdivision ordinance of 1974, this document creates two legal lots of record under the current definition as established in ZDO Section 202.

A review of County Department of Assessment and Taxation ownership records for all tax lots contiguous to the subject tract confirms that Tax Lots 601 and 602 are the only two adjacent lots of record in common ownership at the time of this application and that neither is currently developed with a dwelling.

**This criterion is met.**

- b. *A deed restriction shall be recorded with the County Clerk stating no other lots of record that make up the tract may have a dwelling;*

**Finding:** The subject tract consists of two Tax Lots: Tax Lot 601 and Tax Lot 602, which are each separate legal lots of record. There is no evidence in the record that the required deed restriction has been recorded. A condition of approval has been adopted requiring the recording of this deed restriction.

**As conditioned, this criterion can be met.**

- c. *The tract on which the dwelling will be sited does not include a dwelling.*

**Finding:** As discussed above, the subject tract consists of two legal lots of record. As demonstrated by the submitted site plan and a review of County Department of Assessment and Taxation records, there are no dwellings currently established on the subject tract.

**This criterion is met.**

- d. *The lot of record upon which the dwelling is to be located was lawfully established.*

**Finding:**

ZDO Section 202 defines a lot of record as:

1. *A lot or parcel created by a subdivision or partition plat, as defined in ORS chapter 92, filed with the Clackamas County Surveyor and recorded with the Clackamas County Clerk;*
2. *A unit of land created by a recorded deed or recorded land sales contract and in compliance with all applicable planning, zoning, and subdivision or partition ordinances and regulations, if any, in effect on the date the deed or land sales contract was signed by the parties to the deed or contract; or*

3. *A unit of land created solely to establish a separate tax account or for mortgage purposes; that did not conform to all planning, zoning, or subdivision or partition ordinances or regulations in effect on the date it was created; and that was sold prior to September 5, 2023, under the foreclosure provisions of ORS chapter 88.*

Staff research completed in 2004 found that Tax Lot 601 and Tax Lot 602 combined formed a single lot of record, however, a subsequent change in the definition of 'Legal Lot of Record' as established in ZDO Section 202 has created a situation where this finding is no longer valid.

Document number 1970-9906 is a sales contract that includes the two tax lots as Parcel 1 and Parcel 2, described as separate units of land, on a single transaction. As the two separately described parcels each met the minimum lot size of the General Use zone that had been applied to the property in 1967 and was in effect in 1970, and because this sale predates the Subdivision and Partitioning Ordinance of 1974, this document creates two legal lots of record under the current definition as established in ZDO Section 202. Therefore, Tax Lots 601 and 602 are legal lots of record created as separate units of land by a recorded land sales contract and in compliance with all applicable planning, zoning, and subdivision or partition ordinances and regulations in effect on the date the land sales contract was signed by the parties to the deed or contract

**This criterion is met.**

- e. *Any property line adjustment to the lot of record complied with the applicable property line adjustment provisions in Section 1107, Property Line Adjustments.*

**Finding:** Review of County land use permitting history has not found any recorded property line adjustments on this property. The property is configured today as described when it was created via sales contract 70-009906.

**This criterion is met.**

- f. *Any property line adjustment to the lot of record after January 1, 2019, did not have the effect of qualifying the lot of record for a dwelling under Subsection 406.05(D)(3).*

**Finding:** A review of County land use permitting records confirms that no property line adjustment to the lot of record was completed after January 1, 2019.

**This criterion is not applicable.**

- g. *The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(3).*

**Finding:** This provision is procedural in nature. Staff will notify the County Assessor's Office of all Forest Template Test Dwelling approvals.

- h. The lot of record upon which the dwelling will be sited shall pass a template test, conducted as follows:*
- i. A 160 acre square template shall be centered upon the mathematical centroid of the subject tract. The template may be rotated around the centroid to the most advantageous position. After a position has been selected, the template shall remain fixed while lots of record and dwellings are counted. If the subject tract is larger than 60 acres and abuts a road or perennial stream, the 160 acre template shall be one-quarter mile wide by one mile long, be centered upon the mathematical centroid of the subject tract, and, to the maximum extent possible, have its length aligned with the road or perennial stream.*
  - ii. If the predominant soil type on the subject tract has a forest production capability rating, as determined by the Natural Resources Conservation Service (NRCS) Internet Soils Survey of:*
    - A) Less than 50 cubic feet per acre per year of wood fiber production, all or part of at least three other lots of record that existed on January 1, 1993, shall be within the template, and at least three lawfully established dwellings shall have existed on January 1, 1993, and continue to exist on the other lots of record within the template area; or*
    - B) 50 to 85 cubic feet per acre per year of wood fiber production, all or part of at least seven other lots of record that existed on January 1, 1993, shall be within the template, and at least three lawfully established dwellings shall have existed on January 1, 1993, and continue to exist on the other lots of record within the template area; or*
    - C) More than 85 cubic feet per acre per year of wood fiber production, all or part of at least 11 lots of record that existed on January 1, 1993, shall be within the template, and at least three lawfully established dwellings shall have existed on January 1, 1993, and continue to exist on the other lots of record within the template area.*
  - iii. The following types of lots of record and dwellings shall not be counted toward satisfying the minimum number of lots of record or dwellings required pursuant to Subsection 406.05(D)(3)(h)(ii) to pass a template test:*
    - A) Lots of record or dwellings located within an urban growth boundary;*
    - B) Temporary dwellings; and*
    - C) The subject lot of record*
  - iv. If the subject tract is larger than 60 acres and abutting a road or perennial stream, a minimum of one of the dwellings required by Subsection 406.05(D)(3)(h)(ii) shall be located on the same side of the road or stream as the subject tract and shall either be located within the template or within one-quarter mile of the edge of the subject tract and not outside the length of the template. If a road crosses the tract on which*

*the dwelling will be sited, a minimum of one of the dwellings required by Subsection 406.05(D)(3)(h)(ii) shall be located on the same side of the road as the proposed dwelling.*

**Finding:**

The property contains a mix of soil types, specifically 78C, 78D, 78E (Saum silt loam), 36B (Hardscrabble silt loam), and 54C (Laurelwood Silt Loam), as identified by the Natural Resources Conservation Service Internet Soil Survey. The predominant soil types are capable of producing 138 cubic feet per acre per year of wood fiber. Thus, all or part of at least 11 lots of record, and at least three lawfully established dwellings shall have existed on the lots of record within the template area on January 1, 1993.

The applicant submitted with their application a template test analysis developed by a land use consultant utilizing the 2004 staff determination that the two tax lots (601 and 602) were combined a single legal lot of record, centering the template on the combination of the two tax lots. While reviewing this application, staff discovered a discrepancy between the 2004 lot of record determination that the applicant had used and the status of the subject tax lots considering the current text of the Zoning and Development Ordinance. As such, staff completed a revised template test for the application as described below.

The subject lot of record (tax lot 601) is approximately 10 acres in area; therefore, a 160-acre square template, was centered upon the mathematical centroid of the subject lot of record and rotated to the most advantageous position to determine the number of qualifying lots of record and dwellings that existed on January 1, 1993.

Using County Department of Assessment and Taxation information, staff calculated the number of legal dwellings constructed prior to January 1, 1993 that fall within the 160-acre square template area, as well as the number of lots of record that have existed in their current configuration since prior to January 1, 1993. Lots of record and dwellings located within an urban growth boundary, temporary dwellings and the subject lot of record were excluded.

Staff research confirmed the lot of record status and years the dwellings were built and found that at least 14 lots of record created prior to January 1, 1993, and 8 lawfully established dwellings constructed prior to January 1, 1993, exist within the template area. The subject property is not larger than 60 acres.

**This criterion is met.**

**Oregon Revised Statutes 215.750(5)(h):** *If the lot or parcel on which the dwelling will be sited was part of a tract on January 1, 2019, no dwelling existed on the tract on that date, and no dwelling exists or has been approved on another lot or parcel that was part of the tract.*

**Finding:** The ZDO has not been amended to include this provision of state law that became effective in Clackamas County on November 1, 2023, so it must be applied directly from the ORS. A review of Department of Assessment and Taxation records confirms that the subject property was in common ownership with tax lot 602 in 2019, therefore the two tax lots together constitute a tract. As described above, no dwelling has been approved or exists on tax lot 602.

**This criterion is met.**

**406.08(A)(1):** *A primary fuel-free break area shall be maintained surrounding any new structure, including any new dwelling.*

- a. *The primary safety zone is a fire fuel break extending a minimum distance around structures. The minimum distance is established by Table 406-2 and Figure 406-1. The goal within the primary safety zone is to remove fuels that will produce flame lengths in excess of one foot. Vegetation within the primary safety zone may include green lawns and shrubs less than 24 inches in height. Trees shall be spaced with greater than 15 feet between the crowns and pruned to remove dead and low (less than eight feet) branches. Accumulated leaves, needles, limbs and other dead vegetation shall be removed from beneath trees. Nonflammable materials (i.e., rock) instead of flammable materials (i.e., bark mulch) shall be placed next to the structure. As slope increases, the primary safety zone shall increase away from the structure and down the slope at a 45-degree angle from the structure, in accordance with Table 406-02 and Figure 406-1.*

**Finding:** As demonstrated by the submitted site plan, the proposed home site can comply with the primary safety zone fire fuel break distance around the structure. A condition of approval requires compliance. The condition of approval also requires the applicant to submit a signed and notarized form acknowledging compliance with the fuel-free fire break standards prior to Planning and Zoning approval of development permits for the new dwelling. Compliance with the fuel-free fire break standards may require development, as defined in ZDO Section 706, in a mapped Habitat Conservation Area, necessitating additional land use review pursuant to ZDO Section 706 and 1307.

**As conditioned, this criterion is met.**

**406.08(A)(2):** *For any new dwelling, a secondary fuel-free break area shall be cleared and maintained on land surrounding the dwelling that is owned or controlled by the owner.*

- a. *The secondary fuel-free break extends around the primary safety zone required pursuant to Subsection 406.08(A)(1). The goal of the secondary fuel-free break shall be to reduce fuels so that the overall intensity of any wildfire would be lessened and the likelihood of crown fires and crowning is reduced. Vegetation within the secondary fuel-free break shall be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees shall be removed to prevent spread of fire up into the crowns of the larger trees. Dead fuels*

*shall be removed. The minimum width of the secondary fuel-free break shall be the lesser of:*

- i. 100 feet; or*
- ii. The distance from the dwelling to the edge of land surrounding the dwelling that is owned or controlled by the owner.*

**Finding:** A condition of approval requires compliance. The condition of approval also requires the applicant to submit a signed and notarized form acknowledging compliance with the fuel-free fire break standards prior to Planning and Zoning approval of development permits for the new dwelling. Compliance with the fuel-free fire break standards may require development in a mapped Habitat Conservation Area, necessitating additional land use review pursuant to ZDO Sections 706 and 1307.

**As conditioned, this criterion is met.**

**406.08(A)(3):** *Structures within a River and Stream Conservation Area or the Willamette River Greenway shall be sited consistent with the requirements of Sections 704 and 705, respectively. Structures shall be sited so that a primary safety zone can be completed around the structure outside of the river or stream corridor setback/buffer area. The area within the river or stream setback/buffer area shall be exempt from the secondary fuel-free break area requirements.*

**Finding:** The subject property is not located within a River and Stream Conservation Area. Specifically, there is a stream not classified under the RSCA standards of ZDO Section 704 along the Western property line of the subject property, approximately 500 feet from the proposed dwelling. The subject property is not located within the Willamette River Greenway.

**This criterion is met.**

**406.08(A)(4):** *The fuel-free break standards shall be completed and approved prior to issuance of any septic, building, or manufactured dwelling permits. Maintenance of the fuel-free breaks shall be the continuing responsibility of the property owner.*

**Finding:** A condition of approval requires compliance. The condition of approval also requires the applicant to submit a signed and notarized form acknowledging compliance with the fuel-free fire break standards prior to Planning and Zoning approval of development permits for the new dwelling. Compliance with the fuel-free fire break standards may require development in a mapped Habitat Conservation Area, necessitating additional land use review pursuant to ZDO Sections 706 and 1307.

**As conditioned, this criterion is met.**

**406.08(B)(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 inclusion within a fire protection district or contracting for residential fire protection is impracticable, an alternative means for protecting the dwelling from fire hazards shall be provided. 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 Oregon 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.*

**Finding:** The subject property is located within the fire protection district of Tualatin Valley Fire & Rescue. No comments on this land use application from a representative of the fire protection district have been submitted. A condition of approval requires compliance with the standards of the fire protection district. The condition of approval also requires the applicant to submit written documentation from the fire district acknowledging compliance with district development standards prior to Planning and Zoning approval of development permits for the new dwelling.

**As conditioned, this criterion is met.**

**406.08(B)(2):** *The dwelling shall have a fire retardant roof.*

**Finding:** A condition of approval requires compliance.

**As conditioned, this criterion is met.**

**406.08(B)(3):** *The dwelling shall not be sited on a slope greater than 40 percent.*

**Finding:** As demonstrated by the submitted site plan and a review of County Geographic Information Systems elevation contour data, the proposed home site is on an area with less than a 20-percent slope. Portions of the property contain slopes that exceed 50 percent. To ensure compliance with this criterion, a condition of approval prohibits the siting of the dwelling on a slope greater than 40 percent.

**As conditioned, this criterion is met.**

**406.08(B)(4):** *If the dwelling has a chimney, or chimneys, each chimney shall have a spark arrester.*

**Finding:** A condition of approval requires compliance.

**As conditioned, this criterion is met.**



**406.08(C)(1):** *Structures shall be sited on the subject property so that:*

- a. *They have the least impact on nearby or adjoining forest or agricultural lands;*
- b. *The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;*
- c. *The amount of forest lands used to site access roads, service corridors, and structures is minimized; and*
- d. *The risks associated with wildfire are minimized.*

**Finding:** Currently, the property is regrowing forest following previous logging of the property. As demonstrated by the submitted site plan, the proposed dwelling site is located in the southeastern portion of the property, directly adjacent to the existing access driveway and within approximately 200 feet of an existing dwelling on an adjacent property.

This location will leave the large majority of the property available for forest use while minimizing the amount of land necessary to establish an access road to the dwelling by reusing an existing access that was created for logging activities on the site. The risks associated with wildfire will be minimized through the upkeep of fuel-free fire breaks, and the proximity to an adjacent dwelling that is also subject to the fuel-free fire break standards, which will further buffer the development from wildfire originating to the South.

Two properties adjacent to the subject lot where the dwelling is proposed contain existing residential structures. Siting another dwelling in this area will essentially cluster residential development and minimize the impacts on the existing farm and forest uses in the area.

**This criterion met.**

**406.08(C)(2):** *Siting criteria satisfying Subsection 406.08(C)(1) may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads, and siting on that portion of the subject property least suited for growing trees.*

**Finding:** As discussed in the preceding finding, the proposed dwelling will be located in the southeastern portion of the property close to the existing access driveway and existing structures, including another dwelling, on adjacent properties. The entire property is equally suited for growing trees, though due to steep slopes on portions of the property and the mapped Habitat Conservation Area, not all of the property is equally suited for development.

**This criterion is met.**

**406.08(D):** *The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Oregon Water Resources Department's (OWRD) administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in the Oregon Forest Practices Rules (OAR Chapter 629). 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;*
- b. *A water use permit issued by the OWRD for the use described in the application; or*
- c. *Verification from the OWRD 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.*

**Finding:** The property is not served by a domestic water purveyor. The proposed water supply, a domestic well not exceeding 15,000 gallons a day, is exempt from OWRD water use permitting requirements under ORS 537.545. A condition of approval requires that prior to Planning and Zoning approval of development permits for the proposed dwelling, the applicant shall submit a well constructor's report and well log for a completed well, or a "water availability letter" from a well constructor prior to drilling a well. The drilling of the well must be completed prior to final plumbing inspection for the new dwelling. Upon completion of the well, the owner shall submit the well constructor's report and well log to Planning and Zoning.

**As conditioned, this criterion is met.**

## **ADVISORY NOTES**

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Advisory notes are not a part of the decision on this land use permit. The items listed below are not conditions of land use approval and are not subject to appeal. They are advisory and informational only but may represent requirements of other agencies/departments. As such, they may be required by these other agencies/departments in order to complete your proposed development.

1. All access improvements in, or adjacent, to Clackamas County right-of-way, and all on-site improvements, shall be in compliance with the Clackamas County Roadway Standards. Contact County Development Engineering at [engineering@clackamas.us](mailto:engineering@clackamas.us) or 503-742-4691 for permitting requirements that may apply to your development.
2. Contact County Building Codes for details on permitting requirements for a new dwelling (building, manufactured dwelling placement, mechanical, electrical, plumbing) at [bldservice@clackamas.us](mailto:bldservice@clackamas.us) or 503-742-4240.