



LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Steve Wills, Director

Room 114, Linn County Courthouse
PO Box 100, Albany, Oregon 97321
Phone 541-967-3816 Fax 541-926-2060
www.linncountyor.gov

NOTICE OF PENDING LAND USE ACTION

The following request has been submitted for review by this Department. Any comments you wish to provide must be received by 5:00 p.m., September 6, 2024. All comments will be appreciated; however, Oregon law requires that written comments specify which application criteria apply to submitted testimony.

APPLICANT: Timothy Cook

LANDOWNER: Michael Cook

FILE NUMBER/TYPE OF REQUEST: PD24-0267; a variance to the Forest Conservation Management zone structural setback standard and a variance to the 50-foot side yard structural setback standard.

PROPERTY LOCATION: The property is located at 45410 East McCully Mountain Road, located approximately 1.5 miles south of the city of Lyons. (T09S, R02E, Section 31, Tax Lot 601)

PLAN DESIGNATION/ZONE DESIGNATION: Farm/Forest (F/F)

URBAN GROWTH AREA/PLANNING AREA: N/A

SUMMARY OF REQUEST: The applicant is requesting a variance to the Forest Conservation Management (FCM) structural setback standard of 200 feet from the property line to construct a barn 67 feet from the property line. Also, a variance to the 50-foot side yard structural setback standard to construct the barn 45 feet from the east (side) property line. The purpose of this notice is to solicit comments and input from surrounding property owners and affected agencies regarding the applicable decision criteria (attached) so the Department can make a final land use decision.

COMMENTS:

BY AGENCY (IF ANY) DATE

STAFF CONTACT PERSON: Julia Fox; (541)967-3816, ext.2366 or jfox@co.linn.or.us

Table with 3 main columns: Linn County, State of Oregon, and Other. Rows include various departments like EHP, Parks, Assessor, GIS, Flood Official, Sheriff, Bldg Official, Roads, Surveyor, DEQ, DOGAMI, DSL, Water, ODFW, ODOT/OSHD, ODSF, DLCD, Parks, State Fire Marshal, School, Landowners, City Of, and RFD: Lyons Fire Department.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER: ORS 215 requires that if you receive this notice, it must be promptly forwarded to the purchaser.

1. Oregon law [ORS 215.416(5)] requires that local governments make copies of applicable decision criteria available to any participant in a land use hearing. This application will be reviewed, and a decision made, using the decision criteria listed below.

Section 938.300(B) of the Linn County Land Development Code contains the decision criteria specified for use with this application.

Section 938.300(B) – Decision criteria

(B) Decision criteria.

- (1) A variance from a development standard as set forth in LCC 934 (Development Standards Code) is needed because conditions or circumstances or both exist on the land or structure involved that renders development impractical or impossible;
 - (2) Granting a variance from a development standard will not have a significant adverse effect on property, improvements, or public health or safety in the vicinity of the subject property; and
 - (3) Approval of the variance is limited to the minimum necessary to permit otherwise normal development of the property for the proposed use.
2. All testimony and evidence must be directed toward the criteria described above or other criteria in the plan or land use regulations, which you believe, apply to the decision. Failure to raise an issue before the close of the record during the comment period/final evidentiary hearing, by letter or in person, or failure to provide statements or evidence sufficient to afford the decision maker(s) and the parties an adequate opportunity to respond to each issue raised precludes an appeal based on that issue.
3. Please note the deadline stated in the accompanying notice for submitting your written comments for decisions to be made by the Planning and Building Department.
4. If a public hearing is scheduled before either the Planning Commission or the Board of County Commissioners, written and/or oral comments may be submitted either before and/or during that hearing. Please note the time and date of the hearing in the accompanying notice.
5. A map(s) depicting the parcel under review and surrounding lands is attached to the notice.
6. A copy of the application, all documents and evidence submitted by or on behalf of the applicant and the applicable criteria are available for inspection at no cost and will be provided at reasonable cost. For applications scheduled for public hearing, a staff report will be available for inspection at the Department at least seven days prior to the hearing. A copy of the staff report will be provided at reasonable cost.
7. If additional documents or evidence are provided by any party, the local government may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by the applicant shall result in a corresponding extension of the 150-day time limitations of ORS 215.428.

8. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The decision maker shall grant the request by either (a) continuing the public hearing or (b) leaving the record open for additional written evidence or testimony. If the decision maker grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the initial hearing.
 - (a) At the continued hearing, persons may present and rebut new evidence and testimony. If new written evidence is submitted, any person may request, prior to the close of the continued hearing that the record be left open for at least seven more days to submit additional written evidence or testimony to respond to the new written evidence.
 - (b) If the record is left open, it shall remain open for at least seven days. During the period the record was left open, any participant may file a written request with the local government for an opportunity to respond to new evidence submitted. If the record has been closed and such a request has been timely filed, the record shall be reopened. Unless waived by the applicant, the applicant shall have at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. **If the record is reopened to admit new evidence or testimony, any person may raise new issues, which relate to the new evidence, testimony or decision criteria for the application.** Except when requested or agreed to by the applicant, the extension shall be subject to the 150-day limitations of ORS 215.428.
9. Appeals from Departmental decisions result in a hearing before the Planning Commission; appeals from Commission decisions result in a new hearing before the Board of County Commissioners.
10. Testimony or evidence previously submitted to the Commission must be **resubmitted** by the parties to the Board for the new hearing.
11. If this case is scheduled for a public hearing, the hearing will begin with a declaration of any ex parte contacts (contacts which occurred outside of the public hearing) or any conflict of interest by the decision makers. This will be followed by the staff report from the planning department. Then the applicant will testify, followed by testimony by other people in support of the application. After the people who are in favor of the application are finished, testimony from opponents will begin. This will be followed by testimony from people who neither favor nor oppose the application. The applicant will then be given the opportunity for rebuttal. The decision makers are free to ask questions of any person who has testified or of staff at any point during the hearing.

If the hearing is continued or the record is left open, the chairperson will announce the date, time, and place for resumption of the hearing and/or what limitations exist on further testimony or submittal of written materials. If a site visit is warranted, the chairperson will announce the time and date of such a visit. If the hearing and record are closed, the decision makers will begin deliberations and/or will announce the time, date and place when the decision will be made.

