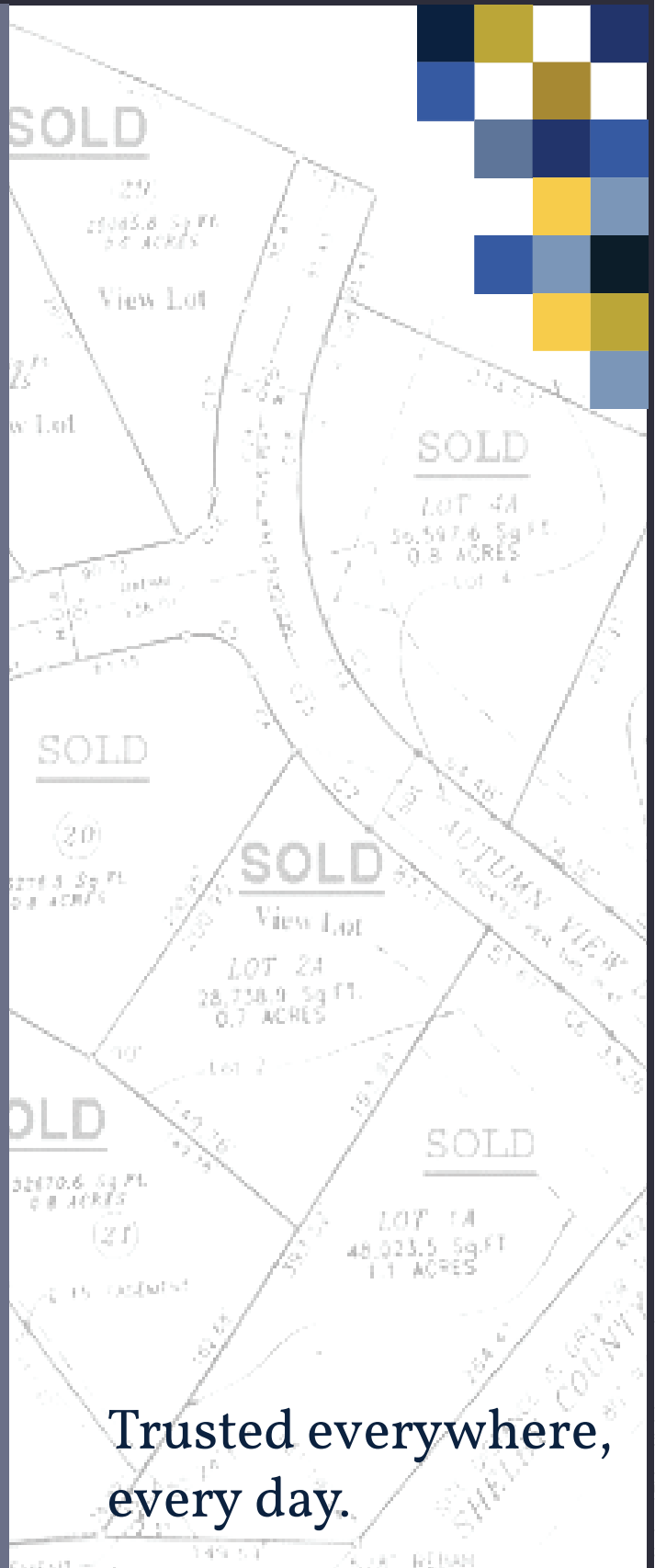


Developer *folio*

Subject Property
13130 NW Skyline Blvd
Portland, OR 97231
2N2W36-00300
Multnomah County

Prepared for
Chris Monty
RE/MAX Equity Group
chris@chrismonty.com

Prepared by
Client Services Group
Fidelity National Title | Portland
503-227-5478
csrequest@fnf.com



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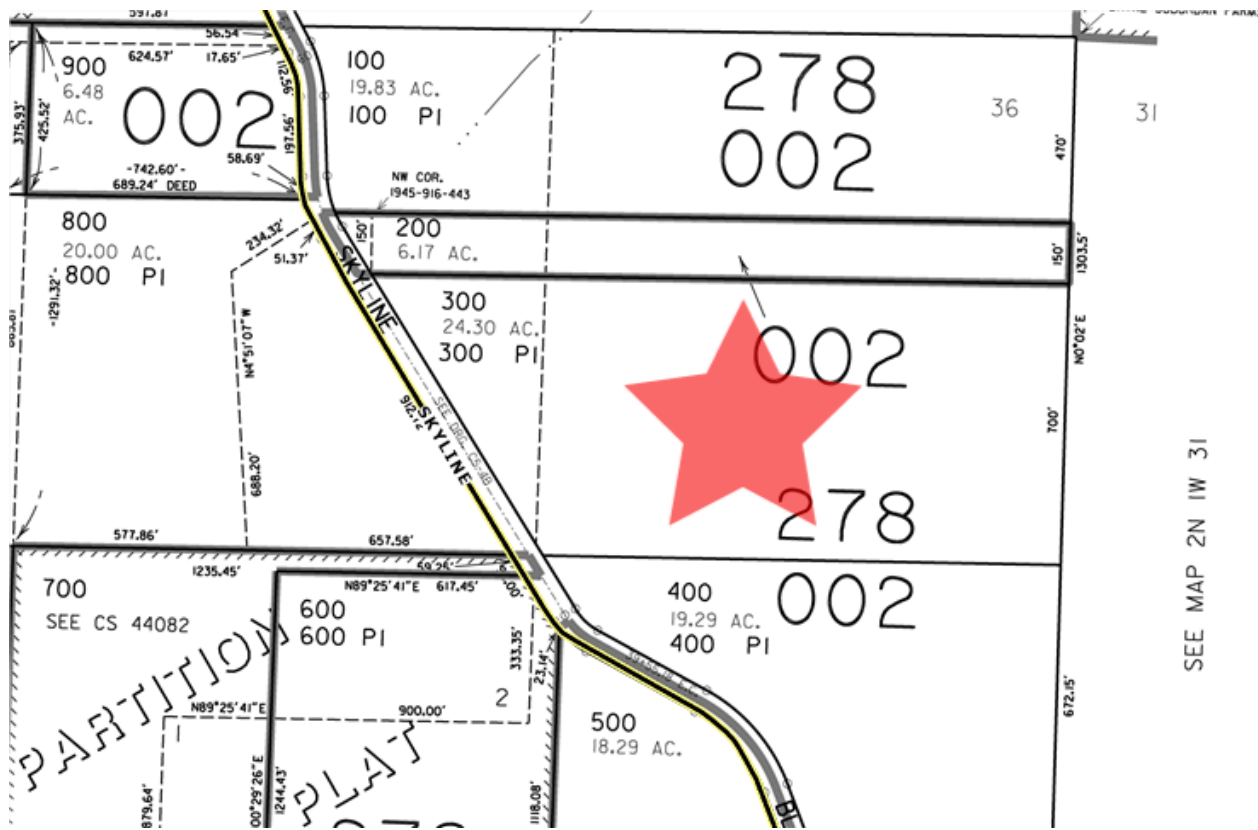


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PORTLAND

Multnomah County Property Profile



Parcel #	R326014	Owner	Patricia, Anne Brady Trust
Ref Parcel	2N2W3600300	Owner Address	13130 NW Skyline Blvd Portland OR 97231
Site Address	13130 NW Skyline Blvd Portland OR 97231	Market Total Value	\$385,530.00
Lot Size	5.00 Acres (217,800 SqFt)	Assessed Total Value	\$241,120.00
Building Area	3,202 SqFt	Year Built	1942
School District	Portland School District	Sale Date	05/20/2021
Zoning	Multnomah Co.-CFU2 Commercial Forest Use District	Sale Price	
Bedrooms	3	Subdivision	
Bathrooms	2	Land Use	661 - Forest Small Tract (Stf) Improved
Legal	SECTION 36 2N 2W, TL 300 24.30 ACRES, SEE R560211 (R972360101) FOR BALANCE OF VALUE & FIRE PATROL ASSMNT, DEFERRAL-POTENTIAL ADDITIONAL TAX		

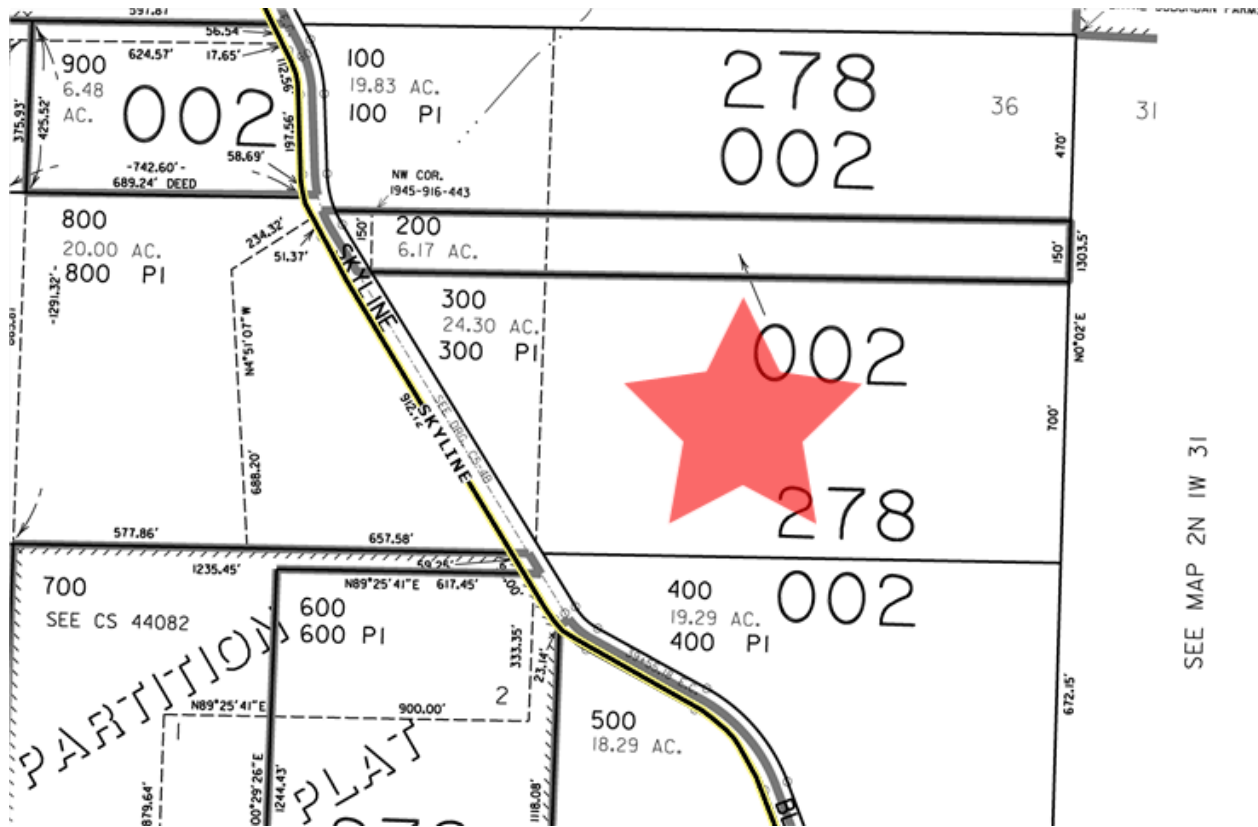


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Multnomah County Property Profile

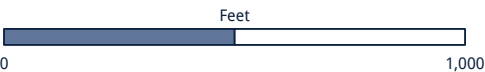


Parcel #	R560211	Owner	Patricia, Anne Brady Trust
Ref Parcel	2N2W3600300P1	Owner Address	13130 NW Skyline Blvd Portland OR 97231
Site Address	13130 NW Skyline Blvd Portland OR 97231	Market Total Value	\$4,280.00
Lot Size	19.30 Acres (840,708 SqFt)	Assessed Total Value	\$2,180.00
Building Area	0 SqFt	Year Built	
School District	Portland School District	Sale Date	05/20/2021
Zoning	Multnomah Co.-CFU2 Commercial Forest Use District	Sale Price	
Bedrooms		Subdivision	
Bathrooms		Land Use	661 - Forest Small Tract (Stf) Improved
Legal	SECTION 36 2N 2W, TL 300, FIRE PATROL & BALANCE OF VALUE SEE R326014 (R972360100), DEFERRAL-POTENTIAL ADDITIONAL TAX		

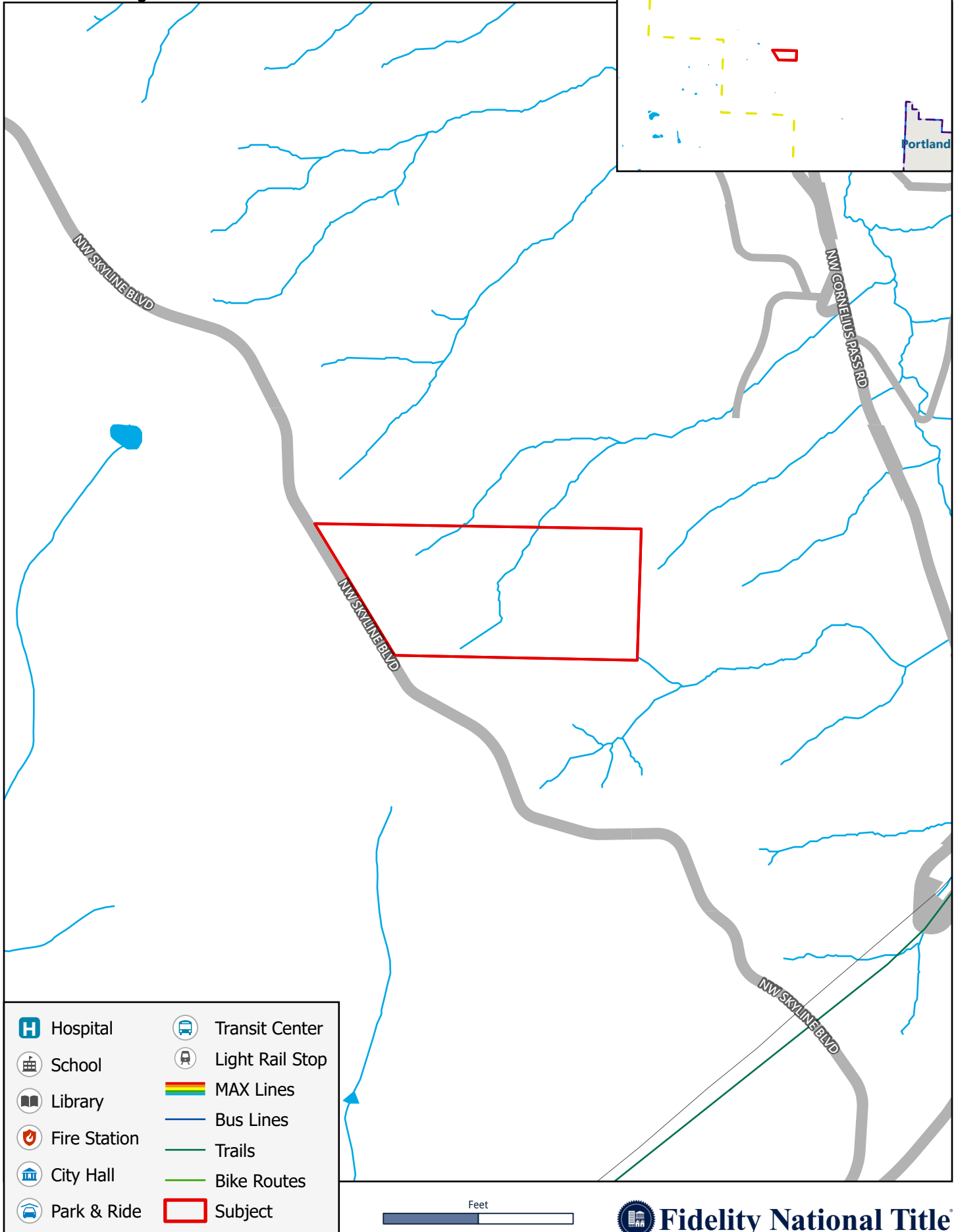


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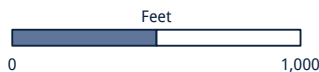
Aerial



Vicinity



- | | |
|--------------|-----------------|
| Hospital | Transit Center |
| School | Light Rail Stop |
| Library | MAX Lines |
| Fire Station | Bus Lines |
| City Hall | Trails |
| Park & Ride | Bike Routes |
| Subject | |

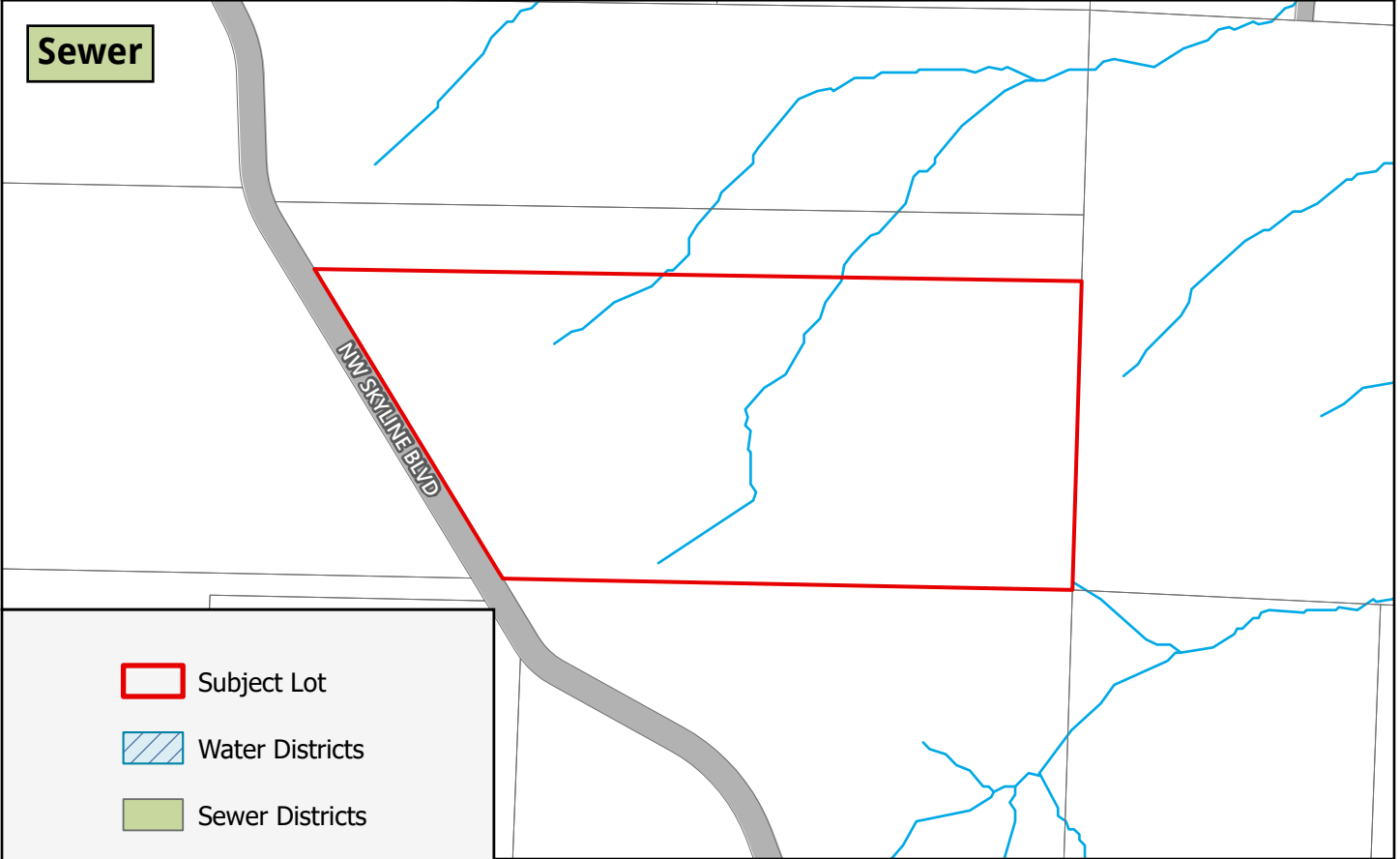
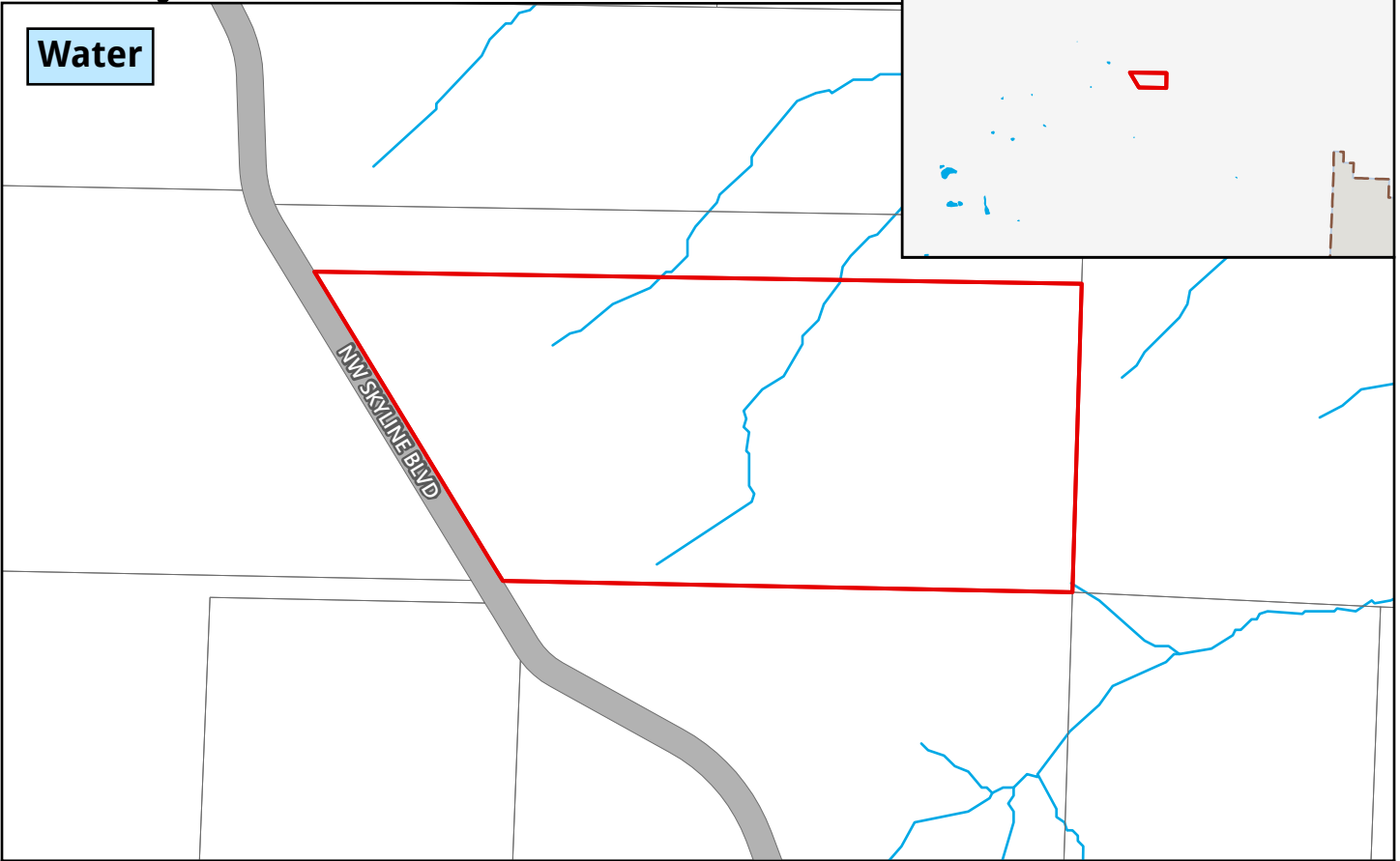
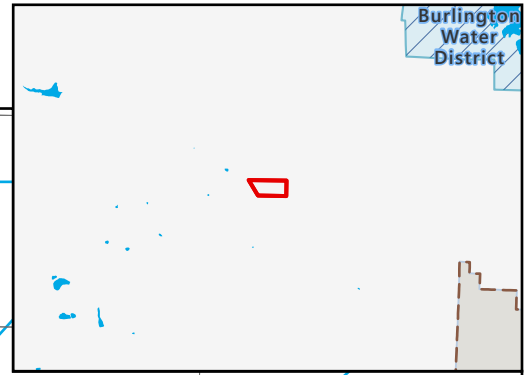






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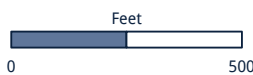
Credit: Metro, State of Oregon, Esri, Maxar, Microsoft, Earthstar Geographics

This map/plot is being furnished as an aid in locating the herein described Land in relation to adjoining streets, natural boundaries and other land, and is not a survey of the land depicted. Except to the extent a policy of title insurance is expressly modified by endorsement, if any, the Company does not insure dimensions, distances, location of easements, acreage or other matters shown thereon.

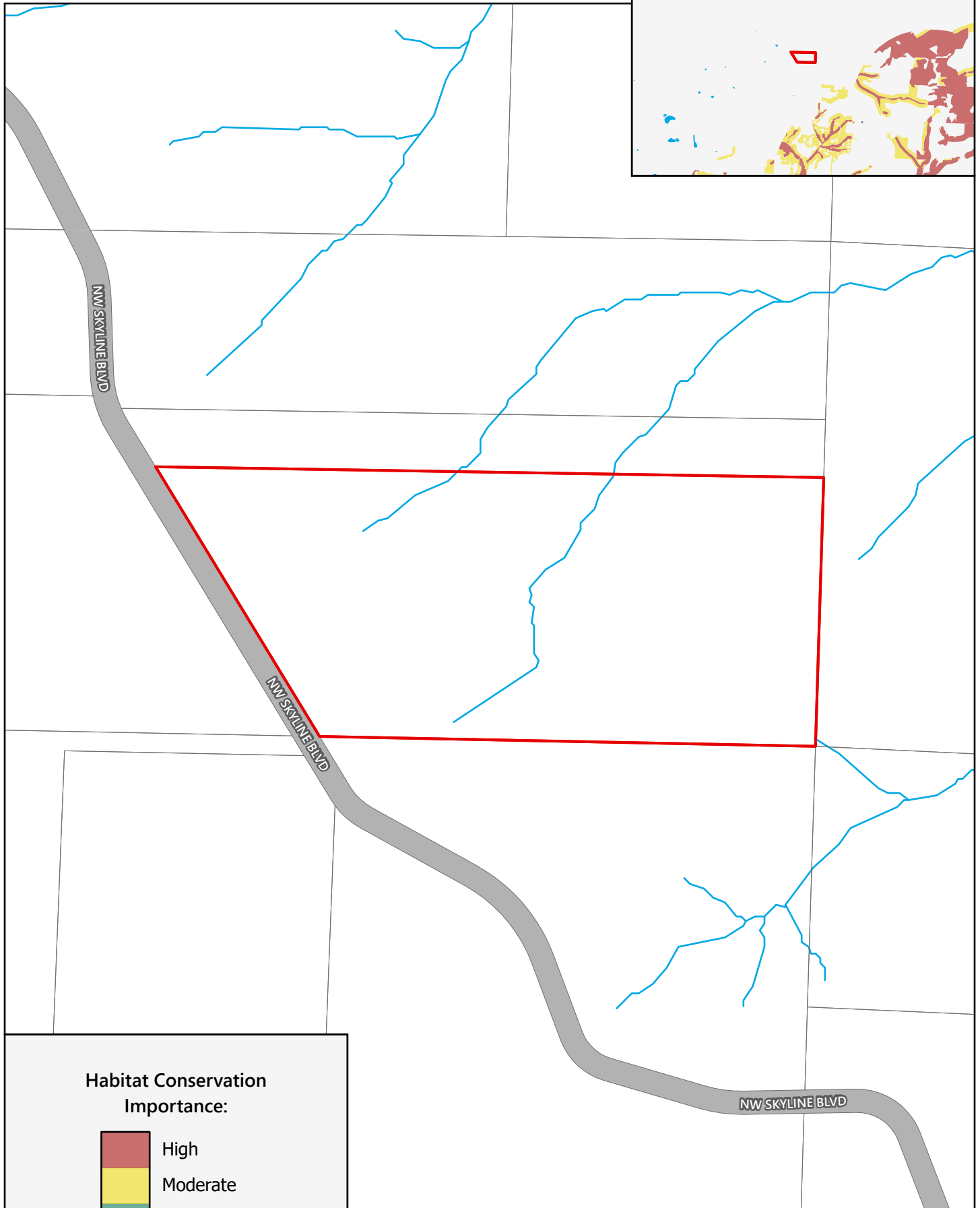
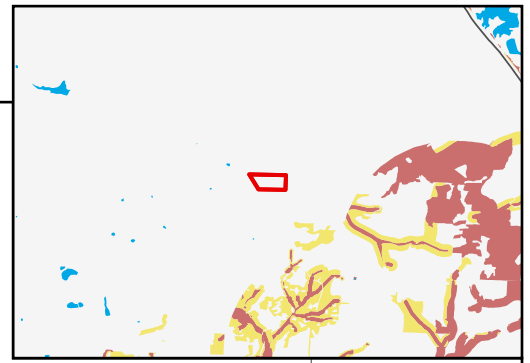
Utility Providers



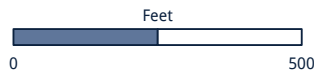
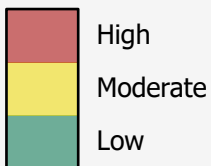
-  Subject Lot
-  Water Districts
-  Sewer Districts
-  Water & Sewer



Habitat Conservation Areas



Habitat Conservation Importance:

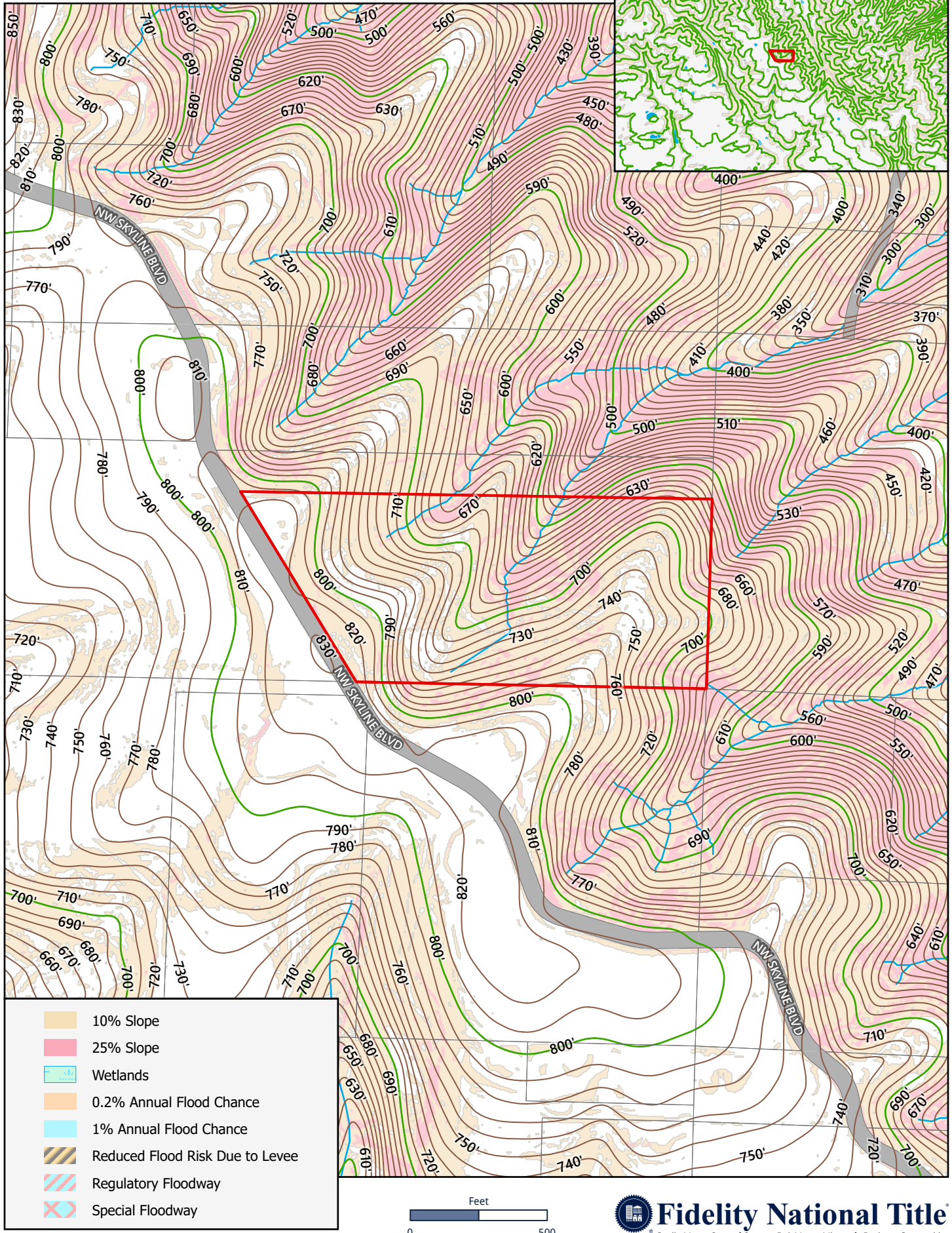


Fidelity National Title
Credit: Metro, State of Oregon, Esri, Maxar, Microsoft, Earthstar Geographics

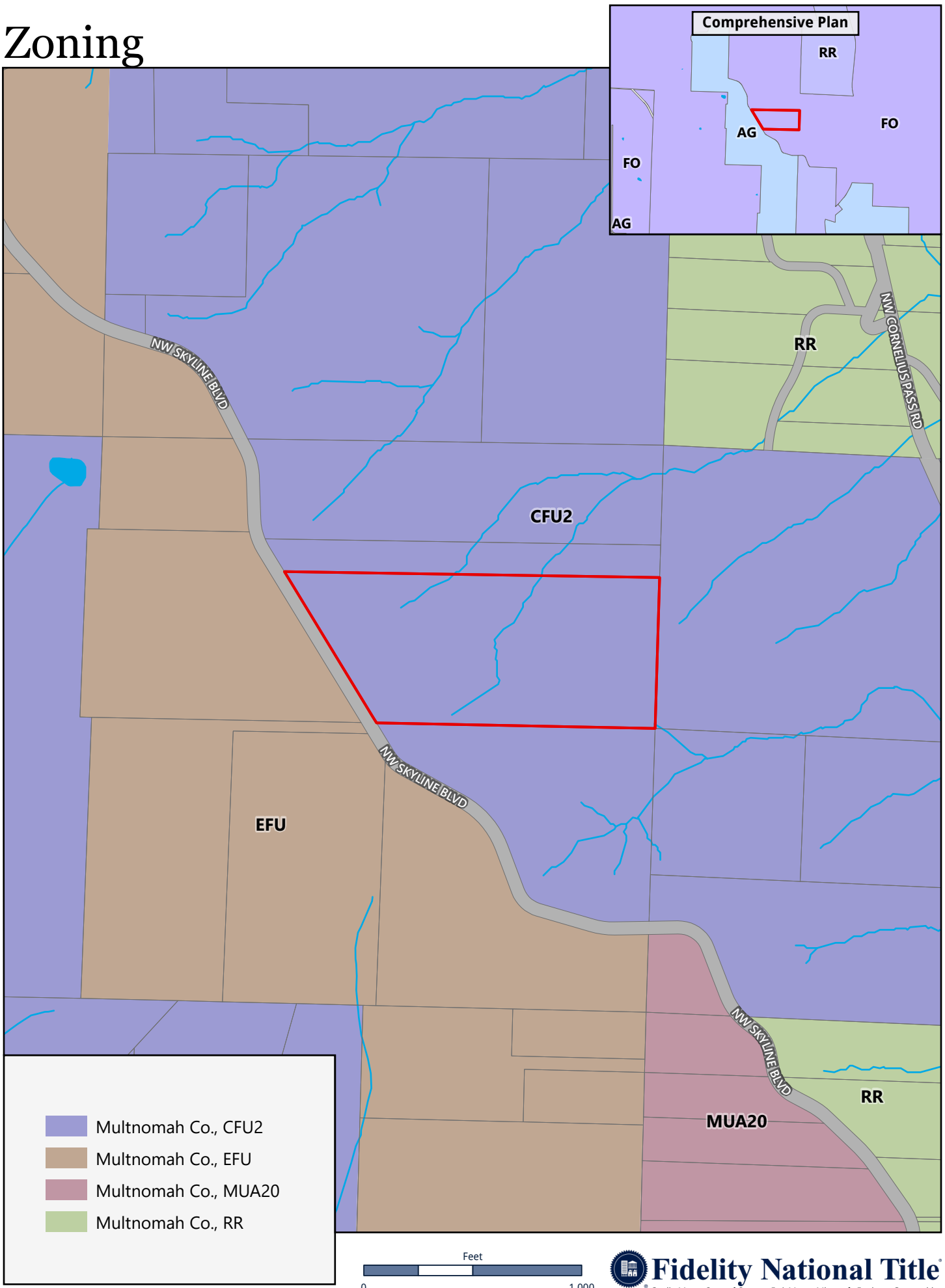
This map/plat is being furnished as an aid in locating the herein described Land in relation to adjoining streets, natural boundaries and other land, and is not a survey of the land depicted. Except to the extent a policy of title insurance is expressly modified by endorsement, if any, the Company does not insure dimensions, distances, location of easements, acreage or other matters shown thereon.

Map prepared 2/17/2026 by Fidelity National Title
503.227.5478 | csrequest@fnf.com

Water & Terrain



Zoning



PART 4 – BASE ZONES**PART 4.A – RESOURCE DISTRICTS****PART 4.A.1 – COMMERCIAL FOREST USE DISTRICTS (CFU)****§ 39.4050- PURPOSES.**

(A) The purposes of the Commercial Forest Use Base Zones (CFU) 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 applicable Comprehensive Plan policies, and to minimize potential hazards or damage from fire, pollution, erosion or urban development.

(B) One of the implementation tools to carry out the purposes of the CFU is a Lot of Record requirement to group into larger "Lots of Record" those contiguous parcels and lots that were in the same ownership on February 20, 1990. This requirement is in addition to all "tract" grouping requirements of State Statute and Rule.

(C) The CFU Base Zones are: CFU, CFU-1, CFU-2, CFU-3, CFU-4, and CFU-5. These zones may be referred to collectively as the "CFU" because all standards and requirements applicable to the specific CFU base zone itself also apply to each of the other zones except as expressly stated otherwise.

§ 39.4055 AREA AFFECTED.

MCC 39.4050 through 39.4155 shall apply to those lands designated CFU (CFU, CFU-1, CFU-2, CFU-3, CFU-4, and CFU-5) on the Multnomah County Zoning Map.

§ 39.4060 DEFINITIONS.

As used in MCC 39.4050 through 39.4155, unless otherwise noted, the following terms and their derivations shall have the following meanings:

Auxiliary - For the purposes of MCC 39.4070 (A)(2) to (3), the use or alteration of a structure or land which provides temporary help, or is 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.

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

Contiguous - Refers to parcels or lots which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels or lots separated only by an alley, street or other right-of-way.

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

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.

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

Heritage Tract Dwelling - A type of single family detached dwelling in the EFU and the CFU zoning districts with approval criteria that includes a requirement for ownership of the lot or parcel prior to January 1, 1985. The complete description of approval standards are in the use sections of the districts.

Large Acreage Dwelling - A type of single family detached dwelling in the CFU zoning districts with approval criteria that includes a requirement for single ownership of 160 contiguous forest zoned acres or single ownership of 200 forest zoned acres in Multnomah County or adjacent counties that are not contiguous. The complete description of approval standards are in the use sections of the districts.

Same Ownership - Refers to greater than possessory interests held by the same person or persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, 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 lot or parcel, whether directly or through ownership or control or an entity having such ownership or control. For the purposes of this subsection, the seller of a property by sales contract shall be considered to not have possessory interest.

Template Dwelling - A type of single family detached dwelling in the CFU zoning districts with approval criteria that includes a requirement that a certain number of parcels and dwellings exist within a 160-acre square (map template) centered on the subject tract. The complete description of requirements are in the use sections of the district.

Tract - One or more contiguous Lots of Record 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.

§ 39.4065 USES.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in the CFU except for the uses listed in MCC 39.4070 through 39.4080 when found to comply with MCC 39.4100 through 39.4155 provided such uses occur on a Lot of Record.

§ 39.4070 ALLOWED USES.

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

(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 or permanent on site structures which are auxiliary to and used during a particular forest operation per ORS 215 and 455.315. Conversion of these structures is subject to any applicable land use and building permit review procedures; 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) Alteration, maintenance, replacement or restoration of an existing lawfully established habitable dwelling as defined in MCC 39.2000 and located within 100-feet from an existing dwelling.

(1) In the case of a replacement dwelling, the existing dwelling shall be removed, demolished or converted to an allowable nonresidential use within three months of the completion or occupancy of the replacement dwelling.

(2) Restoration or replacement due to fire, other casualty or natural disaster shall commence within one year from the occurrence of the fire, casualty or natural disaster.

(E) 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.

(F) An uninhabitable structure accessory to fish and wildlife enhancement.

(G) A caretaker residence for a public park or a fish hatchery.

(H) 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.

(I) Climbing and passing lanes within the right of way existing as of July 1, 1987.

(J) 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.

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

(L) 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.

(M) A lookout tower for forest fire protection.

(N) A water intake facility, canal and distribution lines for farm irrigation and ponds.

(O) A temporary forest labor camp.

(P) Exploration for mineral and aggregate resources as allowed by state law.

(Q) Exploration for geothermal resources.

(R) 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.

(S) Type A home occupations pursuant to MCC 39.8800.

(T) Accessory Structures subject to the following:

(1) The accessory structure is customarily accessory or incidental to any use permitted or approved in this base zone, is located within 100 feet of the dwelling and is a structure identified in the following list:

- (a) Garages or carports;
- (b) Pump houses;
- (c) Garden sheds;
- (d) Workshops;
- (e) Storage sheds, including shipping containers used for storage only;
- (f) Greenhouses;

- (g) Woodsheds;
 - (h) Shelter for pets, horses or livestock and associated buildings such as: manure storage, feed storage, tack storage, and indoor exercise area;
 - (i) Swimming pools, pool houses, hot tubs, saunas, and associated changing rooms;
 - (j) Sport courts;
 - (k) Gazebos, pergolas, and detached decks;
 - (l) Fences, gates, or gate support structures; and
 - (m) Mechanical equipment such as air conditioning units, heat pumps and electrical boxes; and
 - (n) Similar structures.
- (2) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.
- (3) The Accessory Structure may contain one sink.
- (4) The Accessory Structure shall not contain:
- (a) More than one story;
 - (b) Cooking Facilities;
 - (c) A toilet;
 - (d) Bathing facilities such as a shower or bathing tub;
 - (e) A mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage; or
- (f) A closet built into a wall.
- (5) Compliance with MCC 39.8860 is required.
- (6) The combined footprints of all Accessory Buildings on a Lot of Record shall not exceed 2,500 square feet.
- (7) An Accessory Building exceeding any of the Allowed Use provisions above shall be considered through the Review Use provisions.
- (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.
- (U) Actions taken in response to an emergency/disaster event as defined in MCC 39.2000 pursuant to the provisions of MCC 39.6900.
- (V) Wildlife Habitat Conservation and Management Plan. This use is not allowed in the CFU-1, CFU-2, CFU-3, CFU-4, or CFU-5 and authorization of a single family dwelling in conjunction with a Wildlife Habitat Conservation and Management Plan is prohibited.
- (W) Signs, as provided in this chapter.
- (X) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the base zone, provided that:
- (1) All systems shall meet the following requirements:
 - (a) The system is an accessory alternative energy system as defined in MCC 39.2000;

(b) The system meets all base zone, overlay, and other zoning requirements;(c) The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

(2) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;

(3) Wind Turbine Systems:

(a) Wind turbine systems shall be set back from all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point;

(b) No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency.

(c) The land owner must sign and record a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned.

allowable nonresidential use within three months of the completion or occupancy of the replacement dwelling.

(2) Restoration or replacement due to fire, other casualty or natural disaster shall commence within one year from the occurrence of the fire, casualty or natural disaster.

(B) The following dwellings:

Base Zone	Large Acreage Dwelling - pursuant to MCC 39.4085 and all other applicable criteria.	Template Dwelling - pursuant to MCC 39.4090 and all other applicable criteria.	Heritage Tract Dwelling - pursuant to MCC 39.4095 and all other applicable criteria.
CFU	YES	YES	YES
CFU-1	YES	NO	NO
CFU-2	YES	YES	YES
CFU-3	NO	NO	NO
CFU-4	YES	YES	YES
CFU-5	NO	YES	NO

§ 39.4075 REVIEW USES.

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

(A) Replacement or restoration of an existing lawfully established habitable dwelling more than 100 feet from the existing dwelling.

(1) In the case of a replacement dwelling, the existing dwelling is removed, demolished or converted to an

(C) A temporary dwelling for health hardship pursuant to all applicable approval criteria, including but not limited to MCC 39.8700 and 39.4110.

(D) An asphalt and concrete batch plant accessory to a specific highway project pursuant to MCC 39.4100.

(E) A mobile home during the construction or reconstruction of a residence allowed under MCC 39.4070 (D) or MCC 39.4075 (A) or (B), provided that the mobile home is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the dwelling pursuant to all applicable approval criteria, including but not limited to MCC 39.4100, 39.4110 and 39.4115.

(1) In the CFU-4 zone, the mobile home may not exceed a period of two years.

(F) Off-street parking and loading as required by MCC 39.6500 through MCC 39.6600.

(G) Lot Line Adjustment pursuant to all applicable approval criteria, including but not limited to the provisions of MCC 39.4130.

(H) Placement of structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(I) Wireless communications facilities that employ concealment technology or co-location as described in MCC 39.7710(B) pursuant to the applicable approval criteria of MCC 39.7700 through MCC 39.7765.

(J) Lots of Exception pursuant to all applicable approval criteria, including, but not limited to MCC 39.4125, MCC 39.4135 and Part 9 of this Chapter.

(K) Consolidation of Parcels and Lots pursuant to MCC 39.9200.

(L) Structures or uses customarily accessory or incidental to any use permitted or approved in the CFU, which do not meet the “accessory structures” standard in MCC 39.4070 Allowed Uses, but which meet the following provisions:

(1) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential unit.

(2) The Accessory Structure shall not contain a bathing tub.

(3) Any toilet or bathing facilities, such as a shower, shall be located on the ground floor of any multi-story building.

(4) An Accessory Structure containing a toilet or bathing facilities shall not contain Cooking Facilities.

(5) The Accessory Structure shall not contain a mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage.

(6) The applicant must show that building features or combined building footprints exceeding the Allowed Use provisions are the minimum possible departure from the Allowed Use standards to accommodate the use.

(7) Compliance with MCC 39.8860 is required.

(M) A Type B home occupation when approved pursuant to MCC 39.8850.

§ 39.4080 CONDITIONAL USES.

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

(A) The following Community Service Uses pursuant to all applicable approval criteria, including but not limited to the provisions of

MCC 39.4100, MCC 39.4105, MCC 39.4110, MCC 39.4115, and MCC 39.7500 through MCC 39.7525. For purposes of this Section, the applicable criteria of MCC 39.7515 shall be limited to Subsections (A) through (H) of that Section.

(1) Private park and private campground. In addition to the approval standards listed in MCC 39.4080(A) above, a private campground shall be subject to the following:

(a) Except on a lot or parcel contiguous to a lake or reservoir, the campground shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4.

(b) The campground shall be an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes.

(c) The campground is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.

(d) The campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.

(e) Campsites may be occupied by a tent, travel trailer or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed

a total of 30 days during any consecutive 6 month period.

(f) The campground shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

(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. The term “distribution line” includes water conduits and water transmission lines.

(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.

(8) Forest management research and experimentation facility as defined by ORS 526.215.

(9) State and Local Parks.

(a) Uses allowed in a State Park, subject to a state master plan as described in OAR 660 Division 34, are:

1. All uses allowed under Statewide Planning Goal 4, provided the uses are also allowed under OAR 736, Division 18; and

2. The uses, as authorized in a state master plan adopted by the Oregon Parks and Recreation Department (OPRD), listed in OAR 660-034-0035.

3. A “State Park” is any property owned or managed by OPRD and that has been determined by OPRD to have outstanding natural, cultural, scenic and/or recreational resource values that support the state park system mission and role. For the purposes of this subsection, endowment properties and administrative sites are not state parks.

(b) Uses allowed in a Local Park are those specified in OAR 660-034-0040. A Local Park is a public area intended for open space and outdoor recreation use that is owned and managed by a city, county, regional government, or park district and that is designated as a public park in the applicable comprehensive plan and zoning ordinance [OAR 660-034-0010(8)].

(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 and television transmission towers subject to the definitions, restrictions and standards in MCC 39.7515, 39.7520 (A) (8) and 39.7550 through 39.7575 and wireless communications facilities when found to satisfy the requirements of MCC 39.7700 through 39.7765.

(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 39.7600 through 39.7625.

(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;

(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.

(B) The following uses pursuant to all applicable approval criteria, including but not limited to the provisions of MCC 39.4100, MCC 39.4105, MCC 39.4110, MCC 39.4115, MCC 39.7000 through MCC 39.7035, and MCC 39.7300 through MCC 39.7330. For purposes of this Section, the applicable criteria of MCC 39.7015(A) shall be limited to Subsections (1) through (7) of that Section:

(1) Mining and processing of aggregate and other mineral or subsurface resources as allowed by state law;

(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 39.5180 through 39.5190.

(C) Type C home occupations pursuant to all applicable approval criteria, including but not limited to MCC 39.7400 through 39.7410.

§ 39.4085 LARGE-ACREAGE DWELLING STANDARDS.

A large acreage dwelling may be sited on a tract or tracts, subject to the following:

(A) The lot or lots in the tract(s) meet(s) the applicable Lot of Record standards of Part 3 of this Chapter.

(B) The property consists of:

(1) A single tract of at least 160 contiguous acres in one ownership within Multnomah County and all zoned for forest use; or,

(2) Two or more tracts of at least 200 combined acres in one ownership that are not contiguous, but are in

Multnomah County or adjacent counties, and all zoned for forest use.

(C) There is no other dwelling on the tract and no other dwellings are allowed on other lots (or parcels) that make up the tract.

(D) 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) 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) 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) 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;

(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 state law;

(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 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).

(I) The dwelling meets the applicable development standards of MCC 39.4110 and 39.4115.

§ 39.4090 TEMPLATE DWELLINGS STANDARDS.

(A) As used in this section, "center of the subject tract" means the mathematical centroid of the tract. A template dwelling may be sited on a tract, subject to the following:

(1) The lot or lots in the tract shall meet the applicable Lot of Record standards of Part 3 of this Chapter.

(2) The tract shall be of sufficient size to accommodate siting the dwelling in accordance with MCC 39.4110 and 39.4115;

(3) The tract shall meet the following standards:

(a) If the tract is predominantly composed of soils which are capable of producing 0 to 49 cubic feet of Douglas Fir timber per acre per year (cf/ac/yr); and

1. 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 tract parallel and perpendicular to section lines; and

2. At least three dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings, or

(b) If the tract is predominantly composed of soils which are capable of producing 50 to 85 cf/ac/yr of Douglas Fir timber; and

1. 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 tract parallel and perpendicular to section lines; and

2. At least three dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings, or

(c) If the tract is predominantly composed of soils which are capable of producing above 85 cf/ac/yr of Douglas Fir timber; and

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

2. At least five dwellings lawfully existed on January 1, 1993 within the 160-acre square and those dwellings either continue to exist or have been replaced by lawful replacement dwellings.

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

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

(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.

(h) No lot (or parcel) that is part of the tract may be used to qualify another tract for the siting of a dwelling.

(i) Pursuant to the definition of “Date of Creation and Existence” in MCC 39.2000, if the lot, parcel or tract does not qualify for a dwelling under the standards in this section, any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the criteria for a new dwelling.

(j) Pursuant to the definition of “Date of Creation and Existence” in MCC 39.2000, lots, parcels and tracts that are reconfigured after November 4, 1993 cannot be counted as meeting the “other lawfully created lots” existing on January 1, 1993 standard in subsections (A)(3)(a), (b), and (c) of this Section above: 3, 7, and 11 lots respectively.

(k) “Within” as used in the context of Subsections (a)2., (b)2. and (c)2. of this Section shall mean that all of the dwellings or any part of the dwellings are in the 160-acre square.

(4) The dwelling will be located outside a big game winter habitat area as defined by the Oregon Department of Fish and Wildlife, or that agency has certified that the impacts of the additional dwelling, considered with approvals of other dwellings in the area since acknowledgment of the Comprehensive Plan in 1980, will be acceptable.

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

(6) A condition of approval requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules, provided, however, that:

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

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

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

(7) The dwelling meets the applicable development standards of MCC 39.4110 and 39.4115;

(8) A statement has been recorded with the Division of Records that the owner and the successors in interest acknowledge the rights of owners of nearby property to conduct forest operations consistent with the Forest Practices Act and Rules, and to conduct accepted farming practices;

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

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

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

2. 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).

(Ord. 1318, Amended, 11/30/2023)

§ 39.4095 HERITAGE TRACT DWELLINGS STANDARDS.

(A) A heritage tract dwelling may be sited, subject to the following:

(1) On a tract:

(a) That is not developed with a single family residence, and

(b) That is not capable of producing 5,000 cubic feet per year of commercial tree species based on soil type, and

(c) That is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract. The road within the public right-of-way shall be maintained to the standards set forth in the County Right-of-Way Access Permit and be, as applicable, either paved or surfaced with rock. The road shall not be:

1. A U.S. Bureau of Land Management road; or
2. A U.S. Forest Service road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists

between the United States Forest Service and landowners adjacent to the road, a local government or a state agency.

(d) For which deeds or other instruments creating the lots or parcels were recorded with the County Recorder, or were in recordable form prior to January 1, 1985;

(e) That is comprised of lots or parcels that were lawfully created and pursuant to the definition of “Date of Creation and Existence” in MCC 39.2000, if the lot, parcel or tract does not qualify for a dwelling under the standards in this section, any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the criteria for a new dwelling;

(f) Notwithstanding the same ownership grouping requirements of the Lot of Record section, the tract was acquired and owned continuously by the present owner:

1. Since prior to January 1, 1985; or
2. By devise or by intestate succession from a person who acquired the lot or parcel since prior to January 1, 1985.
3. For purposes of this subsection, “owner” includes spouses, child, child-in-law, parent, sibling, sibling-in-law, parent-in-law, sibling of a parent, child of a sibling, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.

- (g) Where the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, that no dwelling exists on another lot or parcel that was part of that tract.
- (2) When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling shall be consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.
- (3) When the tract on which the dwelling will be sited consists of more than one lot or parcel, the remaining lots or parcels shall be consolidated into a single lot or parcel prior to the issuance of any development permits.
- (4) Prior to the issuance of any development permits the owner of the tract shall 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 Land Use Planning Division 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 of Forestry determines that the tract does not meet those requirements, it 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 state law;

(5) The dwelling meets the applicable standards of MCC 39.4110 and 39.4115. (Ord. 1309, Amended, 08/18/2022)

§ 39.4100 USE COMPATIBILITY STANDARDS.

(A) Specified uses of MCC 39.4075 (D) and (E) and MCC 39.4080 (A), (B) and (C) may be allowed upon a finding that:

(1) The use will:

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

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

(2) 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.

(B) In the East of Sandy River Planning Area single family dwellings as specified in MCC 39.4075 (B) may be allowed upon a finding that they will not significantly impact open space, public facilities, wildlife habitat, and rural community character.

§ 39.4105 BUILDING HEIGHT REQUIREMENTS.

(A) Maximum structure height – 35 feet.

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

§ 39.4110 FOREST PRACTICES 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:

Table 1.

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)
Replaced or restored dwelling in same location &/or less than 400 sq. ft. additional ground coverage; Alteration and maintenance of dwelling	May maintain current nonconforming setback(s) if less than 30 ft. to property line	30	30	Property owner is encouraged to establish Primary to the extent possible
Replaced or restored dwelling in same location & greater than 400 sq. ft. additional ground coverage; Alteration and maintenance of dwelling	Nonconforming setback(s) of less than 30 ft. to property lines that existed as of August 26, 2006 may be maintained	30	30	Primary is required, except that if there was a nonconforming Forest Practice setback of less than 30 feet to property lines as of August 26, 2006, Primary is required to the full extent of the nonconforming Forest Practice setback as it existed on August 26, 2006
At least a portion of the replaced or restored dwelling is within 100 ft. of existing dwelling	N/A	30	30	Primary required; Maintenance of vegetation in the Secondary is required to the extent possible
Replaced or restored dwelling over 100 ft. from existing dwelling	Meet current setback standards	30	130	Primary & Secondary required

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)
At least a portion of the Temporary Health Hardship Dwelling is within 100 ft. of existing dwelling	N/A	30	30	Primary required
Temporary Health Hardship farther than 100 ft. from existing dwelling	N/A	30	130	Primary and Secondary required
At least a portion of the mobile home during construction or reconstruction of a residence is within 100 ft. of dwelling	N/A	30	30	Primary required
Mobile home during construction or reconstruction of a residence farther than 100 ft. of dwelling	N/A	30	130	Primary and Secondary required
Template Dwelling	N/A	30	130	Primary & Secondary required
Heritage Tract Dwelling	N/A	30	130	Primary & Secondary required
Large Acreage Dwelling	N/A	30	130	Primary & Secondary required
Accessory structures within 100 ft. of the dwelling	N/A	30	30	Primary required
Accessory structures located more than 100 ft. from the dwelling	N/A	30	130	Primary & Secondary required

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)
Addition to an existing structure	Nonconforming setback(s) of less than 30 ft. to property lines that existed as of May 21, 2011 may be maintained	30	30	Primary is required, except that if there was a nonconforming Forest Practice setback of less than 30 feet to property lines as of May 21, 2011, Primary is required to the full extent of the nonconforming Forest Practice setback as it existed on August 26, 2006.
Other Accessory structures	N/A	30	130	Primary & Secondary required
Fences and Retaining Walls	N/A	Subject to all other applicable Code provisions, a fence or retaining wall over six feet in height shall be setback from all Lot Lines a distance at least equal to the height of such fence or retaining wall.	Subject to all other applicable Code provisions, a fence or retaining wall over six feet in height shall be setback from all Lot Lines a distance at least equal to the height of such fence or retaining wall.	N/A

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)
Other Structures	N/A	30	130	Primary & Secondary required
Property Line Adjustment; Lot of Exception; Land Divisions.	May maintain current nonconforming setback to existing structures	30	30	On tracts with required Primary & Secondary FSZ as part of a land use decision, both shall be maintained.

(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.

(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.

(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:

Percent Slope	Distance In Feet
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.

(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.

(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

(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).

§ 39.4115 DEVELOPMENT STANDARDS FOR DWELLINGS AND STRUCTURES.

All dwellings and structures shall comply with the approval criteria in (B) through (E) 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:

(1) Expansion of existing dwelling shall meet the development standards of MCC 39.4115(E).

(a) Expansion of 400 square feet or less additional ground coverage to an existing dwelling: shall meet the development standards of MCC 39.4115(E);

(b) Expansion of more than 400 square feet additional ground coverage to an existing dwelling: Shall meet the development standards of MCC 39.4115 (C) and (E);

(2) Replacement or restoration of a dwelling shall meet the development standards of MCC 39.4115(E).

(a) Replacement or restoration of a dwelling that is within the same foot-print of the original dwelling and includes less than 400 square feet of additional ground coverage: Subject to the development standards of MCC 39.4115(E);

(b) Replacement or restoration of a dwelling that is within the same foot-print of the original dwelling with more than 400 square feet of additional ground coverage: Shall meet the development standards of MCC 39.4115 (C) and (E);

(c) Replacement or restoration of a dwelling that is not located within the footprint of the original dwelling but it is located where at least a portion of the replacement dwelling is within 100 feet of the original dwelling: Shall meet the development standards of MCC 39.4115 (C) and (E)

(3) Accessory buildings shall meet the development standards of MCC 39.4115(E).

(a) Accessory buildings within 100 feet of the existing dwelling: Shall meet the development standards of MCC 39.4115 (C) and (E);

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

(4) Temporary dwellings shall meet the development standards of MCC 39.4115(E).

(a) A temporary health hardship mobile home located within 100 feet of the existing dwelling shall meet the development standards of MCC 39.4115(E);

(b) A temporary health hardship mobile home located farther than 100 feet from the existing dwelling: Shall meet the development standards of MCC 39.4115(B), (C) and (E);

(c) A temporary mobile home used during construction or reconstruction of a dwelling located within 100 feet of the dwelling under construction shall meet the development standards of MCC 39.4115(E);

(d) A temporary mobile home used during construction or reconstruction of a dwelling located farther than 100 feet of the dwelling under construction: Shall meet the development standards of MCC 39.4115(B), (C) and (E);

(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

(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;

(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;

(3) Have a fire retardant roof; and

(4) Have a spark arrester on each chimney.

(D) 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 1 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 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.

(E) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, shall be provided on the Lot of Record.

(1) Sewage and stormwater disposal systems for existing development may be off-site in easement areas reserved for that purpose.

(2) Stormwater/drainage control systems are required for new impervious surfaces. The system shall be adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event

is no greater than that before the development.
(Ord. 1309, Amended, 08/18/2022)

§ 39.4120 LOT SIZE REQUIREMENTS.

(A) The minimum lot size for new parcels or lots shall be 80 acres, except as provided in MCC 39.4125, 39.4130, 39.4140, 39.4143, 39.3010, 39.3020, 39.3030, 39.3040, 39.3050 and 39.3060.

(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) The minimum Front Lot Line Length is 50 feet, except for flag lots as provided in MCC 39.9510(D) and except as allowed in MCC 39.4143 where the property does not abut a street.
(Ord. 1318, Amended, 11/30/2023)

§ 39.4125 LOTS OF EXCEPTION.

An exception to permit the creation of a lot of less than the minimum 80 acre parcel size for new parcels may be authorized as provided in Subsection (A) or (B) below and subject to the following:

(A) A small parcel for an existing dwelling may be established subject to the following:

- (1) The Lot of Record to be divided is larger than 80 acres;
- (2) The Lot of Exception will contain a dwelling which lawfully existed prior to January 25, 1990;
- (3) The Lot of Exception will be no larger than 5 acres.
 - (a) In the CFU-1 and CFU-2 zones, the Lot of Exception will be no larger than 5 acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall not be larger than 10 acres;
- (4) The division will create no more than one lot which is less than 80 acres;

(5) The division complies with the dimensional requirements of MCC 39.4110; and

(6) The parcel not containing the dwelling is not entitled to a dwelling. A condition of approval shall require that covenants, conditions and restrictions which preclude future siting of a dwelling on the parcel shall be recorded with the county Division of Records. 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.

(B) A parcel that contains two dwellings may be divided provided that:

- (1) At least two dwellings lawfully existed on the lot or parcel prior to November 4, 1993;
- (2) Each dwelling complies with the criteria for a replacement dwelling under ORS 215.283(1)(p);
- (3) The new lots or parcels comply with the following size requirements:
 - (a) In the CFU zone, except for one lot or parcel, each lot or parcel created under this subsection is between two and five acres in size;
 - (b) In the CFU-1, CFU-2, CFU-3, CFU-4, and CFU-5 zones, one of the parcels created is between two and five acres in size;
- (4) At least one dwelling is located on each parcel created;
- (5) The landowner of a lot or parcel created under this paragraph provides evidence that a restriction prohibiting the landowner and the landowner's successors in interest from further dividing the lot or parcel has been

recorded with the Multnomah County Recorder. A restriction imposed under this paragraph shall be irrevocable unless a statement of release is signed by the Planning Director indicating that the comprehensive plan or land use regulations applicable to the lot or parcel have been changed so that the lot or parcel is no longer subject to statewide planning goals protecting forestland or unless the land division is subsequently authorized by law or by a change in a statewide planning goal for land zoned for forest use or mixed farm and forest use;

(6) The new property line proposed to divide the existing parcel shall be located such that:

(a) Forest Practices Setback dimensional requirements in MCC 39.4110 are met as nearly as possible considering parcel size and location of existing dwellings and other structures;

(b) Adverse impacts on forest practices will be minimized. Factors to consider in that evaluation include the location of: existing and potential logging access roads, existing and potential log landing areas, steep topography, and the size of the respective timber management areas; and

(7) The development standards for dwellings and structures in MCC 39.4115, the exception standards for secondary fire safety zones in MCC 39.4155, and the land division requirement that “the tentative plan complies with the area and dimensional requirements of the base zone” shall not apply as approval criteria. The land division shall be reviewed as either a Category 1 or 3 land division, as applicable;

(C) The Planning Director shall maintain a record of parcels that do not qualify for the

siting of a new dwelling under restrictions imposed by this section. The record shall be readily available to the public.

(D) Land Divisions for Park and Open Space.

(1) The governing body of a county or its designee may approve a proposed division of land in a forest zone or a mixed farm and forest zone to create two parcels if the proposed division of land is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase one of the resulting parcels as provided in this section.

(2) A parcel created by the land division that is not sold to a provider of public parks or open space or to a not-for-profit land conservation organization must comply with the following:

(a) If the parcel contains a dwelling or another use allowed under ORS chapter 215, the parcel must be large enough to support continued residential use of other allowed use of the parcel; or

(b) If the parcel does not contain a dwelling, the parcel is eligible for siting a dwelling as may be authorized under ORS 195.120 or as may be authorized under ORS 215.705 to 215.750, based on the size and configuration of the parcel.

(3) Before approving a proposed division of land under this section, the governing body of a county or its designee shall require as a condition of approval that the provider of public parks or open space, or the not-for-profit land conservation organization, present for recording in the deed records for the county in which the parcel retained by the provider or organization is located an irrevocable deed restriction

prohibiting the provider or organization and their successors in interest from:

(a) Establishing a dwelling on the parcel or developing the parcel for any use not authorized in a forest zone or mixed farm and forest zone except park or conservation uses; and

(b) Pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.

(4) If a proposed division of land under this section results in the disqualification of a parcel for a special assessment described in ORS 308A.718 or the withdrawal of a parcel from designation as riparian habitat under ORS 308A.365, the owner must pay additional taxes as provided under ORS 308A.371 or 308A.700 to 308A.733 before the county may approve the division.

(E) A landowner allowed a land division under this section shall sign a statement that shall be recorded with the Multnomah County Recorder, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

§ 39.4130 LOT LINE ADJUSTMENT; PROPERTY LINE ADJUSTMENT.

(A) Pursuant to the applicable provisions in MCC 39.9300, an adjustment of the common lot line between contiguous Lots of Record may be authorized based on a finding that:

- (1) The permitted number of dwellings will not thereby be increased above that otherwise allowed in this base zone;
- (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 39.4110;

(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; and

(5) If the properties abut a street, the required access requirements of MCC 39.4135 are met after the relocation of the common property line.

(B) Subject to subsection (C) of this section, for land located entirely outside the corporate limits of a city, a county may approve a property line adjustment in which:

(1) One or both of the abutting lawfully established units of land are smaller than the minimum lot or parcel size for the applicable zone before the property line adjustment and, after the adjustment, one is as large as or larger than the minimum lot or parcel size for the applicable zone; or

(2) Both abutting lawfully established units of land are smaller than the minimum lot or parcel size for the applicable zone before and after the property line adjustment.

(C) A property line adjustment may not be used to:

(1) Decrease the size of a lawfully established unit of land that, before the relocation or elimination of the common property line, is smaller than 80 acres and contains an existing dwelling or is approved for the construction of a dwelling, if another lawfully established unit of land affected by the property line adjustment would be increased to a size

as large as or larger than the minimum lot or parcel required to qualify the other affected lawfully established unit of land for a dwelling;

(2) Decrease the size of a lawfully established unit of land that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than 80 acres, if another lawfully established unit of land affected by the property line adjustment would be increased to a size as large as or larger than the minimum lot or parcel size required to qualify the other affected lawfully established unit of land for a dwelling;

(3) Allow an area of land used to qualify a lawfully established unit of land for a dwelling based on an acreage standard to be used to qualify another lawfully established unit of land for a dwelling if the land use approval would be based on an acreage standard; or

(4) Adjust a property line that resulted from a subdivision or partition authorized by a waiver (as that term is defined in ORS 195.300) so that any lawfully established unit of land affected by the property line adjustment is larger than:

(a) Two acres if the lawfully established unit of land is, before the adjustment, two acres in size or smaller and is high-value farmland, high-value forestland or within a ground water restricted area (as those terms are defined in ORS 195.300); or

(b) Five acres if the lawfully established unit of land is, before the adjustment, five acres in size or smaller and is not high-value farmland, high-value forestland or within a ground water restricted area (as those terms are defined in ORS 195.300).

(Ord. 1318, Amended, 11/30/2023)

§ 39.4135 ACCESS.

All lots and parcels in this base zone shall abut a public street or shall have other access deemed by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles. This access requirement does not apply to a preexisting lot and parcel that constitutes a Lot of Record described in MCC 39.3010(C), 39.3020(C), 39.3030(C), 39.3040(C), 39.3050(C) or 39.3060(C).

§ 39.4140 LOT SIZE FOR CONDITIONAL USES.

Lots less than the minimum specified in MCC 39.4120(A) may be created for the uses listed in MCC 39.4070(R) and 39.4080(A)(1) through (6), (9) through (13), and (16) and (B)(1) through (4), after approval is obtained pursuant to MCC 39.4100 and based upon:

(A) A finding that the new lot is the minimum site size necessary for 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 base zone.

§ 39.4143 LAND DIVISION TO PRESERVE OPEN SPACE OR PARK.

A land division to create one new parcel if the proposed division of land is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase one of the resulting parcels as provided in this section may be approved provided:

(A) A parcel created by the land division that is not sold to a provider of public parks or open space, or a not-for-profit conservation organization must comply with the following:

- (1) If the parcel contains a dwelling or another use allowed under ORS chapter 215, the parcel must be large enough to support continued residential use or other allowed use of the parcel; or
- (2) If the parcel does not contain a dwelling, the parcel is eligible for siting a dwelling as may be authorized under ORS 195.120 or as may be authorized under ORS 215.705 to 215.750, based on the size and configuration of the parcel.

(B) Approval of a land division under this section, requires a condition of approval that requires the provider of public parks or open space, or the not-for-profit land conservation organization, present for recording in the deed records for Multnomah County an irrevocable deed restriction prohibiting the provider or organization and their successors in interest form:

- (1) Establishing a dwelling on the parcel or developing the parcel for any use not authorized in a Commercial Forest Use (CFU) zone except park or conservation uses; and
- (2) Pursuing a cause of action or claim of relief alleging an injury from farming or forest practices for which a claim or action is not allowed under ORS 30.936 or 30.937.

(C) If a proposed division of land under this section results in the disqualification of a parcel for a special assessment described in ORS 308A.718 or the withdrawal of a parcel from designation as riparian habitat under ORS 308A.365, the owner must pay additional taxes as provided under ORS 308A.371 or 308A.700 to 308A.733 before the county may approve the division.

(Ord. 1318, Added, 11/30/2023)

§ 39.4145 OFF-STREET PARKING AND LOADING.

Off-street parking and loading permitted as an accessory use shall be provided as required by MCC 39.6500 through 39.6600.

§ 39.4150 SINGLE FAMILY DWELLINGS CONDITION OF APPROVAL - PROHIBITION ON CLAIMS ALLEGING INJURY FROM FARM OR FOREST PRACTICES.

As a condition of approval of a single family dwelling, 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.

§ 39.4155 EXCEPTIONS TO SECONDARY FIRE SAFETY ZONES.

(A) The secondary fire safety zone for dwellings and structures may be reduced pursuant to the provisions of MCC 39.4155 (B) when:

- (1) The tract on which the dwelling or structure is proposed has an average lot width or depth of 330 feet or less, or
- (2) The dwelling or structure will be located within 130 feet of the centerline of a public or private road serving two or more properties including the subject site; or
- (3) The proposed dwelling or structure will be clustered with a legally existing dwelling or structure.

(B) Exceptions to secondary fire safety zones shall only be granted upon satisfaction of the following standards:

- (1) If the proposed secondary fire safety zone is between 50 and 100 feet, the

dwelling or structure shall be constructed in accordance with the International Fire Code Institute Urban-Wildland Interface Code Section 505 Class 2 Ignition Resistant Construction as adopted August, 1996, or as later amended, or

(2) If the proposed secondary fire safety zone is less than fifty feet, the dwelling or structure shall be constructed in accordance with the International Fire Code Institute Urban-Wildland Interface Code Section 504 Class 1 Ignition Resistant Construction as adopted August, 1996, or as later amended, and

(3) There shall be no combustible fences within 12 feet of the exterior surface of the dwelling or structure; and

(4) A dwelling shall have a central station monitored alarm system if the secondary fire safety zone equivalents of subsection (B) (1) above are utilized, or

(5) A dwelling shall have a central station monitored 13D sprinkler system if the secondary fire safety zone equivalents of subsection (B) (2) above are utilized. Expansions of existing single family dwellings as allowed by MCC 39.4075 (A) shall not be required to meet this standard, but shall satisfy the standard of MCC 39.4115(C)(3) and (E).

(6) All accessory structures within the fire safety zone setbacks required by MCC 39.4110, and all accessory structures within 50 feet of a dwelling, shall have a central monitored alarm system.

(7) All accessory structures within 50 feet of a building shall have exterior walls constructed with materials approved for a minimum of one-hour-rated fire-resistive construction, heavy timber, log wall construction or constructed with noncombustible materials on the exterior side.

(8) When a detached accessory structure is proposed to be located so that the structure or any portion thereof projects over a descending slope surface greater than 10 percent, the area below the structure shall have all underfloor areas enclosed to within 6 inches of the ground, with exterior wall construction in accordance with Section 504.5 of the International Fire Code Institute Urban-Wildland Interface Code Class 1 Ignition Resistant Construction as adopted August, 1996, or as later amended, or underfloor protection in accordance with Section 504.6 of that same publication.

Exception: The enclosure may be omitted where the underside of all exposed floors and all exposed structural columns, beams and supporting walls are protected as required for exterior one-hour-rated fire-resistive construction or heavy-timber construction. (Ord. 1309, Amended, 08/18/2022)

4.A.2 – EXCLUSIVE FARM USE (EFU)

§ 39.4200- PURPOSE.

The purposes of the Exclusive Farm Use Base Zone are to preserve and maintain agricultural lands for farm use consistent with existing and future needs for agricultural products, forests and open spaces; to conserve and protect scenic and wildlife resources, to maintain and improve the quality of the air, water and land resources of the County and to establish criteria and standards for farm uses and related and compatible uses which are deemed appropriate. Land within this base zone shall be used exclusively for farm uses as provided in the Oregon Revised Statutes Chapter 215 and the Oregon Administrative Rules Chapter 660, Division 33 as interpreted by this Exclusive Farm Use Subpart.

One of the implementation tools to carry out the purposes of this base zone is a Lot of Record requirement to group into larger “Lots of Record” those contiguous parcels and lots that were in the same ownership on February 20,

1990. This requirement is in addition to all “tract” grouping requirements of State Statute and Rule.

§ 39.4205 AREA AFFECTED.

MCC 39.4200 through 39.4265 shall apply to those areas designated EFU on the Multnomah County Zoning Map.

§ 39.4210 DEFINITIONS.

As used in MCC 39.4200 through MCC 39.4265, unless otherwise noted, the following terms and their derivations shall have the following meanings:

Area - As used in ORS 215.203 for the production of biofuel, “area” is limited to Clark and Skamania counties in Washington State, Multnomah, Columbia, Washington, Clackamas, Yamhill, Hood River and Marion counties in Oregon.

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

Channelization – The separation or regulation of conflicting traffic movements into definite paths of travel by traffic islands or pavement markings to facilitate the safe and orderly movement of both vehicles and pedestrians. Examples include, but are not limited to, left turn refuges, right turn refuges including the construction of islands at intersections to separate traffic, and raised medians at driveways or intersections to permit only right turns. Channelization does not include continuous median turn lanes.

Commercial Agricultural Enterprise – Farm operations that will:

- (1) Contribute in a substantial way to the area's existing agricultural economy; and

- (2) Help maintain agricultural processors and established farm markets.

When determining whether a farm is part of the commercial agricultural enterprise, not only what is produced, but how much and the method by which it is marketed shall be considered.

Commercial Photovoltaic Solar Power

Generation Facility – means an assembly of equipment that converts sunlight into electricity and then stores, transfers, or both, that electricity. This includes photovoltaic modules, mounting and solar tracking equipment, foundations, inverters, wiring, and storage devices and other components. Photovoltaic solar power generation facilities also include electrical cable collection systems connecting the photovoltaic solar generation facility to a transmission line, all necessary grid integration equipment, new or expanded private roads constructed to serve the photovoltaic solar power generation facility, office, operation and maintenance buildings, staging areas and all other necessary appurtenances. A photovoltaic solar power generation facility does not include a net metering pursuant to ORS 757.300 and OAR chapter 860, division 39 or Feed-in-Tariff project pursuant to ORS 757.365 and OAR chapter 860, division 84.

Contiguous – refers to parcels or lots which have any common boundary, excepting a single point, and shall include, but not be limited to, parcels or lots separated only by an alley, street or other right-of-way.

Deferred Replacement Permit – is a building permit for replacement of an existing dwelling that allows construction of a replacement dwelling at any time. The deferred replacement permit may not be transferred, by sale or otherwise, except by the applicant to the spouse or a child of the applicant. The replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to siting at the time of construction.

Farm Operator – means a person who operates a farm, doing the work and making the day-to-day decisions about such things as planting, harvesting, feeding and marketing.

High-Value Farm Land – means land in a tract composed predominately of soils that are:

- (1) Irrigated and classified prime, unique, Class I or Class II; or
- (2) Not irrigated and classified prime, unique, Class I or Class II; or
- (3) Willamette Valley Soils in Class III or IV including:
 - (a) Subclassification IIIe specifically, Burlington, Cascade, Cornelius, Latourell, Multnomah, Powell, Quatama;
 - (b) Subclassification IIIw specifically, Cornelius;
 - (c) Subclassification IVe, specifically, Cornelius, Latourel, Powell, and Quatama.

Location and the extent of these soils are as identified and mapped in "Soil Survey of Multnomah County, published by the Soil Conservation Service, US Department of Agriculture, 1983."

The soil class, soil rating or other soil designation of a specific lot or parcel may be changed if the property owner submits a statement or report pursuant to ORS 215.710(5).

Private School – means privately owned primary, elementary or high school not including nursery school, kindergarten or day nursery except those operated in conjunction with a school.

Public School – means publicly owned primary, elementary or high school not including nursery school, kindergarten or day nursery except those operated in conjunction with a school.

Same Ownership – Refers to greater than possessory interests held by the same person or

persons, spouse, minor age child, same partnership, corporation, trust or other entity, separately, 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 lot or parcel, whether directly or through ownership or control or an entity having such ownership or control. For the purposes of this subsection, the seller of a property by sales contract shall be considered to not have possessory interest.

Suitable for Farm Use – means land in Class I-IV or "lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands".

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 area because it is crossed by a public road or waterway. Lots with a common boundary of only single point are not a tract.

§ 39.4215 USES.

No building, structure or land shall be used and no building or structure shall be hereafter erected, altered or enlarged in this base zone except for the uses listed in MCC 39.4220 through 39.4230 when found to comply with MCC 39.4245 through 39.4260 provided such uses occur on a Lot of Record, except those uses listed in ORS 215.283(1) may occur on Exclusive Farm Use zone lands regardless of Lot of Record status of the land upon which the use will occur.

(Ord. 1318, Amended, 11/30/2023)

§ 39.4220 ALLOWED USES.

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

(A) Farm use, as defined in ORS 215.203.

(B) Buildings other than dwellings customarily provided in conjunction with farm use.

(C) The propagation or harvesting of forest products.

(D) Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (1)(a) or (b).

(E) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be the basis for an exception under ORS 197.732 (1)(a) or (b).

(F) Climbing and passing lanes within the right of way existing as of July 1, 1987.

(G) Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and subsurface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings will occur, or no new land parcels result. Reconstruction or modification also includes “channelization” of conflicting traffic movements into definite paths of travel by traffic islands or pavement markings.

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

(I) Minor betterment of existing public roads and highway related facilities such as maintenance yards, weigh stations and rest areas within 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.

(J) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a historic property inventory as defined in ORS 358.480 and listed on the National Register of Historic Places.

(K) Creation of, restoration or enhancement of wetlands.

(L) Alteration, restoration or replacement of a lawfully established habitable dwelling.

(1) In the case of a replacement dwelling:

(a) The existing dwelling must be removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling, or

(b) If the applicant has requested a deferred replacement permit, the existing dwelling must be removed or demolished within three months after the deferred replacement permit is issued. If, however, the existing dwelling is not removed or demolished within three months after the deferred replacement permit is issued, the permit becomes void.

(2) A replacement dwelling may be sited on any part of the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable siting standards. However, the standards shall not be applied in a manner that prohibits the siting of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the deed records for the county a deed restriction prohibiting the siting of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless a statement of release is placed in the deed records for the county. The release shall be signed by the county or its designee and state that the provisions of this paragraph regarding replacement dwellings have changed to allow the siting of another dwelling. The Planning Director or the Director's designee shall

maintain a record of the lots and parcels that do not qualify for the siting of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions and release statements filed under this paragraph.

(3) As a condition of approval, the landowner 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 practices for which no action or claim is allowed under ORS 30.936 or 30.937.

(M) Replacement of an existing lawfully established single family dwelling on the same lot not more than 200 feet from the original building site when the dwelling was unintentionally destroyed by fire, other casualty or natural disaster. The dwelling may be reestablished only to its previous nature and extent, and the reestablishment shall meet all other building, plumbing, sanitation and other codes, ordinances and permit requirements. A building permit must be obtained within one year from the date of the event that destroyed the dwelling.

(N) A church, synagogue, temple, mosque, chapel, meeting house, or other nonresidential place of worship and cemeteries in conjunction with a church, synagogue, temple, mosque, chapel, meeting house or other nonresidential place of worship, consistent with ORS 215.441, wholly within an EFU base zone may be maintained, enhanced or expanded:

- (1) Use is subject to MCC 39.4235.
- (2) No new use may be authorized on high value farmland; and
- (3) Must satisfy the requirements of MCC 39.6500 through 39.6600, MCC 39.7525(A), MCC 39.8000 through 39.8050 and MCC 39.6745.

(4) The maintenance, enhancement or expansion shall not adversely impact the right to farm on surrounding EFU lands.

(5) Activities customarily associated with the practice of religious activity include worship services, religion classes, weddings, funerals, meal programs, child care, but do not include private or parochial school education for prekindergarten through grade 12 or higher education.

(O) Accessory Structures subject to the following:

(1) The Accessory Structure is customarily accessory or incidental to any use permitted or approved in this base zone and is a structure identified in the following list;

- (a) Garages or carports;
- (b) Pump houses;
- (c) Garden sheds;
- (d) Workshops;
- (e) Storage sheds, including shipping containers used for storage only;
- (f) Greenhouses;
- (g) Woodsheds;
- (h) Shelter for pets, horses or livestock and associated buildings such as: manure storage, feed storage, tack storage, and indoor exercise area;
- (i) Swimming pools, pool houses, hot tubs, saunas, and associated changing rooms;
- (j) Sport courts;
- (k) Gazebos, pergolas, and detached decks;

- (l) Fences, gates, or gate support structures; and
 - (m) Mechanical equipment such as air conditioning units, heat pumps and electrical boxes; and
 - (n) Similar structures.
- (2) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential use.
- (3) The Accessory Structure may contain one sink.
- (4) The Accessory Structure shall not contain:
- (a) More than one story;
 - (b) Cooking Facilities;
 - (c) A toilet;
 - (d) Bathing facilities such as a shower or bathing tub;
 - (e) A mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage; or
 - (f) A closet built into a wall.
- (5) Compliance with MCC 39.8860 is required.
- (6) The combined footprints of all Accessory Buildings on a Lot of Record shall not exceed 2,500 square feet.
- (7) An Accessory Structure exceeding any of the Allowed Use provisions above shall be considered through the Review Use provisions.
- (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.

(P) Structures or fenced runs for the shelter or confinement of poultry or livestock.

(Q) Type A home occupation pursuant to MCC 39.8800.

(R) Actions taken in response to an emergency/disaster event as defined in MCC 39.2000 pursuant to the provisions of MCC 39.6900.

(S) Wildlife Habitat Conservation and Management Plan. Authorization of a single-family residential dwelling in conjunction with a Wildlife Habitat Conservation and Management Plan is prohibited.

(T) On-site filming and activities accessory to on-site filming if the activity would involve no more than 45 days on any site within any one-year period or does not involve erection of sets that would remain in place for longer than any 45-day period. On-site filming and activities accessory to on-site filming may be considered to include office administrative functions such as payroll and scheduling, and the use of campers, truck trailers or similar temporary facilities.

Temporary facilities may be used as temporary housing for security personnel.

"On-site filming and activities accessory to on-site filming" includes: filming and site preparation, construction of sets, staging, makeup and support services customarily provided for on-site filming and production of advertisements, documentaries, feature film, television services and other film productions that rely on the rural qualities of an exclusive farm use zone in more than an incidental way. On-site filming and activities accessory to on-site filming" does not include: facilities for

marketing, editing and other such activities that are allowed only as a home occupation or construction of new structures that requires a building permit.

(U) A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor area or placed on a permanent foundation unless the building or facility pre-existed the use approved under this paragraph. An owner of property used for the purpose authorized in this paragraph may charge a person operating the use on the property rent for the property. An operator may charge users of the property a fee that does not exceed the operator's cost to maintain the property, buildings and facilities. The site shall not include an aggregate surface or hard surface area unless the surface pre-existed the use approved under this paragraph. As used in this paragraph, "model aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is used or intended to be used for flight and is controlled by radio, lines or design by a person on the ground.

(V) Fire service facilities providing primarily rural fire protection services subject to satisfying the requirements of MCC 39.6500 through 39.6600 (off-street parking), MCC 39.7525(A) (minimum yards), MCC 39.8000 through 39.8050 (design review), and MCC 39.6745 (signs).

(W) Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities associated with a district as defined in ORS 540.505.

(X) Utility facility service lines. Utility facility service lines are utility lines and accessory facilities or structures that end at the point where the utility service is received by the customer and that are located on one or more of the following:

- (1) A public right of way;

- (2) Land immediately adjacent to a public right of way, provided the written consent of all adjacent property owners has been obtained; or

- (3) The property to be served by the utility.

(Y) Land application of reclaimed water, agricultural or industrial process water or biosolids or the onsite treatment of septage prior to the land application of biosolids, for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in the Exclusive Farm Use zone. Subject to the issuance of a license, permit or other approval by the Department of Environmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251. For the purposes of this paragraph, onsite treatment of septage prior to the land application of biosolids is limited to treatment using treatment facilities that are portable, temporary and transportable by truck trailer, as defined in ORS 801.580, during a period of time within which land application of biosolids is authorized under the license, permit or other approval.

(Z) Signs, as provided in this Chapter.

(AA) Solar, photovoltaic and wind turbine alternative energy production facilities accessory to uses permitted in the base zone, provided that:

- (1) All systems shall meet the following requirements:
 - (a) The system is an accessory alternative energy system as defined in MCC 39.2000;
 - (b) The system meets all overlay requirements;
 - (c) The system is mounted to a ground mount, to the roof of the dwelling or accessory structure, or to a wind tower;

(2) The overall height of solar energy systems shall not exceed the peak of the roof of the building on which the system is mounted;

(3) Wind Turbine Systems:

(a) Wind turbine systems shall be set back from all property lines a distance equal to or greater than the combined height of the turbine tower and blade length. Height is measured from grade to the top of the wind generator blade when it is at its highest point;

(b) No lighting on wind turbine towers is allowed except as required by the Federal Aviation Administration or other federal or state agency.

(c) The land owner signs and records a covenant stating they are responsible for the removal of the system if it is abandoned. In the case of a sale or transfer of property, the new property owner shall be responsible for the use and/or removal of the system. Systems unused for one consecutive year are considered abandoned.

(BB) In the West of Sandy River Rural Planning Area and the East of Sandy River Rural Planning Area only, a single, one-day agri-tourism event subject to MCC 39.8925.

(CC) A facility for the processing of farm products as described in ORS 215.255. (Ord. 1318, Amended, 11/30/2023)

§ 39.4225 REVIEW USES.

(A) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating power for public use by sale or transmission towers over 200 feet in height provided:

(1) Radio and television towers 200 feet and under when found to satisfy the

requirements of ORS 215.275 “Utility facilities necessary for public service; criteria; mitigating impact of facility” and MCC 39.7550 through 39.7575.

(2) Wireless communications facilities 200 feet and under when found to satisfy the requirements of MCC 39.7700 through 39.7765.

(3) All other utility facilities and/or transmission towers 200 feet and under in height subject to the following:

(a) The facility satisfies the requirements of ORS 215.275, “Utility facilities necessary for public service; criteria; mitigating impact of facility”; and

(b) The facility satisfies the requirements of MCC 39.6500 through 39.6600; 39.7525(A); 39.8000 through 39.8050; and 39.6745.

(B) A farm help dwelling for a relative on real property used for farm use subject to the standards in MCC 39.4265 (A).

(C) A dwelling, including a mobile or modular home, customarily provided in conjunction with a farm use subject to the standards in MCC 39.4265 (B).

(D) Accessory farm dwellings, which includes all types of residential structures allowed by the applicable state building code, customarily provided in conjunction with farm use subject to all of the standards in MCC 39.4265 (C).

(E) Notwithstanding the same ownership grouping requirements of the Lot of Record Part, a single family heritage tract dwelling may be allowed on land not identified as high-value farmland subject to the standards in MCC 39.4265 (D).

(F) A Farm Stands subject to MCC 39.8870 through MCC 39.8885.

(G) A winery, as described and regulated in ORS 215.452, and subject to MCC 39.8900 – 39.8920, including uses and activities listed in MCC.8915.

(H) Off-street parking and loading pursuant to MCC 39.6500 through 39.6600.

(I) Lot Line Adjustment pursuant to the provisions of MCC 39.4255.

(J) Placement of Structures necessary for continued public safety, or the protection of essential public services or protection of private or public existing structures, utility facilities, roadways, driveways, accessory uses and exterior improvements damaged during an emergency/disaster event. This includes replacement of temporary structures erected during such events with permanent structures performing an identical or related function. Land use proposals for such structures shall be submitted within 12 months following an emergency/disaster event. Applicants are responsible for all other applicable local, state and federal permitting requirements.

(K) A facility for the processing of farm crops, or the production of biofuel as defined in ORS 215, that is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses. A processing facility shall comply with all applicable siting standards but the standards shall not be applied in a manner that prohibits the siting of the processing facility. The siting standards are the requirements of MCC 39.6500 through 39.6600 (off-street parking), MCC 39.4245(C), (D) & (E) (yards), and MCC 39.6745 (signs).

(L) Parking of no more than seven log trucks shall be allowed in an exclusive farm use zone notwithstanding any other provision of law except for health and safety provisions, unless the log truck parking will:

(1) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(2) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(M) In the West of Sandy River Rural Plan Area a State or regional trail for which a master plan that is consistent with OAR Division 34 State and Local Park Planning has been adopted into the comprehensive plan. Development of the trail and accessory facilities shall be subject to the provisions for Design Review in MCC 39.8000 through 39.8050, and any other applicable zoning code requirements; and

(1) Accessory facilities including but not limited to parking areas, may only be allowed in the EFU zone if there is no alternative location in another zone and;

(2) Accessory facilities which must be located in the EFU zone, shall be of a size and scale that is consistent with the rural character of the area.

(N) Consolidation of Parcels and Lots pursuant to MCC 39.9200.

(O) Structures or uses customarily accessory or incidental to any use permitted or approved in this base zone, which do not meet the “accessory structures” standard in MCC 39.4220, Allowed Uses, but which meet the following provisions:

(1) The Accessory Structure shall not be designed or used, whether temporarily or permanently, as a primary dwelling, accessory dwelling unit, apartment, guesthouse, housing rental unit, sleeping quarters or any other residential unit.

(2) The Accessory Structure shall not contain a bathing tub.

(3) Any toilet or bathing facilities, such as a shower, shall be located on the ground floor of any multi-story building.

(4) An Accessory Structure containing a toilet or bathing facilities shall not contain Cooking Facilities.

(5) The Accessory Structure shall not contain a mattress, bed, Murphy bed, cot, or any other similar item designed to aid in sleep as a primary purpose, unless such item is disassembled for storage.

(6) The applicant must show that building features or combined building footprints exceeding the Allowed Use provisions are the minimum possible departure from the Allowed Use standards to accommodate the use.

(7) Compliance with MCC 39.8860 is required.

(P) Existing schools may be enhanced subject to the requirements for Design Review in MCC 39.8000 – 39.8050, Off-street Parking in MCC 39.6500 – 39.6600, and the applicable provisions of MCC 39.4235. Enhancement includes alteration of school facilities that do not add enclosed structures that could increase the design capacity of the school or that do not extend school-related activities closer to the boundary of the tract.

(Q) A temporary dwelling for health hardship pursuant to MCC 39.8700 and 39.4245.

(R) A Type B home occupation when approved pursuant to MCC 39.8850.

(S) A large winery, as described and regulated in ORS 215.453.

(T) A winery may carry out up to 18 days of agri-tourism or other commercial events in a calendar year on the tract occupied by the winery, subject to MCC 39.8920.

(U) In the West of Sandy River Rural Planning Area and the East of Sandy River Rural Planning Area only, agri-tourism events subject to MCC 39.8930.

(V) Dog training classes or testing trials, which may be conducted outdoors or in preexisting farm buildings, when:

(1) The number of dogs participating in training does not exceed 10 dogs per training class and the number of training classes to be held on-site does not exceed six per day; and

(2) The number of dogs participating in a testing trial does not exceed 60 and the number of testing trials to be conducted on-site is limited to four or fewer trials per calendar year.

(W) A cider business, as described in ORS 215.451.

(X) A farm brewery, as described in ORS 215.449.
(Ord. 1318, Amended, 11/30/2023)

§ 39.4230 CONDITIONAL USES.

The following uses may be permitted when found by the approval authority to satisfy the applicable provisions in MCC 39.7000 to 39.7035 and the criteria listed for the use:

(A) Commercial activities that are in conjunction with a farm use, except for facilities for processing crops that meet the standards for crop source, building size, and other applicable siting standards pursuant to MCC 39.4225(K) above. Uses under this provision shall be subject to the approval criteria in MCC 39.7015(1) through (7).

(B) Operations conducted for:

(1) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under this section; and

(2) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.

(C) Public parks and playgrounds. A public park may be established consistent with the provisions of ORS 195.120 and MCC 39.4235.

(D) Private parks, playgrounds, hunting and fishing preserves, and campgrounds.

(1) Existing facilities wholly within an EFU base zone may be maintained, enhanced or expanded subject to the applicable requirements of this Chapter.

(2) New facilities may be allowed, but not on high-value farm lands.

(3) In addition to the approval standards in MCC 39.7000 to 39.7035, a private campground shall be subject to the following:

(a) Except on a lot or parcel contiguous to a lake or reservoir, campgrounds within three miles of an urban growth boundary shall meet the provisions in MCC 39.4235.

(b) The campground shall be an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes.

(c) The campground is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground.

(d) The campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.

(e) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups

shall not be provided to individual camp sites, except that electrical service may be provided to yurts. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.

(f) The campground shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

(g) A private campground may provide yurts for overnight camping provided:

1. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt.

2. The yurt shall be located on the ground or on a wood floor with no permanent foundation.

3. As used in this subsection, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.

(E) Community centers owned and operated by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community. The use shall meet the provisions in MCC 39.4235.

(F) Type C home occupation as provided for in MCC 39.7400 through 39.7410.

(G) A facility for the primary processing of forest products, provided that such facility and is compatible with farm uses described in ORS 215.203 (2). Such a facility may be approved for a one-year period which is renewable. These facilities are intended to be only portable or temporary in nature.

The primary processing of a forest product, as used in this section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market.

Forest products, as used in this section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.

(H) Transmission towers over 200 feet in height, except as follows:

(1) Radio and television towers if found to satisfy the requirements of MCC 39.7550 through MCC 39.7575; and

(2) Wireless communications facilities 200 feet and over are not allowed.

(I) Dog kennels. Existing facilities wholly within an EFU base zone may be maintained, enhanced or expanded, subject to other requirements of law. New facilities may be allowed only on non-high-value lands.

(J) The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission. In accordance with ORS 215.283(2)(p), notice of all applications shall be mailed to the State Department of Agriculture at least 20 calendar days prior to any initial hearing on the application.

(K) Public road and highway projects including:

(1) 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. and;

(2) Improvement of public road 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.

(L) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a single family heritage tract dwelling may be allowed on land identified as high-value farmland when:

(Note: MCC 39.7015 Conditional Use Approval Criteria does not apply)

(1) The lot or parcel meets the requirements of MCC 39.4265 (D) (1) through (8); and

(2) The lot or parcel cannot practicably be managed for farm use by itself or in conjunction with other land due to extraordinary circumstances inherent in the land or its physical setting that do not apply generally to other land in the vicinity. For the purposes of this section, this criterion asks whether the subject lot or parcel can be physically put to farm use without undue hardship or difficulty because of extraordinary circumstances inherent in the land or its physical setting. Neither size alone nor a parcel's limited economic potential demonstrate that a lot of parcel cannot be practicably managed for farm use. Examples of "extraordinary circumstances inherent in the land or its physical setting" include very steep slopes, deep ravines, rivers, streams, roads, railroad or utility lines or other similar natural or physical barriers that by themselves or in combination separate the subject lot or parcel from adjacent agricultural land and prevent it from being practicably managed for farm use by itself or together with adjacent or nearby farms. A lot or parcel that has been put to farm use despite the proximity of a natural barrier or since the placement of a physical barrier shall be presumed manageable for farm use; and

(3) The dwelling will not:

- (a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest; or
- (b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(4) The dwelling will not materially alter the stability of the overall land use pattern of the area.

(M) Notwithstanding the same ownership grouping requirements of the Lot of Record section, a single family heritage tract dwelling may be allowed on land identified as high-value farmland when:

(Note: MCC 39.7015 Conditional Use Approval Criteria does not apply)

- (1) The lot or parcel meets the requirements of MCC 39.4235(D) (1) through (8); and
- (2) The tract on which the dwelling will be sited is:
 - (a) Not composed predominately of irrigated or non-irrigated soils classified prime, unique, Class I or Class II; and
 - (b) Less than twenty-one acres in size; and
 - (c) Is bordered on at least 67% of its perimeter by tracts that are smaller than 21 acres, and at least two such tracts had dwellings on January 1, 1993; or
 - (d) Is not a flag lot and the tract is bordered on at least 25% of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract. Up to two

of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary, or

(e) The tract is a flag lot and is bordered on at least 25 percent of its perimeter by tracts that are smaller than 21 acres, and at least four dwellings existed on January 1, 1993, within one-quarter mile of the center of the subject tract and on the same side of the public road that provides access to the subject tract. For purposes of this section, the center of the subject tract is the geographic center of the flag lot if the applicant makes a written request for that interpretation and that interpretation does not cause the center to be located outside the flag lot. Up to two of the four dwellings may lie within an urban growth boundary, but only if the subject tract abuts an urban growth boundary. As used in this subsection:

1. “Flag lot” means a tract containing a narrow strip or panhandle of land providing access from the public road to the rest of the tract; and
2. “Geographic center of the flag lot” means the point of intersection of two perpendicular lines of which the first line crosses the midpoint of the longest side of a flag lot, at a 90-degree angle to the side, and the second line crosses the midpoint of the longest adjacent side of the flag lot.

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

(O) Park and ride lots.

(P) Realignment of roads, subject to the following limitations and the approval criteria in MCC 39.7015 and MCC 39.7020:

(1) “Realignment” means rebuilding an existing roadway on a new alignment where the new centerline shifts outside the existing right of way, and where the existing road surface is either removed, maintained as an access road or maintained as a connection between the realigned roadway and a road that intersects the original alignment.

(2) The realignment shall maintain the function of the existing road segment being realigned as specified in the acknowledged comprehensive plan.

(Q) New access roads and collectors where the function of the road is to reduce local access to or local traffic on a state highway, subject to the following limitations and the approval criteria in MCC 39.7015 and MCC 39.7020:

(1) The roads shall be limited to two travel lanes.

(2) Private access and intersections shall be limited to rural needs or to provide adequate emergency access.

(R) Transportation facilities, services and improvements that serve local travel needs, and which:

(1) Are not otherwise listed as a use in this EFU base zone or in OAR 660-012-0065 “Transportation Improvements on Rural Lands;” and

(2) Satisfy the approval criteria in MCC 39.7015 and MCC 39.7020:

(S) Rural schools as provided in this subsection. “Rural schools” means public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located. Establishment and expansion of rural schools shall meet the requirements for approval of Community Service Uses in MCC 39.7500 –

39.7525 in lieu of the Conditional Use Provisions of MCC 39.7030 – 39.7035 and, if located within three miles of an urban growth boundary, the additional requirements set forth in MCC 39.4235.

(1) New rural schools may be established and existing rural schools may be expanded on land not identified as high-value farmland.

(2) Existing rural schools located on high-value farmland wholly within the EFU base zone may be expanded on the same tract.

(T) Notwithstanding the authority in MCC 39.8300 – 39.8315 to expand a nonconforming use, but in addition and not in lieu of the authority therein to continue, alter, restore or replace a nonconforming use, a public or private school, including all buildings essential to the operation of the school, formerly allowed pursuant to ORS 215.283(1)(a), as in effect before January 1, 2010, and are not rural schools as defined in MCC 39.4230 (S) may be expanded only if:

(1) The expansion meets the requirements for approval of Community Service Uses in MCC 39.7500 – 39.7525 in lieu of the Conditional Use Provisions of MCC 39.7030 – 39.7035;

(2) The expansion complies with ORS 215.296;

(3) The school was established on or before January 1, 2009;

(4) The expansion occurs on a tax lot:

(a) On which the school was established; or

(b) Contiguous to and, on January 1, 2015, under the same ownership as the tax lot on which the school was established.

(5) The school is a public or private school for kindergarten through grade 12.

(6) A school expansion under this section cannot be denied upon any rule or condition establishing:

(a) A maximum capacity of people in the structure or group of structures;

(b) A minimum distance between structures; or

(c) A maximum density of structures per acre.

(U) A commercial photovoltaic solar power generation facility may be allowed when:

(1) All lots and parcels involved in the tract are Lots of Record pursuant to MCC 39.3070.

(2) A photovoltaic solar power generation facility shall not preclude more than 12 acres from use as a commercial agricultural enterprise.

For purposes of applying the acreage standards above, a photovoltaic solar power generation facility includes all existing and proposed facilities on a single tract, as well as any existing and proposed facilities determined to be under common ownership, on lands with less than 1320-feet of separation from the tract on which the new facility is proposed to be sited. Projects connected to the same parent company or individuals shall be considered to be in common ownership regardless of the operating business structure.

(3) Will not force a significant change in accepted farm or forest practices or surrounding lands devoted to farm or forest use; and

(4) Will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(5) The proposed photovoltaic solar power generation facility will not create unnecessary negative impacts on agricultural operations conducted on any portion of the subject tract not occupied by project components.

(6) The presence of a photovoltaic solar power generation facility will not result in unnecessary soil erosion or loss that could limit agricultural productivity on the subject property.

(7) Construction or maintenance activities will not result in unnecessary soil compaction that reduces the productivity of soil for crop production.

(8) Construction or maintenance activities will not result in the unabated introduction or spread of noxious weeds and other undesirable weeds species.

(9) The project is not located on high-value farmland soils unless it can be demonstrated that:

(a) Non high-value farmland soils are not available on the subject tract;

(b) Siting the project on non-high-value farmland soils present on the subject tract would significantly reduce the projects ability to operate successfully; or

(c) The proposed site is better suited to allow continuation of an existing commercial farm or ranching operation on the subject tract than other possible sites also located on the subject tract, including those comprised of non-high-value farmland soils; and

(10) A study area consisting of lands zoned for exclusive farm use located within one mile measured from the center of the proposed project shall be established and:

(a) If fewer than 48-acres of photovoltaic solar power generation facilities have been constructed or received land use approvals and obtained building permits within the study area no further action is necessary.

(b) When at least 48-acres of photovoltaic solar power generation have been constructed or received land use approvals and obtained building permits, either as a single project or as multiple facilities, within the study area the approval authority must find that the photovoltaic solar energy generation facility will not materially alter the stability of the overall land use pattern of the area. The stability of the land use pattern will be materially altered if the overall effect of existing and potential photo-voltaic solar energy generation facilities will make it more difficult for the existing farms and ranches in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

(Ord. 1318, Amended, 11/30/2023)

§ 39.4235 LIMITATIONS TO THE DESIGN CAPACITY OF STRUCTURES.

(A) No enclosed structure with a design capacity greater than 100 people, or group of structures with a total design capacity of greater than 100 people, shall be approved in connection with the use within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 4, or unless the structure is described in a master plan adopted under the provisions of OAR chapter 660, division 34.

(B) Any enclosed structure or group of enclosed structures described in subsection (A) within a tract that existed on November 12, 2011 (effective date of Ord. 1186) must be separated from other enclosed structures by at least one-half mile.

(C) Existing facilities wholly within a farm use zone may be maintained, enhanced or expanded on the same tract, subject to other requirements of law, but enclosed existing structures within a farm use zone within three miles of an urban growth boundary may not be expanded beyond the requirements of this section.

§ 39.4240 SINGLE FAMILY DWELLINGS CONDITION OF APPROVAL - PROHIBITION ON CLAIMS ALLEGING INJURY FROM FARM OR FOREST PRACTICES.

As a condition of approval of a single family dwelling, 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.

§ 39.4245 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS.

(A) Except as provided in MCC 39.3070, the minimum lot size for new parcels shall be 80 acres in the EFU base zone.

(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

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

(1) Notwithstanding the Minimum Yard Dimensions, but subject to all other applicable Code provisions, a fence or retaining wall may be located in a Yard, provided that a fence or retaining wall over six feet in height shall be setback from all Lot Lines a distance at least equal to the height of such fence or retaining wall.

(2) An Accessory Structure may encroach up to 40 percent into any required Yard subject to the following:

- (a) The Yard being modified is not contiguous to a road.
- (b) The Accessory Structure does not exceed five feet in height or exceed a footprint of ten square feet, and
- (c) The applicant demonstrates the proposal complies with the fire code as administered by the applicable fire service agency.

(3) A Variance is required for any Accessory Structure that encroaches more than 40 percent into any required Yard.

(D) The minimum yard requirement shall be increased where the yard 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 yard requirements in consultation with the Road Official.

(E) Structures such as barns, silos, windmills, antennae, chimneys or similar structures may exceed the height requirement if located at least 30 feet from any property line.

(F) On-site sewage disposal, storm water/drainage control, water systems unless these services are provided by public or community source, shall be provided on the Lot of Record.

(1) Sewage and stormwater disposal systems for existing development may be off-site in easement areas reserved for that purpose.

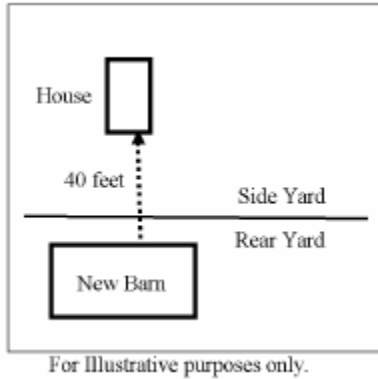
(2) Stormwater/drainage control systems are required for new impervious surfaces. The system shall be adequate to ensure that the rate of runoff from the lot for the 10 year 24-hour storm event is no greater than that before the development.

(G) Agricultural structures and equine facilities such as barns, stables, silos, farm equipment sheds, greenhouses or similar structures that do not exceed the maximum height requirement may have a reduced minimum rear yard of less than 30 feet, to a minimum of 10 feet, if:

(1) The structure is located at least 60 feet from any existing dwelling, other than the dwelling(s) on the same tract, where the rear property line is also the rear property line of the adjacent tract, or



(2) The structure is located at least 40 feet from any existing dwelling, other than the dwelling(s) on the same tract, where the rear property line is also the side property line of the adjacent tract.



(3) Placement of an agricultural related structure under these provisions in (F) do not change the minimum yard requirements for future dwellings on adjacent property.

(H) All exterior lighting shall comply with MCC 39.6850.

§ 39.4250 EXCEPTIONS TO LOT SIZE FOR SPECIFIC USES.

(A) Lots less than the minimum lot size specified in MCC 39.4245 (A) may be created for uses listed in MCC 39.4220(V), MCC 39.4225(A), MCC 39.4230(C) and (E) based upon:

- (1) The parcel for the nonfarm use is not larger than the minimum size necessary for the use;
- (2) The nature of the proposed use in relation to its impact on nearby properties; and
- (3) Consideration of the purposes of this base zone.
- (4) Land that is divided under this section may not later be rezoned for retail, commercial, industrial or other nonresource use, except as provided

under the statewide land use planning goals or under ORS 197.732.

(B) Except as otherwise provided by MCC 39.3070, no sale or conveyance of any portion of a lot, for other than a public purpose, shall leave a structure on the remainder of the lot with less than the minimum lot or yard requirements or result in a lot with less than the area or width requirements of this base zone.

(C) A land division to create one new parcel for the purpose of purchasing one of the resulting parcels as provided in this section and to manage the new parcel as public park land or conservation land may be approved provided:

- (1) The land division is for the purpose of allowing a provider of public parks or open space, or a not-for-profit land conservation organization, to purchase at least one of the resulting parcels; and
- (2) A parcel created by the land division that contains a dwelling is large enough to support continued residential use of the parcel.
- (3) A parcel created pursuant to this subsection that does not contain a dwelling:
 - (a) Is not eligible for siting a dwelling except as may be authorized under ORS 195.120;
 - (b) May not be considered in approving or denying an application for siting any other dwelling;
 - (c) May not be considered in approving a redesignation or rezoning of forestlands except for a redesignation or rezoning to allow a public park, open space or other natural resource use; and

(d) A parcel created and purchased by the provider of public parks or open space or to a not-for-profit land conservation organization may not be smaller than 25 acres unless the purpose of the land division is:

(i) To facilitate the creation of a wildlife or pedestrian corridor or the implementation of a wildlife habitat protection plan; or

(ii) To allow a transaction in which at least one party is a public park or open space provider, or a not-for-profit land conservation organization that has cumulative ownership of at least 2,000 acres of open space or park property.

(Ord. 1318, Amended, 11/30/2023)

**§ 39.4255 LOT LINE ADJUSTMENT;
PROPERTY LINE
ADJUSTMENT.**

(A) Pursuant to the applicable provisions in MCC 39.9300, an adjustment of the common lot line between contiguous Lots of Record may be authorized based on a finding that:

(1) All dwellings that were situated on the same lot prior to the adjustments must remain together on the reconfigured lot; and

(2) The following dimensional and access requirements are met:

(a) The relocated common property line is in compliance with all minimum yard and minimum front lot line length requirements; and

(b) If the properties abut a street, the required access requirements of MCC 39.4260 are met after the relocation of the common property line; and

(3) The reconfigured lot areas will each:

(a) Be a minimum of 80 acres, or

(b) If one or both parcels is currently less than 80 acres neither parcel will be reduced to less than 2 acres after the adjustment; and

(c) The adjustment will not separate a temporary hardship dwelling, relative farm help dwelling, home occupation or processing facility from the parcel on which the primary residential or other primary use exists.

(4) A property line adjustment may not be used to:

(a) Decrease the size of a lawfully established unit of land that, before the relocation or elimination of the common property line, is smaller than 80 acres and contains an existing dwelling or is approved for the construction of a dwelling, if another lawfully established unit of land affected by the property line adjustment would be increased to a size as large as or larger than the minimum lot or parcel size required to qualify the other affected lawfully established unit of land for a dwelling;

(b) Decrease the size of a lawfully established unit of land that contains an existing dwelling or is approved for construction of a dwelling to a size smaller than 80 acres, if another lawfully established unit of land affected by the property line adjustment would be increased to a size as large as or larger than the minimum lot or parcel size required to qualify the other affected lawfully established unit of land for a dwelling.

(c) Allow an area of land used to qualify a lawfully established unit of land for a dwelling based on an acreage standard to be used to qualify another lawfully established unit of land for a dwelling if the land use approval would be based on an acreage standard; or

(d) Adjust a property line that resulted from a subdivision or partition authorized by a waiver (as that term is defined in ORS 195.300) so that any lawfully established unit of land affected by the property line adjustment is larger than:

(i) Two acres if the lawfully established unit of land is, before the adjustment, two acres in size or smaller and is high-value farmland, high-value forestland or within a ground water restricted area (as those terms are defined in ORS 195.300); or

(ii) Five acres if the lawfully established unit of land is, before the adjustment, five acres in size or smaller and is not high-value farmland, high-value forestland or within a ground water restricted area (as those terms are defined in ORS 195.300).

(Ord. 1318, Amended, 11/30/2023)

§ 39.4260 ACCESS.

All lots and parcels in this base zone shall abut a public street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles. This access requirement does not apply to a pre-existing lot and parcel that constitutes a Lot of Record described in MCC 39.3070(C).

§ 39.4265 STANDARDS FOR SPECIFIED FARM DWELLINGS.

(A) **Farm Help Dwelling:** A farm help dwelling for a relative on real property used for farm use as provided in MCC 39.4225(B) is not allowed unless the dwelling is:

(1) Located on the same lot or parcel as the dwelling of the farm operator; and is

(2) Occupied by a relative of the farm operator or the farm operator's spouse, if the farm operator does or will require the assistance of the relative in the management of the farm use. Qualifying relatives include, spouses, child, parent, sibling, sibling in-law, child in-law, parent-in-law, sibling of a parent, child of a sibling, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.

(3) Notwithstanding ORS 92.010 to 92.190 or the minimum lot size requirements of MCC 39.4245, if the owner of a dwelling described in this subsection obtains construction financing or other financing secured by the dwelling and the secured party forecloses on the dwelling, the secured party may also foreclose on the home site, as defined in ORS 308A.250, and the foreclosure shall operate as a partition of the home site to create a new parcel, pursuant to OAR 660-033-0130(9)(b)&(c). However, pursuant to MCC 39.3070(D), the area of land with the home site created by the foreclosure shall not be deemed a Lot of Record, and shall be subject to all restrictions on development associated with that designation.

(B) Customary Farm Dwelling: A dwelling, including a mobile or modular home, customarily provided in conjunction with a farm use as provided in MCC 39.4225(C) is not allowed unless the following standards are met:

(1) High-value farmland soils, \$80,000 income. On lands identified as high-value farmland, a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced at least \$80,000 in gross annual income from the sale of farm products in the last two years or three of the last five years, or the average farm income earned on the tract in the best three of the last five years; and

(b) Except as permitted in ORS 215.283 (1) (p) (1999 Edition) (i.e. seasonal farmworker housing), there is no other dwelling on land designated for exclusive farm use that is owned by the farm or ranch operator, or that is on the farm or ranch operation. "Farm or ranch operation" shall mean all lots or parcels of land owned by the farm or ranch operator that are used by the farm or ranch operator for farm use as defined in ORS 215.203; and

(c) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this subsection; and

(d) In determining the gross income required by subsection (a) of this subsection:

1. The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation;

2. Only gross income from land owned, not leased or rented, shall be counted; and

3. Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used; and

4. For the purposes of this subsection, lots or parcels zoned for farm use in Multnomah County or contiguous counties may be used to meet the gross income requirements.

(e) Prior to the final approval for a dwelling, the applicant shall provide evidence that the covenants, conditions and restrictions form referred to as "Exhibit A" in OAR 660-033-0135(5)(b) has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling.

1. The covenants, conditions and restrictions shall preclude all future rights to construct a dwelling except for accessory farm dwellings, relative farm help dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215.

2. The covenants, conditions and restrictions shall preclude the use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.

3. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.

4. 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.

5. 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.

6. The Planning Director shall maintain a copy of the covenants, conditions and restrictions that have been filed in the county deed records pursuant to this subsection and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions. The map or other record required by this subsection shall be readily available to the public in the county planning office.

(2) Not high-value farmland soils, 160 acres. On land not identified as high-value farmland a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The parcel on which the dwelling will be located is at least 160 acres; and

(b) The subject tract is currently employed for farm use, as defined in ORS 215.203; and

(c) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and

(d) Except as permitted in ORS 215.283 (1) (p) (1999 Edition) (i.e. seasonal farm worker housing), there is no other dwelling on the subject tract.

(3) Not high-value farmland soils, \$40,000 income or mid-point of median income range. On land not identified as high-value farmland a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years, three of the last five years, or the average farm income earned on the tract in the best three of the last five years, or the lower of the following:

1. At least \$40,000 in gross annual income from the sale of farm products; or

2. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; and

(b) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (i.e. seasonal farmworker housing), there is no other dwelling on lands designated for exclusive farm use pursuant to ORS 215 owned by the farm or ranch operator or on the farm or ranch operation. “Farm or ranch operation” shall mean all lots or parcels of land owned by the farm or ranch operator that are used by the farm or ranch operator for farm use as defined in ORS 215.203; and

(c) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this subsection; and

(d) In determining the gross income required by subsection (a) of this subsection:

1. The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation; and

2. Only costs and sale prices of livestock that are within a reasonable range of prevailing costs and sale prices in the Oregon and Washington region shall be counted in the determination of gross income.

This may be done by comparing actual sales documents to such published livestock value sources as made available by the Oregon Agricultural Statistics Services or the Oregon State Extension Service; and

3. Only gross income from land owned, not leased or rented, shall be counted; and

4. Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used; and

5. For the purposes of this subsection, lots or parcels zoned for farm use in Multnomah County or contiguous counties may be used to meet the gross income requirements; and

(e) Prior to the final approval for a dwelling, the applicant shall provide evidence that the covenants, conditions and restrictions form referred to as “Exhibit A” in OAR 660-033-0135(5)(b) has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling.

1. The covenants, conditions and restrictions shall preclude all future rights to construct a dwelling except for accessory farm dwellings, relative farm help dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215.

2. The covenants, conditions and restrictions shall preclude the use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.

3. The covenants, conditions and restrictions are irrevocable, unless a statement of release is

signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.

4. Enforcement of the covenants, conditions and restrictions may be undertaken by the Oregon Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located.

5. 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.

6. The 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 the lots and parcels subject to 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.

(4) Commercial dairy farm. A dwelling may be considered customarily provided in conjunction with a commercial dairy farm if:

(a) The subject tract will be employed as a commercial dairy operation that owns a sufficient

number of producing dairy animals capable of earning the following from the sale of fluid milk:

1. On land not identified as high-value farmland, at least \$40,000 in gross annual income or the gross annual income of at least the midpoint of the median income range of gross annual sales for farms in Multnomah County with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; or

2. On land identified as high-value farmland, at least \$80,000 in gross annual income; and (b) The dwelling is sited on the same lot or parcel as the buildings required by the commercial dairy; and

(c) Except as permitted by 215.283(1)(p) (1999 Edition) (seasonal farmworker housing), there is no other dwelling on the subject tract; and

(d) The dwelling will be occupied by a person or persons who will be principally engaged in the operation of the commercial dairy farm, such as the feeding, milking or pasturing of the dairy animals or other farm use activities necessary to the operation of the commercial dairy farm; and

(e) The building permits, if required, have been issued for and construction has begun for the buildings and animal waste facilities required for a commercial dairy farm; and

(f) The Oregon Department of Agriculture has approved a permit for a “confined animal feeding operation” under ORS 468B.050 and 468B.200 to 468B.230 and has

approved a Producer License for the sale of dairy products under ORS 621.072.

(g) “Commercial dairy farm” is a dairy operation that owns a sufficient number of producing dairy animals capable of earning the gross annual income required by OAR 660-033-0135(3)(a) or (4)(a), whichever is applicable, from the sale of fluid milk.

(5) Move to a new farm. A dwelling may be considered customarily provided in conjunction with farm use if:

(a) Within the previous two years, the applicant owned and operated a farm or ranch operation that earned the gross farm income in at least three of the last five years, in each of the last two years, or the average farm income earned on the tract in the best three of the last five years:

1. On land not identified as high-value farmland, at least \$40,000 in gross annual income from the sale of farm products; or

2. On land not identified as high-value farmland, the gross annual income of at least the midpoint of the median income range of gross annual sales for farms in Multnomah County with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; or

3. On land identified as high-value farmland, at least \$80,000 in gross annual income from the sale of farm products; and

(b) The subject lot or parcel on which the dwelling will be located is a minimum lot size of 80 acres and is currently employed for the farm

use, as defined in ORS 215.203, that produced in the last two years or three of the last five years:

1. On land not identified as high-value farmland, at least \$40,000 in gross annual income from the sale of farm products; or

2. On land not identified as high-value farmland, the gross annual income of at least the midpoint of the median income range of gross annual sales for farms in Multnomah County with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; or

3. On land identified as high-value farmland, at least \$80,000 in gross annual income from the sale of farm products; and

(c) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (seasonal farmworker housing), there is no other dwelling on the subject tract; and

(d) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this subsection; and

(e) In determining the gross income required by subsections (a) and (b) of this subsection:

1. The cost of purchased livestock shall be deducted from the total gross income attributed to the tract; and

2. Only gross income from land owned, not leased or rented, shall be counted.

(C) **Accessory farm dwellings**, which includes all types of residential structures allowed by the applicable state building code, customarily provided in conjunction with farm use as provided in MCC 39.4225(D) are not allowed unless each accessory farm dwelling meets all of the following standards:

(1) The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator; and

(2) The accessory farm dwelling shall be located:

(a) On the same lot or parcel as the primary farm dwelling; or

(b) On the same tract as the primary farm dwelling when the lot or parcel on which the accessory dwelling will be sited is consolidated into a single parcel with all other contiguous lots and parcels in the tract; or

(c) On a lot or parcel on which the primary farm dwelling is not located, when:

1. The accessory farm dwelling is limited to only a manufactured dwelling; and

2. A deed restriction is filed with the county clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party; and

3. The manufactured dwelling may remain if it is reapproved; or

(d) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farm labor housing as such farm labor housing may exist on the farm or ranch operation that is registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. All accessory farm dwellings approved under this subparagraph shall be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or

(e) On a lot or parcel on which the primary farm dwelling is not located, when the accessory farm dwelling is located on a lot or parcel at least 80 acres in area and the lot or parcel complies with the applicable gross farm income requirements in MCC 39.4265(C)(4) below; and

(3) There is no other dwelling on the lands designated for exclusive farm use owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling;

and

(4) In addition to the requirements in (1) through (3) in this section, the primary farm dwelling to which the proposed dwelling would be accessory, meets one of the following:

(a) On land not identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in

ORS 215.203, and produced in the last two years or three of the last five years, or the average farm income earned on the tract in the best three of the last five years the lower of the following:

1. At least \$40,000 in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or
2. Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with the gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(b) On land identified as high-value farmland, the primary farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced at least \$80,000 in gross annual income from the sale of farm products in the last two years, or three of the last five years or the average farm income earned on the tract in the best three of the last five years. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or

(c) It is located on a commercial dairy farm as defined by OAR 660-033-0135(8); and

1. The building permits, if required, have been issued and construction has begun or been

completed for the buildings and animal waste facilities required for a commercial dairy farm; and

2. The Oregon Department of Agriculture has approved a permit for a “confined animal feeding operation” under ORS 468B.050 and ORS 468B.200 to 468B.230; and

3. A Producer License for the sale of dairy products under ORS 621.072 has been obtained.

(5) The approval authority shall not approve any proposed division of a lot or parcel for an accessory farm dwelling approved pursuant to this section. If it is determined that an accessory farm dwelling satisfies the requirements of MCC 39.4265 (B), a parcel may be created consistent with the minimum parcel size requirements in MCC 39.4245.

(D) Heritage Tract Dwelling:

Notwithstanding the same ownership grouping requirements of the Lot of Record section, a single family heritage tract dwelling may be allowed on land not identified as high-value farmland when:

(1) The lot or parcel on which the dwelling will be sited meets the following requirements:

- (a) A deed or other instrument creating the lot or parcel was recorded with the Department of General Services, or was in recordable form prior to January 1, 1985; and

- (b) The lot or parcel satisfies all applicable laws when the lot or parcel was created; and

- (c) The lot or parcel was acquired and owned continuously by the present owner:
 - 1. Since prior to January 1, 1985; or
 - 2. By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985; and
- (2) The tract on which the dwelling will be sited does not include a dwelling; and
- (3) The proposed dwelling is not prohibited by, and will comply with, the requirements of the Comprehensive Plan, land use regulations, and other provisions of law; and
- (4) The lot or parcel on which the dwelling will be sited does not lie within an area designated by the Comprehensive Plan as a Big Game habitat area; and
- (5) The lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single parcel when the dwelling is allowed; and
- (6) The County Assessor shall be notified when the permit is approved.
- (7) Approval of the dwelling would not:
 - (a) Exceed the facilities and service capabilities of the area; and
 - (b) Materially alter the stability of the overall land use pattern of the area; and
 - (c) Create conditions or circumstances that are found to be contrary to the purpose or intent of the Comprehensive Plan or this Chapter.

(8) For purposes of this subsection, and of dwellings considered under MCC 39.4230 (L) and (M), the following definitions apply:

(a) Owner includes the spouse, child, parent, sibling, sibling in-law, child in-law, parent-in-law, sibling of a parent, child of a sibling, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or a combination of these family members.

(b) 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.

Therefore, if the lot, parcel or tract does not qualify for a dwelling under the Heritage Tract Dwelling standards, any reconfiguration after November 4, 1993 cannot in any way enable the tract to meet the approval criteria for a new dwelling.

(Ord. 1309, Amended, 08/18/2022; Ord. 1304, Amended, 01/20/2022; Ord. 1270, Amended, 03/14/2019)