

September 8, 2021

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VIA E-MAIL

Land Use Hearings Officer
Multnomah County Land Use Planning Division
1600 SE 190th Avenue
Portland, OR 97233

RE: Appellant Statement regarding Scott and Stacy Reed Farm Dwelling (T2-2021-14768)

Dear Land Use Hearings Officer:

This office represents Scott and Stacy Reed (the “Reeds”), appellants in the above-captioned appeal. This letter further explains the Reeds’ legal bases for their appeal and responds to the September 3, 2021 Staff Report. Due to the County’s changed interpretation regarding the date that the County believes the Reeds’ farm dwelling permit to have expired, this letter offers additional bases for reversal of the County’s finding that the permit has expired. This letter is timely submitted prior to the *de novo* hearing on September 10, 2021.

1. Summary of Arguments

- a. The County unambiguously interpreted the MCC for nearly six years to provide the Reeds four years to “commence construction” of their home. The County may not offer a new and inconsistent interpretation for the first time in this appeal.
- b. The County already found that the Reeds had “commenced construction” in staff statements made prior to September 11, 2019 that they hoped “everything is going well with construction” and that the Reeds had “begun work on their single-family dwelling again.”
- c. The Reeds in fact “commenced construction” within the County’s chosen deadline.
- d. Regardless of whether the Reeds’ “commenced construction,” they satisfied OAR 660-033-0140’s requirement that they “initiate” their “development action” prior to their permit expiration date.
- e. The County’s decision should be barred by equitable estoppel.
- f. The Reeds have a vested right to complete their home.

g. The County's decision is prohibited by ORS 197.307(4).

2. Relevant Facts.

In 2015, the Reeds obtained a land use permit for a “dwelling customarily provided in conjunction with a farm use on non-high-value soils, capable of producing the median level of annual gross sales” (Multnomah County Casefile T2-2014-3377) (the “Land Use Permit.”). **Exhibit 1.** They were able to do so only after being forced to sue the County in Circuit Court after County Planning staff failed to meet its 150-day decision deadline by several months. This cost the Reeds over \$40,000 in legal fees, in addition to the costs necessary to prepare and file the permit application; nonetheless, the Reeds agreed not to seek attorney fees from the County in return for the County's agreement to not further delay issuing the land use permit. Accordingly, the County did so on September 11, 2015. The Land Use Permit allows a single-family home, driveway, and related improvements. Since the Land Use Permit issued, the Reeds have made substantial improvements to the property in accordance with the permit, including site grading and excavation of the home's foundation.

In the Reeds' part of Multnomah County, building permits are issued by the City of Portland, although the County still requires building permit applicants to submit a plan set for review by the Land Use Planning Division (the “LUD”). To our knowledge, the LUD did not have staff tasked with (or qualified for) reviewing structural or building permit plans; the purpose of submitting the plan set was entirely to ensure that the proposed dwelling is within the parameters established in the Land Use Permit. After obtaining their land use approval, the Reeds submitted house plans to the County for the required review by at least the spring of 2017, as demonstrated by the fact that they were actively under review by Mr. Rithy Khut on June 14, 2017. **Exhibit 2.**

Despite not being tasked with reviewing and approving a building permit application, the LUD seemed to find new structural requirements at every turn—in many cases these requirements' connection to any land use regulation were theoretical, at best. For example, the LUD initially required a sign-off on the Reeds' plans for fire/life safety from Tualatin Valley Fire and Rescue; once the Reeds provided this, the LUD then decided it needed a stamped fire sprinkler plan. **Exhibit 2.** For another example, the LUD required a minor change in the site plan requiring the house to be closer to Springville Road. When the Reeds complied with that requirement, the County required a consolidation of their parcels because the proposed home now straddled a property line. **Exhibit 3.**

The point of the above discussion is that LUD staff has repeatedly made a hash of the Reeds' project. Unlike in land use reviews, there is no state-mandated deadline on building permit reviews. As a result of the County's delays, the Reeds did not obtain County approval of their building plans until February 2018. The Reeds submitted their building permit application to the City of Portland on February 20, 2018, which began its review on March 27, 2018.

Exhibit 4.

The Reeds did what they could to start construction while their plans were under review. On August 8, 2017, the Reeds applied for a grading and erosion control permit, which the County did not issue until February 14, 2018. T1-2017-9729, **Exhibit 5**. The Reeds engaged Nichols Excavation to dig their foundation, which work was completed in September 2018. **Exhibit 6**.

The Reeds believed that upon digging the foundation they had started building their home, and so did LUD staff. An email discussing work being done under the grading permit was sent by Mr. Khut to Mr. Reed on August 1, 2018, in which Mr. Khut said “hope everything is going well with the construction and permitting at the City of Portland.” **Exhibit 7**. The following year, Mr. Khut sent an email dated May 9, 2019 to the Reeds explaining that “I have also received notice that you have begun work on your single-family dwelling again.” **Exhibit 8**. Thus, the Reeds had every reason to be confident that they had indeed “commenced construction” with the foundation work proceeding under the grading permit. What is more, if the Reeds did not believe they had “commenced construction” then they would have applied for an extension of time allowed in the Land Use Permit.

The Reeds continued what work they could do and the City continued its review until April 23, 2020, when it received an administrative hold order from County staff on June 2, 2020. The County apparently never told the Reeds in the first instance that it had determined that their Land Use Permit expired; instead, notice to the Reeds came as an obscure note placed into the City’s permitting files. On June 11, 2020, Mr. Khut sent an email to Scott Reed explaining that the Land Use Permit was subject to a four-year period of initial validity and that it was LUD’s position that Mr. Reed’s permit expired on September 11, 2019. **Exhibit 9**.

The Reeds appealed this decision but the County Planning Director refused to intake the appeal. **Exhibit 10**. On June 3, 2019, the County orally reaffirmed Mr. Khut’s analysis during a phone call and followed that up a few days later stating “your permit in Case File T2-2014-3377 has expired under the terms of the permit for failure to commence construction within the required time period.” This appeal followed.

3. The County should be bound to its prior conduct, interpretations, and June 20, 2020 decisions that (1) the Land Use Permit was valid for four years, until September 11, 2019 and (2), that the Reeds had already “commenced construction.”

For nearly six years, the LUD maintained a position that the Reeds had four years to “commence construction” on their home. This is demonstrated by the two emails from Mr. Khut discussed above and evidenced by the fact that the LUD approved a grading permit for the Reeds’ home site after September 11, 2017. Also, the LUD approved the Reeds’ house plans for submittal to the City of Portland on February 12, 2018. On June 11, 2020, Mr. Khut unambiguously stated as follows:

“The four year date as provided under (C)(1)(a) for the permit was September 11, 2019. Land Use Planning did not receive a written application requesting to extend the timeline of the permit as required by MCC 37.0695 (now renumbered to MCC 39.1195). As no extension was requested a new land use permit must be sought to authorize the dwelling.”

The County Planning Director and County Counsel orally repeated this decision in a telephone call on June 3, 2019.

The first time the LUD took the position that the Land Use Permit expired on September 11, 2017 was in its staff report for this appeal, nearly six years after approval of the Land Use Permit. It did so after years of reviewing and approving building plans and grading plans for the new dwelling, and after expressly taking the position that the permit expired on September 11, 2019.

To say that this Kafkaesque behavior by LUD staff did and continues to do substantial harm to the Reeds, both financial and emotion, is understating the matter considerably. But right or wrong, the County has made a series of land use decisions adopting September 11, 2019 as the expiration date of the Land Use Permit. These include the February 12, 2019 grading permit for “grading activities associated with a new single-family dwelling” and the LUD’s June 11, 2020 email claiming that the permit expired September 11, 2019.

In *Holland v. City of Cannon Beach*, 154 Or App 450, 457 (1998), the Oregon Court of Appeals firmly held that that local governments cannot change their interpretation of applicable law during proceedings on the same case, which is exactly what the County seeks to do here. In *Holland*, the City of Cannon Beach found in 1994 that a density standard was not applicable to the petitioner’s subdivision application. However, when the project was remanded from LUBA in 1997, the County reversed course and found that the petitioner’s application could not be approved because it failed to satisfy the very density standards which the city previously found inapplicable. The Court made the following observation regarding the facts in *Holland*:

“From the time of the city attorney's letter the year before petitioner filed his application through the time of the city council's Chapman Point decision the year after he applied, every person and body that had addressed the question at every level of the city government were uniform in the view that section 16.04.220(A) was inapplicable as an approval standard and, indeed, that it no longer existed.”
Id. 457.

The Court went on to find that, under the fixed goal-post rule stated in ORS 227.178(3)¹, local governments cannot change their positions on what standards and criteria apply to a project mid-stream. Quoting *Davenport v. City of Tigard*, 121 Or App 135, 141 (1993), the Court in *Holland* observed that “the purpose of ORS 227.178(3) “is to assure both proponents and

¹ A substantively identical rule applies to counties in ORS 215.427 (3).

opponents of an application that the substantive factors that are actually applied and that have a meaningful impact on the decision permitting or denying an application will remain constant throughout the proceedings.” *Holland*, 154 Or App at 458.

In short, the Hearings Officer should find that the County both impliedly and expressly took the position for nearly six years that the Reeds had four years to complete their home. The rule in *Holland* is clear that the County cannot now, six years later, adopt a different interpretation, especially given the substantial costs expended by the Reeds in furtherance of their project between 2017 and 2019. For these reasons, the Hearings Officer should find that the County is bound to its prior interpretation that the Reeds had four years to “commence construction.”

For the same reasons and for the same points of law, the Hearings Office can and should find that Mr. Khut’s repeated acknowledgments that the Reeds had begun construction and “begun work” on their farm dwelling constitute at least implied interpretations of the MCC that the County cannot now reverse.

4. The Reeds “commenced construction” within their permit deadline as that term is used in MCC § 37.0690(C).

MCC § 37.0690(C) (as now renumbered 39.1185(C)(1)) provides that permits are expired “when construction has not commenced within four years of the date of the final decision. Commencement of construction shall mean actual construction of the foundation or frame of the approved structure.” As explained above, under this regulation, the Reeds had until September 11, 2019 to “commence construction.” The term “actual construction” is not defined in the MCC. In interpreting a County ordinance, the Hearings Officer must first consider the text and context of the provision. *PGE v. Bureau of Labor and Industries*, 317 Or 606, 859 P2d 1143 (1993), *as modified by State v. Gaines*, 346 Or 160, 206 P3d 1042 (2009).

Starting with the text, it is reasonably clear that the phrase “commencement of construction” means starting construction of foundation or frame of an approved structure, because the phrase itself includes the word “commencement.” On the other hand, the text clearly does not mean “completion” of the foundation or frame, otherwise, the County simply would have said so in the above section. ORS 174.010. The necessary question then, is how far along either the foundation or frame must be to count as “actual construction.”

Used in this sentence, the word “actual” is an adjective qualifying the word “construction.” According to Webster’s Third Int’l Dictionary (1981 Ed.), the adjective form of the word “actual” means “1. involving or relating to acts or deeds,” “2. *existent*—contrasted with *potential* or *possible*,” “3. not spurious,” “4. in existence or taking place at the time.” The word “construction” in this context is a use of the transitive form of the verb “construct,” which means to “form, make, or create by combining parts or elements.” Certainly, excavation of the foundation is an essential component of “forming” or “making” the foundation. With the understanding that MCC § 37.0690(C) does not require *completion* of the foundation or framing,

the logical meaning of the phrase “actual construction of the foundation” is that the permittee must have done at least some physical work on the site associated with foundation construction that is more than site grading.

The record is clear that, in addition to site grading, the Appellant hired a contractor to dig a hole for the actual foundation, to dimensions appropriate to the foundation plan. Photographs showing the foundation hole are enclosed as **Exhibit 11**. The contractor hired by Appellant was not hired to do general site grading; he was specifically hired to dig the foundation and surrounding building pad, as evidenced by **Exhibit 12**. This work was done prior to the September 11, 2019 Land Use Permit expiration date, as evidenced by Mr. Khut’s May 9, 2019 email in which he explains that he had received notice of such construction.

Further, letters in the record from major construction contractors demonstrate that the commonly-understood meaning of foundation construction among those who actually do that work includes digging the foundation hole.

5. The Land Use Permit remains in effect because the Reeds “initiated” their “development action” prior to both September 11, 2017 and September 11, 2019.

Regardless whether the Hearings Officer agrees with the County’s new position that the Land Use Permit was valid for only two years, the Hearings Officer can and should find that the Land Use Permit remains valid because the Reeds “initiated” their “development action” for purposes of OAR 660-033-0140. Expirations of development permits in exclusive farm use zones is governed by OAR 660-033-0140, which in 2015 provided as follows:

- (1) Except as provided for in section (5) of this rule, a discretionary decision, except for a land division, made after the effective date of this division approving a proposed development on agricultural or forest land outside an urban growth boundary under ORS 215.010 to 215.293 and 215.317 to 215.438 or under county legislation or regulation adopted pursuant thereto is void two years from the date of the final decision if the development action is not initiated in that period.

Exhibit 13. As the Hearings Officer is aware, the County’s regulations must be consonant with OARs governing resource lands. There is no definition of “development action” in OAR 660, MCC Ch. 37 or the current version of the Zoning Code, MCC Ch. 39. In the MCC, uses of the term “initiated” in both Chapters 37 and 39 relate to the initiation of *proceedings* (e.g. enforcement (MCC 39.1525) and land use applications (MCC 39.1115)).

Assuming that the County’s decision to use “commence construction” instead of the OAR’s terms “initiate” a “development action” was intended to reduce the universe of actions a landowner may take to initiate a development action, it did so in violation of OAR 660-033-0140, and it may not now apply its definition of “commence construction.” In the absence of a contrary definition in the OARs, MCC, or any other applicable law, the Hearings Officer can find that the Reeds “initiated” their development action by submitting their building plans for the County’s review and applying for a grading permit for their home prior to September 11, 2017.

On the same token, the Hearings Officer can find that those same actions, coupled with the County's approval of the Reeds' building plans and their grading permit, coupled with actual grading and foundation construction, clearly demonstrate that they had "initiated" their "development action" prior to September 11, 2019.

6. The County should be estopped from claiming that the Reeds' permit had expired because LUD staff indicated to the Reeds twice that it understood construction to have commenced.

The County clearly represented to the Reeds that it understood construction to have commenced on the Reeds' home. The Reeds certainly agreed and had every reason to rely on the County's understanding that they had started construction. As a consequence of this representation, the County must be estopped from now claiming that the Reeds have not "commenced construction."

The elements of equitable estoppel are laid out in *Coos County v. State of Oregon*, 303 Or 173, 734 P2d 1348 (1973), as follows: "to constitute estoppel by conduct there must (1) be a false representation; (2) it must be made with knowledge of the facts; (3) the other party must have been ignorant of the truth; (4) it must have been made with the intention that it should be acted upon by the other party; [and] (5) the other party must have been induced to act upon it.* * *"
*"*Id.* at 180-81 (quoting *Oregon v. Portland Gen. Elec. Co.*, 52 Or 502, 528, 95 P 722 (1908)).

In this instance, Mr. Khut's 2018 and 2019 emails stating that the Reeds had started construction on their home were, under the County's interpretation of the phrase "commencement of construction," incorrect. Mr. Khut clearly had knowledge of the facts surrounding the Reeds' construction activity, as his emails indicated that he had notice of such activities and indeed, he was the planner assigned to review and approve the Reeds' home plans and grading permit. As for whether the Reeds were "ignorant of the truth" (i.e. the "truth" that they had, under the County's interpretation, not actually "commenced construction"), there can be no doubt that, at all relevant times, the Reeds believed that they had indeed "commenced construction." Mr. Khut's May 9, 2019 statement clearly evinced an intent that the Reeds act upon it: it was his observation that Mr. Reed had "begun work on [his] single-family dwelling again," that he used as the basis for his warning that "you or your contractors are required to maintain 'Best Management Practices'." Stated simply, Mr. Khut was using the Reeds' construction activities as a basis upon which to order the Reeds to take certain actions; there can be no doubt that Mr. Khut intended the Reeds to act upon his representation—if the Reeds' home were not under construction, they would not have to observe "best management practices." Finally, there can be no doubt that the two emails from Mr. Khut implying and stating that the Reeds had started construction would induce any reasonable person (and certainly, an reasonable non-planner) to continue with their project without seeking an extension of their land use permit.

If the Hearings Officer finds that the Reeds did not "commence construction" prior to September 11, 2019, the Hearings Officer should nonetheless find that the County is estopped from now claiming that the Reeds have failed to do so because it induced them to believe that they already had.

7. The County should be estopped from now claiming, for the first time, that the Land Use Permit expired on September 11, 2017.

For the same reasons above, the Hearings Officer should find that the County cannot now change the position that it had maintained for nearly six years that the Reed's Land Use Permit expired on September 11, 2019. The Reeds were induced on numerous occasions to continue additional permitting activity after September 11, 2017 and its attendant costs, which are detailed in **Exhibit 14**. These include \$150,056 for the design of the home and grading plans, \$8,111.82 for permitting at the City of Portland, \$169,901.76 for actual grading and excavation of the home site, and \$30,223 for excavation of the foundation.

As explained above, Mr. Khut was substantially aware at all relevant times of the status of the Reeds' house design and construction and continued to induce them to proceed by (1) approving permits and plans relating to home construction after September 11, 2017 and (2) expressly observing in writing that the Reeds had started construction.

8. The Reeds have a vested right to complete their home.

Under Oregon's common law vested rights doctrine, a landowner that has met certain legal standards is entitled either to continue a preexisting use or to complete a partially finished one. *Clackamas County v. Holmes*, 265 Or 193, 197–198, 508 P2d 190 (1973). *Holmes* described a set of factors that serve as the framework for consideration of a claim of vested rights. These factors are “the ratio of expenditures incurred to the total cost of the project,” in addition to: “[T]he good faith of the landowner, whether or not he had notice of any proposed zoning or amendatory zoning before starting his improvements, the type of expenditures, i.e., whether the expenditures have any relation to the completed project or could apply to various other uses of the land, the kind of project, the location and ultimate cost. Also, the acts of the landowner should rise beyond mere contemplated use or preparation, such as leveling of land, boring test holes, or preliminary negotiations with contractors or architects.”

The Reeds have spent hundreds of thousands of dollars in pursuit of construction of their home, the construction costs of which was anticipated to be \$2.4 million. These costs include the following (which excludes the cost of initial land-use permitting):

- Design (architecture and engineering): \$150,056.15.
- Grading: \$169,901.76.
- Foundation Construction: \$30,223.
- City of Portland Land Use Permitting: \$8,111.82.

An enclosed spreadsheet (**Exhibit 14**) details all payments associated with home construction. The total of the above expenditures is \$358,292.73, which constitutes 14 percent of the

anticipated construction costs. All of these expenditures were directly related to completion of the Reeds' home.

At all times, the Reeds proceeded in good faith by securing their land use permit, submitting their building plans, and submitting for a building permit with the City of Portland soon after the County approval of their building plans. They received no notice from the County or the LUD that their permit expired until it was too late to request an extension. Mr. Khut's August 1, 2018 and May 9, 2019 emails dispelled any reasonable doubt that the Reeds might have had that they had "commenced construction" as far as the LUD was concerned.

When considering "the kind of project, the location and ultimate cost," one must recognize that this is a family home and farm house; there is nothing unusual about it in the chosen location, which is dotted with farm houses and non-farm dwellings. Once their land use permit was approved and the Reeds began work on the foundation, they simply had no reason to believe that they would be prevented from completing their home.

Finally, there can be no doubt that this work went beyond mere preparation. The Reeds secured their land use permit, applied for their building permit, obtained a grading and erosion control permit, graded the home site and dug the foundation.

The Reeds' case plainly meets the *Holmes* factors. The County responds by citing *Heidgerken v. Marion County*, 35 Or LUBA 313 (1998) for the proposition that the vested rights doctrine is unavailable to those who proceed under a conditional use permit. While it is true that LUBA held that vested rights relief was unavailable in that case, there are a number of reasons why the Reeds raise the vested rights doctrine here. First, the facts in *Heidgerken* are simply quite different – there, the applicant was not induced as the Reeds were here to believe that it had started construction. Second, the County's changed interpretations—first that the Reeds had started construction and now that they have not "commenced construction," and first that the Reeds had until September 11, 2019 and now that they had only until September 11, 2017 to "commence construction—are reasonably viewed as changes in application and interpretation of applicable law that occurred after the Reeds began construction of their home. Finally, LUBA is seldom the last word on common law principles and LUBA's holding in *Heidgerken* was never tested by an appellate court.

9. MCC 37.0695 is not "clear and objective" and therefore cannot be applied to the Reed's farm dwelling approval.

Finally, as the application is for the "development of housing," it can be subject only to "clear and objective conditions and procedures."² Given the County's flip-flop both as to

² Note that while the original form of ORS 197.307(4) was restricted to "needed housing" (i.e. housing within an urban growth boundary), 2017 amendments found that ORS 197.307(4) applied to all "development of housing," with only two exceptions, none of which are relevant here. *Warren v. Washington County*, 78 Or LUBA 375 *aff'd*, 296 Or App 595, 439 P3d 581 (2019).

Land Use Hearings Officer
September 8, 2021
Page 10

whether construction had commenced and whether the deadline for commencement of construction was in 2019 or 2017, the Hearings Officer should conclude that MCC 37.0695 is not clear and objective and cannot be applied to the Reeds' farm dwelling approval.

10. Conclusion

For the above reasons, the Hearings Officer should reverse the County's decision and find that the Reeds farm dwelling approval (T2-2014-3377) remains valid.

Best regards,



Garrett H. Stephenson

GST:jmhi
Enclosures

cc: Mr. Scott L. Reed (*via email*) (*w/enclosures*)

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LAND USE PERMIT

Case File: T2-2014-3377

Permits: Dwelling in conjunction with farm use;
Significant Environmental Concern for
wildlife habitat; Hillside Development

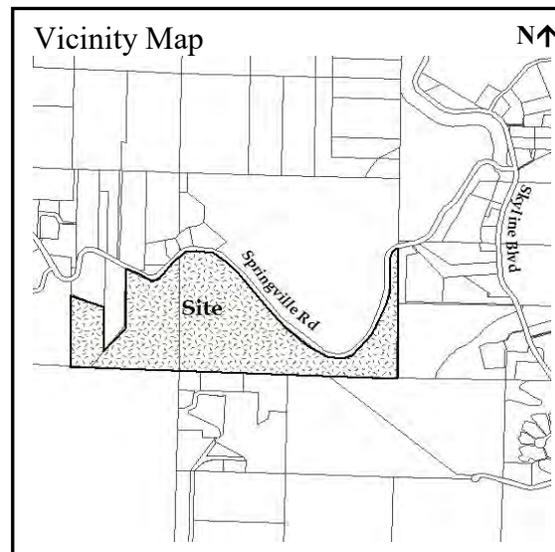
Location: 12460 NW Springville Road
Tax Lots 2800 & 3100 , Section 16 and
Tax Lot 600, Section 15,
Township 1 North, Range 1 West, W.M.
Tax Account #R961160130,
R961160590 and R961150770

Applicant: Andrew Tull
3J Consulting Inc.

Owners: Scott and Stacy Reed

Base Zone: Exclusive Farm Use (EFU) and Commercial Forest Use (CFU)

Overlays: Significant Environmental Concern for wildlife habitat and streams; Hillside
Development



Summary: Permit application for a “dwelling customarily provided in conjunction with a farm use on not high-value farmland soils, capable of producing the median level of annual gross sales,” MCC 33.2625(D)(3), and for associated Significant Environmental Concern-Wildlife Habitat and Hillside Development Permits. The Owners are Scott and Stacey Reed (together, the “Owner”), represented by Andrew Tull (the “Applicant”) and the office of Perkins Coie, LLP.

Decision: Permits for the following are hereby approved (the “Permit”) for the subject property:

- A dwelling customarily provided in conjunction with a farm use on not high-value farmland soils, capable of producing the median level of annual gross sales. [MCC 33.2625(D)(3)]
- Significant Environmental Concern - Wildlife Habitat (SEC-h). [MCC 33.4570]
- Hillside Development Permit (HDP). [MCC 33.5505, *et seq.*]

All rights and responsibilities established in this Permit apply to the Owner, their successors in interest, and run with the land.

This Permit is effective on September 11, 2015.

Opportunity to Review the Record: A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact Lindsey Nesbitt, Senior Planner at 503-988-0213 or nesbittl@multco.us.

Applicable Approval Criteria: Multnomah County Code (MCC) and Multnomah County Road Rules (MCRR): MCC 33.2600- Purpose EFU, 33.2620- Allowed Uses for accessory structures, 33.2625(D)(3)- Non high value farmland soils, 33.2655 Single family dwellings conditions of approval prohibiting prohibitions on claims, 33.2660- Dimensional Requirements, 33.2675 Lots of record, 33.4500-Purpose of Significant Environmental Concern Overlay, 33.4515- Exceptions, 33.4520- Application, 33.4525- Applicable Approval Criteria, 33.4530- SEC permit required, 33.4550- Scope of Conditions, 33.4567- Clear and objective standards, 33.4570- Criteria for approval, 33.4575 Criteria for SEC Streams Permit, 33.550- Purpose Hillside Development and Erosion Control , 33.5505- Permits Required, 33.5510- Exempt Land Uses and Activities

Multnomah County Road Rules (MCRR) 4.00- Access to County Roads, 4.500- Sight Distance, 5.000 Transportation Impact, 9.000 Compliance Method

Copies of the referenced Multnomah County Code (MCC) and Multnomah County Road Rules (MCRR) sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at <http://www.co.multnomah.or.us/landuse> or <http://web.multco.us/transportation-planning>.

CONDITIONS OF APPROVAL

The following conditions of approval are necessary to ensure that approval criteria for this land use permit are satisfied. Citations to the Multnomah County Code (MCC) appearing in brackets indicate the standard(s) addressed by the associated.

After the effective date of this permit, application for building permits may be made with the City of Portland. When ready to have building permits signed off, the Applicant/Owner shall call the Land Use Planning Staff for an appointment for review and approval of the conditions and to sign the building permit plans. Please note, Multnomah County must review and sign off the building permits before the Applicant/Owner submits building plans to the City of Portland. Five (5) sets each of the site plan and building plans are needed for building permit sign off. Additional fees may be required at time of land use sign-off of the building permit.

1. This permit approval is based on the record in this matter, which may be referred to for the purpose of resolving any ambiguity in the statements herein. The residential use approved through this Permit may occur only in the manner approved herein and the proposed single-family home and associated site improvements shall be constructed as shown on the Revised Site Plan (to be labeled Ex. A.41 when submitted), which must be submitted prior to building permit sign off. Subject to compliance with MCC 33.2625(D)(3)(c) and MCC 33.4500 through 33.4550 and MCC 33.4575, farm use activities may be changed as needed by the Owner. The Owner is responsible for compliance with the terms of approval of this Permit.
2. The rights and obligations established in this Permit run with the land.

3. Unless stated otherwise, all references herein to the Multnomah County Code are to the provisions in effect on March 21, 2014.
4. The Owner shall record with the Multnomah County Recorder pages 1–5 of this Permit as well as the Revised Site Plan (to be labeled Ex. A.41 when submitted). Recording shall be at the Owner’s expense. The Planning Director has no obligation to comply with any demand for building permit signoff or approval based on any right granted or obligation imposed in this Permit until such time as a copy of the recorded documents required by this paragraph has been filed with the Planning Director. [MCC 37.0670]

5. **This Permit EXPIRES as provided in MCC 37.0690.**

- a. **A request for EXTENSION of the expiration deadline under MCC 37.0695 must be submitted prior to the expiration of the approval period.**
- b. **Construction of any farm buildings that may be required to be constructed as a condition of this Permit, shall be sufficient grounds to justify at least one (1) extension period.**

[MCC 37.0690; MCC 37.0695]

6. The dwelling use, including dwelling structures and associated accessory structures (collectively referred to hereinafter as “dwelling use”), approved through this Permit is a “dwelling customarily provided in conjunction with a farm use on not high-value farmland soils, capable of producing the median level of annual gross sales,” MCC 33.2625(D)(3). Any dwelling use of the Property pursuant to this Permit must be established and maintained in compliance with the criteria in MCC 33.2625(D)(3) and the other terms of approval of this Permit. Unless authorized by a separate permit, a dwelling use that is not established or maintained in compliance with the criteria in MCC 33.2625(D)(3) and the other terms of approval of this Permit is not allowed and all dwelling structures and accessory structures supporting such noncompliant dwelling use may be required to be removed from the Property. Upon request by the Planning Director, the Owner shall provide a report on the identity of the occupants of the dwelling approved through this permit and their relation to the farm use of the land as well as the annual gross sales for not more than a five year period prior to such request; the Planning Director shall not make such request without good reason nor make more than one such request within any three-year period. No such request shall be made earlier than one (1) year from final building inspection approval of the dwelling. The County shall provide the Owner a reasonable time to cure any violation. [MCC 33.2625(D)(3)]
7. Prior to the Planning Director’s signoff for any building permit for the dwelling use, the Owner shall submit evidence to the Planning Director demonstrating the establishment of the farm use required by MCC 33.2625(D)(3)(c). The Applicant/Owner has two options to comply with this Condition, either of which shall satisfy this condition:

Option 1: Given the Owner’s proposed Farm Plan (e.g., Exs. A-30, A-31, A-32, and A-35), the Owner must submit evidence demonstrating:

- a. Lawful establishment of the replacement barn and milking parlor;
- b. Lawful establishment of the 10-acre vineyard, field areas for crops, and herd grazing areas or preparation of each of these areas in accordance with industry standards in light of the time of year, maturity of the farm operation, and other industry-appropriate standards;
- c. Lawful establishment of raw milk production from at least two cows; and
- d. Lawful establishment of a herd of 8 beef cattle; or

Option 2: The Owner shall submit an IRS Schedule F form from 2014 or later year demonstrating that the farm activity on the property met or exceeded \$14,246.84 in gross farm sales (the median gross farm sales shown on the farm income table approved in conjunction with this permit).

As 33.2625(D)(3)(c) relates to gross farm sales, expenses shall not be considered in determining compliance with this option.

[MCC 33.2625(D)(3)(g)].

8. Prior to the Planning Director's signoff for any building permit for development on the Property, the Owner shall submit to the Planning Director a Revised Site Plan (to be labeled Ex. A.41 when submitted) at a standard architect or engineers scale on a sheet larger than 11x17 inches such that the Revised Site Plan clearly and accurately demonstrates existing and proposed attributes of the Property as follows:
 - a. Location and dimensions of all existing and proposed structures as well as the 10-acre vineyard, field areas and herd grazing areas. Subject to compliance with MCC 33.2625(D)(3)(c) and MCC 33.4500 through 33.4550 and MCC 33.4575, farm use activities may be changed as needed by the Owner;
 - b. Location of the Significant Environmental Concern for streams (SEC-s) overlay zone, the Significant Environmental Concern for wildlife habitat overlay zone (SEC-w), and the Hillside Development overlay zone for purposes of demonstrating that none of the attributes listed in subparagraph (a) of this Condition 8 shall occur within such zones. Notwithstanding the preceding sentence, grazing is allowed within the SEC-s subject to review and approval by the Oregon Department of Agriculture. Nothing in this Condition prohibits the Owner from requesting land use approval for a use, including development, in such overlay zones in the future;
 - c. Compliance of all structures with limitations on use, maximum height limitations, and all applicable yard setbacks and the SEC-s buffer. Because no SEC-s permit is requested or granted as part of this Permit, no structure may be established within 250-feet of the centerline of the stream (i.e., the SEC-s mapped feature) on the Property. Nothing in this Condition prohibits the Owner from requesting land use approval for a structure within the SEC-s buffer in the future; and
 - d. Location of the right-of-way for purposes of demonstrating compliance with the front yard setback.
9. The dwelling approved in this Permit is proposed to be sited quite close to the SEC-s 250-foot buffer. Encroachment of the foundation of the dwelling into the SEC-s buffer is prohibited. Encroachment of construction equipment and activities into the SEC-s buffer is prohibited. The buffer shall be marked during construction of the dwelling.
10. Prior to the Planning Director's signoff for any building permit for the dwelling use, the Owner shall file with the Planning Director documentation establishing that the sanitarian has approved the proposed on-site septic system.
11. The Owner shall record in the Multnomah County deed records a deed restriction prohibiting the land Owners and successors in interest 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. Prior to the Planning Director's signoff for any building permit for the dwelling use, the Owner shall file with the Planning Director a copy of the recorded deed restriction required in this Condition 11.
12. Any new fencing must comply with MCC 33.4567(B)(7).
13. Nuisance plants listed in the table of MMC Section 33.4567(B)(7) shall not be planted on the Property and any such plants currently established on the Property or that establish on the Property in the future shall be removed from the Property. [MCC 33.4570(B)(7)]
14. No earth disturbing activity is allowed under this permit without a Grading and Erosion Control permit for such activity.
15. The Fire Marshal has stated that the dwelling structure approved through this permit must include a sprinkler system; the dwelling structure must comply with applicable Fire Marshall and Fire Code requirements at the time of building permit review.

16. The Applicant/Owner shall acquire a driveway permit for the site's access onto Springville Road prior to building permit approval. As part of this, the Applicant/Owner shall demonstrate demolition that permanently closes the two access points southwest of the permanent driveway. [MCRR 4.200]
17. The Owner shall maintain vegetation to provide the sight distance required by MCRR 4.500 in the eastern direction. [MCRR 4.500]
18. The Owner shall record in the Multnomah County deed records a deed restriction committing the Owner and successors in interest to participate in future right-of-way improvements to the extent that such improvements are roughly proportional to the impact of the use of the property. The deed restriction shall not commit the Owner or successor in interest to contributing more than a reasonable fair share of the cost of future road improvements or to dedicate property without just compensation. Prior to the Planning Director's signoff for any building permit for the dwelling use, the Owner shall file with the Planning Director a copy of the recorded deed restriction required in this Condition 18. [MCRR 9.400]

Note: Once the decision is final, application for building permits may be made with the City of Portland. When ready to have building permits signed off, the Applicant/Owner shall contact the Planning Director to schedule an appointment for review and approval of the conditions and to sign the building permit plans. Please note, Multnomah County must review and sign off the building permits before the Applicant submits building plans to the City of Portland. Five (5) sets each of the site plan and building plans are needed for building permit sign off. Additional fees may be required at time of land use sign-off of the building permit.

NOTICE TO MORTGAGEE, LIEN HOLDER, VENDOR, OR SELLER:

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

FINDINGS OF FACT

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

1.00 Project Description:

Staff: The Applicant/Owner is proposing to construct a new dwelling in conjunction with farm use on the subject 84.43 acre tract of land. The proposed development consists of a ten bedroom dwelling with a pool, attached decks/patio areas, a new gravel driveway and various related accessory improvements.

Current farm use includes the raising of approximately a dozen head of beef cattle, milking of four (4) dairy cows, and raising of 12 pigs. In May, 2015 the Applicant planted 20 acres of oats on the subject property to create feed for the livestock.

The Applicant/Owner proposes a Farm Plan that includes:

- Raw milk production and sales of approximately 1,825 gallons per cow per year (two cows total) of raw milk.
- Creation of a beef herd from dairy calves and market for beef sale.
- Vineyards growing high quality pinot noir grapes to be sold to Willamette Valley winemakers.
- Raising of chickens for the selling of eggs.
- Tree farm of approximately 1,600 pine trees.

2.00 Property Description & History:

The subject tract consists of three tax lots (R324339, R324300 and R501639) of which 72.87 acres are zoned Exclusive Farm Use and 11.56 acres are zoned Commercial Forest Use – 2. The property includes three overlays: SEC-s for streams, SEC-w for wildlife habitat, and Hillside Development for steep slopes.



The map below identifies the SEC-s boundaries:



SEC-s Overlay Boundaries on Subject Tract

The map below shows that the Significant Environmental Concern for wildlife habitat overlay encompasses the entire tract.



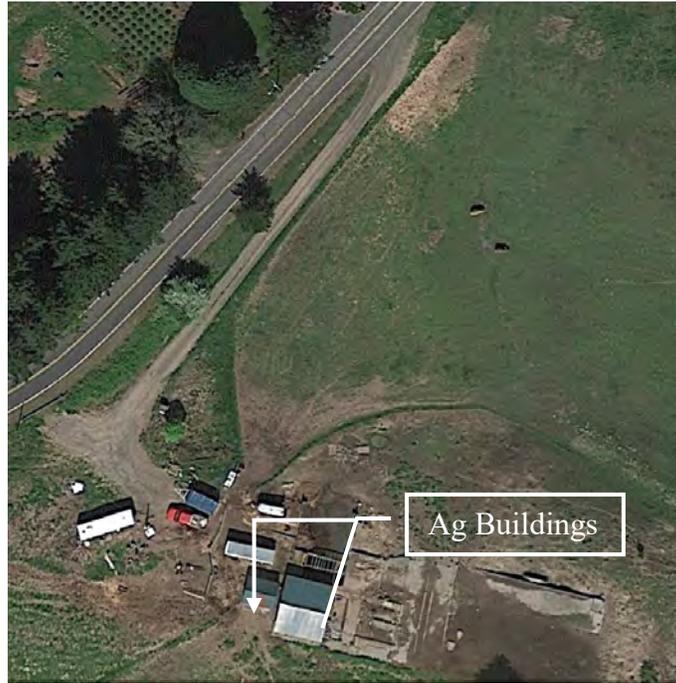
SEC-h Overlay Boundaries on Subject Tract

Areas of the property have a slope greater than 25%. Generally, as shown below, the eastern portion of the tract contains steeper terrain while the western portion has more gentle terrain. The County's Hillside Development ordinance is triggered when development occurs on areas with slopes 25% or more.



Topography of Tract

Per county tax records, the property is in two deferral programs: 51.43 acres in farm deferral; 33 acres in forest deferral. The tract currently contains two gravel access points off of NW Springville Road and an approximately 8-ft by 16-ft farm building and an approximately 24-ft by 24-ft milking parlor for two dairy cows (see below). These two buildings will be demolished for the construction of the dwelling. Two of the three access points will be decommissioned as part of the conditions of approval of this Permit.



3.00 Exclusive Farm Use Criteria:

MCC 33.2675 Lot of Record

(A) In addition to the Lot of Record definition standards in MCC 33.0005, for the purposes of this district a Lot of Record is either:

(1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or

(2) A group of contiguous parcels or lots:

(a) Which were held under the same ownership on February 20, 1990; and

(b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area. See Examples 1 and 2 in this subsection.

2. There shall be an exception to the 19 acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the entire grouping shall be one Lot of Record. See Example 3 in this subsection.

3. Three examples of how parcels and lots shall be aggregated are shown below with the solid thick line outlining individual Lots of Record: [graphic omitted]

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g. MUA- 20, RR, BRC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

(4) Exception to the standards of (A)(2) above:

(a) Where approval for a “Lot of Exception” or a parcel smaller than 19 acres under the “Lot size for Conditional Uses” provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains

separately transferable, even if the parcel was contiguous to another parcel held in the same ownership on February 20, 1990.

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

- (1) July 10, 1958, F-2 zone applied;**
- (2) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;**
- (3) October 6, 1977, MUA-20 and EFU-38 zones applied, Ord. 148 & 149;**
- (4) August 14, 1980, zone change from MUA-20 to EFU-38 for some properties, Ord. 236 & 238;**
- (5) February 20, 1990, lot of record definition amended, Ord. 643;**
- (6) April 5, 1997, EFU zone repealed and replaced with language in compliance with 1993 Oregon Revised Statutes and 1994 Statewide Planning Goal 3 Oregon Administrative Rules for farmland, Ord. 876;**
- (7) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997;**

(C) A Lot of Record which has less than the minimum lot size for new parcels, less than the front lot line minimums required, or which does not meet the access requirements of MCC 33.2690 may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

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

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

Staff: The property consists of three parcels that are 7.67, 22.27, and 54.49 acres under the same ownership. The 7.67 acre parcel is aggregated with the other two acre parcel because it is less than 19 acres. Together, the three parcels aggregate into one single lot of record.

33.2620 Allowed Uses

33.2620(O)(2) and (3) Accessory Structures

- (2) If the accessory structure is a building, then to be an “allowed use” the footprint of the building in combination with the footprint of all other accessory buildings on the property shall not exceed 2,500 square feet.**
- (3) If the accessory structure has a bathroom or kitchen facility, then prior to issuance of the building permit the property owner shall record a deed restriction with the County Records that states that the owner understands and agrees that the structure cannot be occupied as a dwelling.**

Staff: The Applicant’s original site plan and narrative propose an accessory structure referred to as an in-law suite. The code permits one dwelling per tract. Kitchen and bathing facilities allow accessory structures to be utilized as dwelling units. Accessory structures are permitted, but may not contain elements that would qualify the structure as a dwelling.

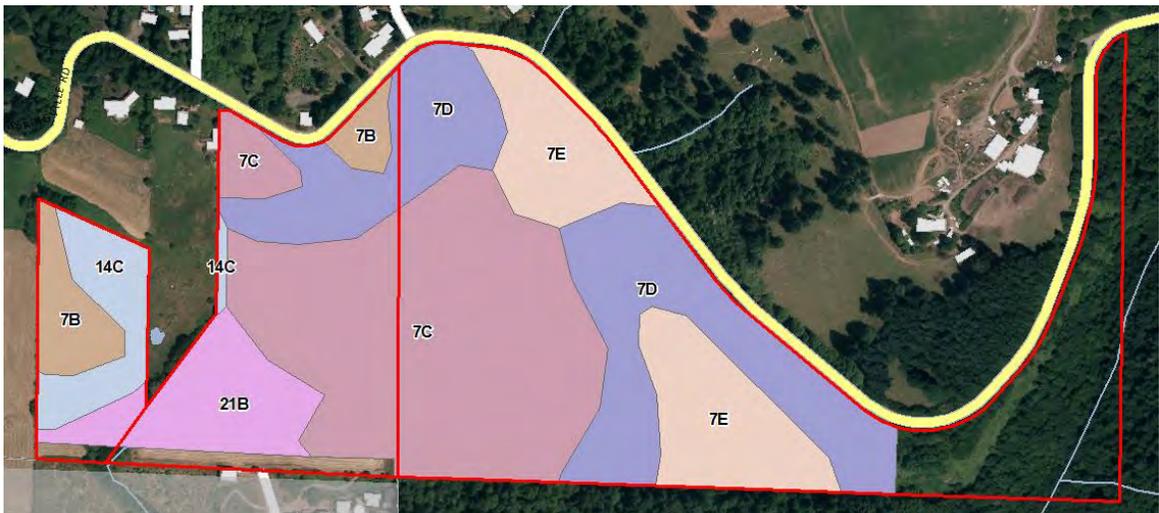
As a condition of approval of this permit, Applicant/Owner will submit a Revised Site Plan. If the Applicant/Owner proposes to retain an accessory structure, such as a pool house, the Applicant/Owner must demonstrate that the structure cannot be used as a separate dwelling unit, pursuant to MCC 33.2620(O).

33.2660 Dimensional Requirements

Requirement	Standards	Applicant's Proposal
Minimum lots size	80 Acres	84.43 Acres
Setbacks: Front Side Street Side Rear	30 feet 10 feet 30 feet 30 feet	The Applicant's narrative states that all required yard setbacks will be met. A condition of approval has been adopted requiring a revised site plan demonstrating setback requirements will be met.
Maximum Structure Height	35 feet	Elevation drawings of the proposed dwelling were not submitted.
Minimum front lot line length	50 feet	The property exceeds the minimum lot line length.

Staff: The original site plans submitted with the Application provided quite a bit of information, but not all of the information clearly demonstrates how each above standard will be met. Staff finds that that substantial evidence in the record demonstrates that meeting these standards and criteria is feasible. As a condition of approval of this permit, Applicant/Owner will submit a revised site plan that more clearly demonstrates compliance with standards such as setback dimensions, building elevations, etc. (see conditions of approval).

33.2625 Review Uses



Soil Map #2

33.2625 Review Uses

(D) A dwelling, including a mobile or modular home, customarily provided in conjunction with a farm use:

(3) Not high-value farmland soils, capable of producing the median level of annual gross sales. 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 at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area which includes all tracts wholly or partially within one mile from the perimeter of the subject tract [the median size of commercial farm and ranch tracts shall be determined pursuant to OAR 660-33-135(3)]; and

Staff: The property is an 84.43-acre tract comprised of three tax lots. The term “tract” is defined as parcels under common ownership. In this case, one tax lot is split between the EFU and CFU zones. Approximately 11.56 acres of the tract are zoned CFU and 72.87 acres are zoned EFU. Because of the definition of tract, the wording of Multnomah County Code criteria in Chapter 33, and the ability to implement farming practices on the CFU portion of the tract, staff reviewed and calculated the soil classifications of the entire tract. The tract has a mixture of high-value and low-value soils with the majority of the soils classified as low-value, therefore, the subject tract is not high-value farmland soils.

Documentation submitted by the Applicant demonstrating the study area, qualifying tracts, and income table is provided in Exhibit A.31 and A.32. The Applicant provided a study and a map showing 7 tracts within a 1 mile study area that qualify as meeting the \$10,000 annual gross sales based on soil types. Staff reviewed the data and determined that two of the tracts are not eligible for use because the tracts (Springville Investors and Thompson) are in a forest deferral program only and are not being utilized for commercial farming purposes.

Staff has recalculated the data using the 5 qualified tracts as follows:

Ownership	Size in Acres	Income
Zahler	37.48	\$13,550.50
TriCounty Investors	38.23	\$14,943.18
Malinowski	33.03	\$12,786.38
Burnham	114.75	\$37,936.75
Beovich	93.48	\$26,249.83
Median	63.39	\$14,246.84

The subject tract is 84.43 acres, which exceeds the median size of those commercial farm or ranch tracts qualifying for analysis under this provision in this instance.

Criterion met.

(b) The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in subsection (a) of this section; and

Staff: Per the table above, the County’s non-high value soil income report (Exhibit B.5), and the Applicant’s analysis (Exhibit A.32), the median level of annual gross sales applicable to this application is \$14,246.84. As explained in the June 5, 2015 memorandum from Andrew Tull, the Owner’s land use planning consultant (Exhibit A32), the subject tract is capable of producing at least \$23,397.32 of gross annual sales of county indicator crops based on soil type.

Criterion met.

(c) The subject tract is currently employed for a farm use, as defined in ORS 215.203, at a level capable of producing the annual gross sales required in subsection (b) of this section; and

Applicant: The Applicant's full response is provided in Exhibits A.4, A.25, and A.29–A.40. The following provides a summary:

The Applicant's narrative cites the ORS, which state that a "farm use" is the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling of crops or the feeding, breeding, management and sale of, or the produce of livestock, poultry, fur-bearing animals or honey bees or for dairying and the sale of dairy products or any other agricultural or horticultural use of animal husbandry or any combination thereof.

The Applicant cited a LUBA case holding that "as long as the primary purpose of the listed activity is to obtain a profit in money, the activity is a farm use" and the "statute is silent as to the mechanism by which that profit in money may be realized." *Oregon Natural Desert Association v. Harney County*, 42 Or LUBA 149, 157 (2002).

The subject property is currently employed as a dairy; the primary purpose is to sell milk. Currently, the farm has 12 head of cattle in the beef herd, four milk cows, and 12 pigs. In May, 2015 the Owner planted 20 acres of oats on the subject property to create feed for the livestock.

This criterion does not require that the subject property currently produce the annual gross sales required, but requires that the farm use be capable of generating such annual gross sales. "At our current operating levels, we estimate we will have gross dairy income of approximately \$43,780 per year. Each cow produces 5 gallons of milk a day, we have six cows (only two can be wet at one time), which equates to about 10 gallons of milk per day. We sell the milk in ½ gallon reusable bottles for \$6 per ½ gallon or \$12 per gallon. If we sell all the milk produced, we would generate approximately \$840 in gross dairy income per week. Additionally, the pigs will produce additional income when they are ready to be processed. Currently, in the state of Oregon we are not required to have a dairy license because we produce raw milk with only two cows producing at once, we don't advertise, and we sell from the farm." Ex. A.30.

Staff: As explained above, the subject tract is currently employed for a farm use, including the raising of milk cows, beef cattle, pigs, and oats.

This criterion requires that the farm use of the property be capable of producing the median annual gross sales established under subsection (b), above, but does not require that the Owner actually produce the median annual gross sales. The Applicant/Owner submitted substantial evidence demonstrating that the farm use is capable of producing the annual gross sales required in subsection (b), including a proposed Farm Plan, photographs of existing farm uses, a IRS Schedule F showing \$12,840 of gross farm sales in 2013, a farm sales ledger showing gross farm sales of \$2,124 in May, 2015, an affidavit describing existing farm uses, and receipts for farm supplies and farm insurance. On the other hand, there is no substantial evidence indicating that the farm use, as it currently exists and as proposed in the Farm Plan, cannot achieve the median gross farm sales established under subsection (b).

The Owner's proposed Farm Plan includes the following elements:

- Raw milk production and sales of approximately 1,825 gallons per cow per year (two cows total) of raw milk. Only two cows are allowed to be used for raw milk at one time. The property owners sell the milk in half gallon increments for \$6.
- Creation of a beef heard from dairy calves and market for beef sale.
- Vineyards growing high quality pinot noir grapes to be sold to Willamette Valley winemakers.
- Raising of chickens for the selling of eggs.

- Tree farm of approximately 1,600 pine trees.

The subject tract is currently being used for a portion of the Owners' Farm Plan, however at this time, the full farming operation, as proposed in the Farm Plan, has not been implemented. The Farm Plan indicates that the proposed farming practices described in the Farm Plan can be implemented after the farm dwelling is constructed.

Staff finds that implementation of the Farm Plan is sufficient to demonstrate that the farm use is capable of producing the annual gross sales required in subsection (b). In addition, if the Applicant/Owner can demonstrate that the median annual gross sales has been met, such a demonstration would be conclusive evidence that this criterion is satisfied.

Section (g) below allows approval of the dwelling permit upon a demonstration that the farming operation is implemented prior to issuance of the building permit. Analysis and conditions required to ensure compliance with this section and section (g) are provided below.

Staff finds that the subject tract is currently employed for a farm use. Staff finds that the Applicant/Owner can demonstrate that the proposed farm use is capable of producing the annual gross sales required by subsection (b) by satisfying Condition 7. This criterion is met with satisfaction of Condition 7.

(d) The subject lot or parcel on which the dwelling is proposed is not less than ten acres; and

Staff: The subject tract is approximately 84.43 acres in area, exceeding the 10-acre requirement.

Criterion met.

(e) except as permitted in ORS 215.283(1)(p) (1999 Edition)(i.e. seasonal farmworker housing), there is no other dwelling on the subject tract: and

Staff: There are currently no dwellings located on the subject tract.

Criterion met.

(f) 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

Applicant: LUBA has construed the "principally engaged" requirement as requiring a demonstration that one or more persons in the home can devote the number of hours necessary to farm the land. *Alpin v. Deschutes County*, 2014 Or LUBA __, (LUBA No. 2013-055 at 10) (3/12/2014). This is not a fixed amount of time and depends on the nature of the farm use. *Id.* Moreover, LUBA has stated that occupants of the home may be employed offsite so long as one or more occupants are able to devote the number of hours required for a farm use. *Id.*; *Oregon Natural Desert Association v. Harney County*, 65 Or LUBA 246, 262 (20 12). The Owner intends to commit to farm activities full-time once he is able to occupy the home, and several of the Owner's family members will also be "principally engaged" in operating the farm.

The property owner submitted documentation of the following persons currently engaged in farming practices, and future farming practices once the residence is established:

Current:

Scott Reed (property owner) 2 hours per day average.
Gordon Welch (farm worker) 6 hours per day average.

Future, once residence is established:

Scott Reed (property owner) 8 hours per day average
Gordon Welch (farm worker) 6 hours per day average

Family Members to be living in the residence:

Bruce Reed 8 hours per day average

Linda Hernandez 8 hours per day average

Barbara Rummonds 8 hours per day average

William Rummonds 4 hours per day average

Reed Children 1 hour per day for chores.

The farm use will include three primary aspects, as explained in the Farm Plan. The first is the dairy operation, which is currently underway. Activities will include raising milk cows and milking the cows. The milk generated will be sold commercially. The second aspect is raising the beef herd, which is already onsite and will be expanded from calves generated by the dairy herd. In support of these two farm uses will be the cultivation of grass and oats on the Property for livestock feed. Farming activities will include caring for livestock, planting/harvesting the oats, milking, bottling, and marketing the milk, and marketing the beef cattle and or meat. The third aspect of the farm operation will be the proposed vineyard. This will involve the planting, fertilizing, watering, pruning, and harvesting of grapes.

LUBA has expressly declined to define the meaning of “at a commercial scale.” *Oregon Natural Desert v. Harney County*, 42 Or 149, 173 (2002). The existing and proposed uses are at a commercial scale for two reasons. First, these uses represent utilization of the majority of the 84 acre subject property. At full utilization, farm uses will include 20 acres of oats, 20 acres of pastureland with associated farm buildings, including a milking parlor, and 10 acres of vineyard. Second, the products generated from these activities will be sold and are anticipated to generate a net annual income of \$43,650 after the vineyard reaches maturity. The combined dairy/beef farm operation is anticipated to generate in excess of \$80,000 in gross income.

In summary, the Owner and his family members, including his parents and his wife’s parents will occupy the dwelling. The property owner will be able to farm the property on average 8 hours per day and will be assisted by family members residing in the dwelling. The Owner’s family members currently live out of state and will be moving to the home to assist with farming once the home is constructed.

Staff: Consistent with LUBA case law identified by the Applicant, the requirement that an occupant of the home be principally engaged in the farm use is met if one or more persons in the home can devote the number of hours necessary to farm the land. The application materials demonstrate that property owner, Scott Reed, is farming at the site part time and a farm helper, Gordon Welch, has been farming the majority of the time in order to establish the farming practice. Application materials also indicate that once the dwelling is established, the property owner, Scott Reed, and his family members residing at the residence will be principally engaged in farming practices. A condition of approval has been adopted requiring that the proposed use satisfy all applicable requirements of MCC 33.2625(D)(3), which include a requirement that at least one occupant of the dwelling on site will be “principally engaged” in the farm use of the property.

As conditioned, this criterion is met.

g. If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by subsection (c) of this section.

Staff: Certain components of Owner’s proposed farm operation plan are already being implemented. This Permit is subject to a condition of approval designed to ensure full implementation of a farm operation at a level capable of producing the required annual gross sales of \$14,246.84 prior to issuance of any building permits. Per the conditions of approval, farm use activities may be changed as

needed by the Applicant as long as the farm use is capable of generating the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in subsection (a). Further, staff finds that the Farm Plan proposed by the Owner, described above and described further herein, is capable of meeting the annual gross sales requirement:

Raw Milk and Beef Production

Raw milk production from two cows producing approximately 5 gallons per day generating approximately 1,825 gallons per cow per year for a total production of 3,650 gallons of milk. The Owner proposes to sell the milk for \$12 per gallon. It is estimated that the raw milk sales will produce \$43,800 per year. Exhibit A.31 and A.32 provide the calculations of the median gross farm income within the study area determined pursuant to subsection (a).

The following raw milk sales documentation has been provided:

- 2013 Schedule F for the farm.
- Receipt for the purchase of 2,000 pounds of oats and 50 pounds of peas.
- May 2015 sales ledger of raw milk (but not for the entire year the application materials indicate the raw milk has been in production).
- Farm insurance policy.
- Signed affidavit from the property owner, Scott Reed, that he is the primary farmer.

In addition to raw milk production, the Owner also proposes to manage a herd of 8 beef cattle.

The Owner estimates a profit of \$15,140 per year with the milk and beef sales.

Vineyard for grape production

The plan also includes planting of 10 acres for growing of wine grapes to be sold to local wine makers. The original site plan submitted with the Application does not show the proposed location for the vineyard nor do the application materials present an implementation plan for the vineyard. Documentation was provided for estimated cost each year the vineyard will be in production, but timing for installation of the vineyard was not provided. The plan estimates the following profits:

Annual Revenue Year 1, \$0

Annual Revenue Year 2, \$0

Annual Revenue Year 3, \$27,000

Annual Revenue Year 4, \$67,500

Annual Revenue Year 5, (full production) \$52,490

Year 1 net operating income, \$52,490

Year 2 net operating income, \$52,490

Year 3 net operating income, \$25,490

Year 4 net operating income, \$15,010

Year 5 net operating income, \$28,510

Farm Structures

Currently, there is a temporary milking parlor and an accessory storage structure on site. However, these structures are in the location of the proposed dwelling and will be demolished to accommodate the dwelling construction. The Farm Plan calls for the construction of a new 24-foot by 40-foot permanent milking parlor and a 40-foot by 100-foot new feed barn. The Farm Plan does not define

when or where these structures will be built.

Supplemental/Secondary Income

- The Farm Plan includes supplemental income from the selling of eggs from the 50 plus chickens that are currently being raised on the farm. The property owner proposes to sell the eggs for \$5 per dozen. Egg sales information and documentation was not provided.
- The Owner indicated that a portion of the site has been planted with approximately 1,600 pine trees, which will be harvested and sold when ready at a future date.

Staff finds that implementation of the Farm Plan is sufficient to demonstrate that the farm use is capable of producing the annual gross sales required in subsection (b). Alternatively, if the Applicant/Owner can demonstrate that the median annual gross sales has been met, such a demonstration would be conclusive evidence that this criterion is satisfied. Staff therefore imposes Condition 7 to ensure that the farm use is capable of producing the annual gross sales required in subsection (b).

MCC 33.2655 Single Family Dwelling Condition of Approval Prohibiting Prohibitions on Claims

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.

Staff: A condition of approval has been adopted requiring the property owner to sign and record the above-mentioned deed restriction.

4.00 Significant Environmental Concern Criteria

33.4515 EXCEPTIONS

(A) Except as specified in (B) below, a SEC permit shall not be required for the following:

(1) Farm use, as defined in ORS 215.203 (2) (a), including buildings and structures accessory thereto on "converted wetlands" as defined by ORS 541.695 (9) or on upland areas.

Staff: The subject tract is subject to the SEC-h (wildlife habitat) and the SEC-s (stream) overlays. In upland areas, farming practices and structures are exempt from SEC-h regulations. In contrast, not all farming practices are exempt from SEC-s regulations.

The Owner does not propose any farming practices in the SEC-s zone and a condition of approval of this Permit requires the filing of a Revised Site Plan demonstrating that neither farming practices nor structures will occur or be established in the SEC-s, except as otherwise permitted outright in the SEC-s zone.

33.4567 SEC-h Clear and Objective Standards

At the time of submittal, the applicant shall provide the application materials listed in MCC 33.4520(A) and 33.4570(A). The application shall be reviewed through the Type I procedure and may not be authorized unless the standards in 33.4570(B)(1) through (4)(a)-(c) and (B)(5) through (7) are met. For development that fails to meet all of the criteria listed above, a separate land use application pursuant to MCC 33.4570 may be submitted.

33.4570 Criteria for Approval of SEC-h Permit

(B) Development standards:

(1) Where a parcel contains any nonforested "cleared" areas, development shall only occur in these areas, except as necessary to provide access and to meet minimum clearance standards for fire safety.

Staff: The proposed home will be located in an existing cleared portion of the site where a home was previously located.

Criterion met.

(2) Development shall occur within 200 feet of a public road capable of providing reasonable practical access to the developable portion of the site.

Staff: The Applicant's site plan demonstrates that the single family home will be located within 200 feet of the road. However, the site plan submitted does not clearly demonstrate the location of the right-of-way or the accurate front yard setback. A condition has been adopted requiring submission of a revised scaled site plan prior to issuance of a building permit.

As conditioned, the proposal complies with this criterion.

(3) The access road/driveway and service corridor serving the development shall not exceed 500 feet in length.

Staff: The site plan demonstrates that the proposed driveway will not exceed 500 feet in length.

Criterion met.

(4) For the purpose of clustering access road/driveway approaches near one another, one of the following two standards shall be met:

(a) The access road/driveway approach onto a public road shall be located within 100 feet of a side property line if adjacent property on the same side of the road has an existing access road or driveway approach within 200 feet of that side property line; or

(b) The access road/driveway approach onto a public road shall be located within 50 feet of either side of an existing access road/driveway on the opposite side of the road.

Staff: The proposed driveway location will be located directly across from an access road, NW Rystadt Road, thereby satisfying subsection (b), above. Transportation Planning (the County Road Official) has reviewed the site plan and the proposed driveway location. There are currently three access points to the site. A condition has been adopted requiring two of the access points to be terminated prior to final occupancy of the dwelling. The proposed driveway location has been approved by transportation planning staff subject to the condition that the Applicant/Owner obtains an access permit at time of building permit submittal.

The proposed driveway complies with this requirement.

(5) The development shall be within 300 feet of a side property line if adjacent property has structures and developed areas within 200 feet of that common side property line.

Staff: The intent of this code section is to require developments to be clustered in order to create open space areas for wildlife habitat and to reduce potential human impact to the wildlife areas. The adjacent parcel to the west has a house located within 200 feet of the shared side property line. This is

the west side property line for the subject parcel. The proposed house is not within 300 feet of the shared side boundary line of the property to the west. However, staff believes the proposed location of the dwelling better meets the intent of the code language because the location will:

- Provide better clustering with the dwellings across Springville Road to the north of the property.
- Best maintains existing open space that provides access to an existing vegetative corridor across Springville Road (to the north). Access to the vegetative corridor on the north side of Springville Road would be blocked with the house sited within 300 feet of the west property line.
- The proposed location best accommodates competing code requirements and reduces the overall impacts associated with a residential development footprint. Driveway location, access spacing, and site distance standards only allow one location for the access drive to Springville Road for the subject property. In addition to driveway siting standards, the access drive for the property cannot be located elsewhere on site because of the SEC stream overlay and topography. Requiring the dwelling to be moved closer to the western property line would require the drive way length to be extended an additional 215 feet. The proposed driveway will be 450 feet in length. The clear and objective SEC criteria limit the driveway length to 500 feet. By requiring the house to be located within 300 feet of the western property line, the driveway length would have to be increased from 450 feet to approximately 615 feet, exceeding the allowed driveway length.
- The proposed location reduces the needed driveway length, creates a reduced residential development footprint on the site, and best clusters with the existing residential development on the north side of Springville Road.

Criterion met.

(6) Fencing within a required setback from a public road shall meet the following criteria:

(a) Fences shall have a maximum height of 42 inches and a minimum 17 inch gap between the ground and the bottom of the fence.

(b) Wood and wire fences are permitted. The bottom strand of a wire fence shall be barbless. Fences may be electrified, except as prohibited by County Code.

(c) Cyclone, woven wire, and chain link fences are prohibited.

(d) Fences with a ratio of solids to voids greater than 2:1 are prohibited.

(e) Fencing standards do not apply in an area on the property bounded by a line along the public road serving the development, two lines each drawn perpendicular to the principal structure from a point 100 feet from the end of the structure on a line perpendicular to and meeting with the public road serving the development, and the front yard setback line parallel to the public road serving the development.

(f) Fencing standards do not apply where needed for security of utility facilities.

Staff: The Applicant's narrative states that fencing is not proposed at this time. A condition of approval has been adopted requiring that any new fencing comply with these standards.

Staff finds that it is feasible for future fencing on the property to meet the above standards.

(7) The nuisance plants listed in the table of this code section shall not be planted on the subject property and shall be removed and kept removed from cleared areas of the subject property:

Staff: The Applicant's narrative states that nuisance plants will be removed from the site and will not

be planted in the future. *As conditioned, the proposal complies with this requirement.*

As conditioned, the proposed development can meet the standards of MCC 33.4570(B) and a Wildlife Conservation Plan is not required.

33.4575 CRITERIA FOR APPROVAL OF SEC-S PERMIT –STREAMS

(B) Except for the exempt uses listed in MCC 33.4515, no development shall be allowed within a Stream Conservation Area unless approved by the Approval Authority pursuant to the provisions of MCC 33.4575 (C) through (F).

Staff: See findings under MCC 34.4515(A)(1) above. *As conditioned, criterion met.*

5.00 Hillside Development Criteria

33.5515 APPLICATION INFORMATION REQUIRED

An application for development subject to the requirements of this subdistrict shall include the following:

(A) A map showing the property line locations, roads and driveways, existing structures, trees with 8-inch or greater caliper or an outline of wooded areas, watercourses and include the location of the proposed development(s) and trees proposed for removal.

Staff: The Applicant submitted a site plan showing some of the required features and, through the conditions of approval, is required to file a Revised Site Plan that satisfies this submittal requirement. In addition, the Applicant submitted a completed HDP-1 Form (Ex. A.9) and a geotechnical report (Ex. A.10) demonstrating that the site is suitable for construction of the proposed improvements provided that the recommendations identified in the report are followed.

This Permit is subject to a condition requiring the Applicant/Owner to obtain a Grading and Erosion Control permit prior to any earth disturbing activities.

(B) An estimate of depths and the extent and location of all proposed cuts and fills.

Staff: The estimated depths and extent of cuts and fills have been provided on the form HDP-1.

(C) The location of planned and existing sanitary drainfields and drywells.

Staff: The site plan demonstrates the proposed locations. Of note, a condition of approval has been adopted requiring the Applicant/Owner to obtain final septic system location and design approval from the Sanitarian prior to land use planning signing off on building permits.

(D) Narrative, map or plan information necessary to demonstrate compliance with MCC 33.5520 (A). The application shall provide applicable supplemental reports, certifications, or plans relative to: engineering, soil characteristics, stormwater drainage, stream protection, erosion control, and/or replanting.

Applicant: The Applicant has submitted a conceptual site plan showing the required components of MMC section 33.5520(A). This plan will be further refined at the time of submission for a Grading and Erosion Control Permit.

Staff: A Grading and Erosion Control permit must be obtained prior to commencement of earth disturbing activities.

As conditioned, criterion met.

(E) A Hillside Development permit may be approved by the Director only after the applicant provides:

(1) Additional topographic information showing that the proposed development to be on land with average slopes less than 25 percent, and located more than 200 feet from a known landslide, and that no cuts or fills in excess of 6 feet in depth are planned. High groundwater conditions shall be assumed unless documentation is available, demonstrating otherwise; or

(2) A geological report prepared by a Certified Engineering Geologist or Geotechnical Engineer certifying that the site is suitable for the proposed development; or,

(3) An HDP Form– 1 completed, signed and certified by a Certified Engineering Geologist or Geotechnical Engineer with his/her stamp and signature affixed indicating that the site is suitable for the proposed development. (a) If the HDP Form– 1 indicates a need for further investigation, or if the Director requires further study based upon information contained in the HDP Form– 1, a geotechnical report as specified by the Director shall be prepared and submitted.

Applicant: The Applicant has submitted a Geotechnical Report (Ex. A.10) and a site plan showing the areas of the site which contain slopes of 25% or more. The Geotechnical report has not documented any known landslide hazards on the site. The Applicant's Geotechnical report has provided several recommendations for site and building construction. These recommendations will be included within the design of the structures and site improvements.

Staff: The Applicant has submitted a completed HDP Form-1 (Ex. A.9) and a Geotechnical Report and Landslide Hazard Study (Ex. A.10), thereby satisfying subsections (E)(2) and (3). The reports state the subject site may be suitable for the proposed development if potential hazards are addressed as described in the report.

This criterion is met. As noted above, final building design and site development must incorporate the recommendations identified in the Geotechnical Report to alleviate potential hazards (Exhibit A.10).

(F) Geotechnical Report Requirements

(1) A geotechnical investigation in preparation of a Report required by MCC 33.5515(E) (3) (a) shall be conducted at the applicant's expense by a Certified Engineering Geologist or Geotechnical Engineer. The Report shall include specific investigations required by the Director and recommendations for any further work or changes in proposed work which may be necessary to ensure reasonable safety from earth movement hazards.

(2) Any development related manipulation of the site prior to issuance of a permit shall be subject to corrections as recommended by the Geotechnical Report to ensure safety of the proposed development.

(3) Observation of work required by an approved Geotechnical Report shall be conducted by a Certified Engineering Geologist or Geotechnical Engineer at the applicant's expense; the geologist's or engineer's name shall be submitted to the Director prior to issuance of the Permit.

(4) The Director, at the applicant's expense, may require an evaluation of HDP Form– 1 or the Geotechnical Report by another Certified Engineering Geologist or Geotechnical Engineer.

Staff: The Applicant submitted a stamped and signed HDP-1 Form and a Geotechnical Report and Landslide Hazard Study. The reports state the subject site may be suitable for the proposed development if potential hazards are addressed as described in the report (Exhibits A.9 and A.10).

The Applicant's Geotechnical Report is consistent with the above requirements. Substantial evidence demonstrates that the Applicant will be able to comply with subsections (2) through (4), as applicable.

As noted above, final building design and site development must incorporate the recommendations identified in the Geotechnical Report to alleviate potential hazards (Exhibits A.9 and A.10).

(G) Development plans shall be subject to and consistent with the Design Standards For Grading and Erosion Control in MCC 33.5520 (A) through (D). Conditions of approval may be imposed to assure the design meets those standards.

Applicant: The Applicant's proposed development will comply with MCC Section 33.5520. Compliance will be reviewed by the County upon receipt of the Applicant's submission for a Grading and Erosion Control Permit. The Applicant welcomes a condition of approval to obtain a Grading and Erosion Control Permit prior to the initiation of construction activities.

Staff: The Applicant has not yet submitted a grading and erosion control permit and has not provided application materials demonstrating compliance with applicable sections of MCC 33.5520. As set forth in the conditions of approval, Grading and Erosion Control permit must be obtained prior to commencement of earth disturbing activities.

As conditioned, criterion met.

***** NOTE: FINAL BUILDING DESIGN AND SITE DEVELOPMENT MUST INCORPORATE THE RECOMMENDATIONS IDENTIFIED IN THE GEOTECHNICAL REPORT TO ALLEVIATE POTENTIAL HAZARDS (EXHIBITs A.9 and A.10).**

6.00 Transportation Standards

MCRR 4.000 Access to County Roads

MCRR 4.100 Required Information: Applicants for a new or reconfigured access onto a road under County Jurisdiction may be required to provide all of the following:

- A. Site Plan;**
- B. Traffic Study-completed by a registered traffic engineer;**
- C. Access Analysis-completed by a registered traffic engineer;**
- D. Sight Distance Certification from a registered traffic engineer; and**
- E. Other site-specific information requested by the County Engineer**

Staff: The Applicant proposes a new access onto *NW Springville Road* under County Jurisdiction. The road is classified as a *Rural Collector*. The new access is shown on the Applicant's site plan. All required information has been submitted.

MCRR 4.200 Number: Reducing the number of existing and proposed access points on Arterials and Collectors and improving traffic flow and safety on all County roads will be the primary consideration when reviewing access proposals for approval. One driveway access per property will be the standard for approval. Double frontage lots will be limited to access from the lower classification street. Shared access may be required in situations where spacing standards cannot be met or where there is a benefit to the transportation system.

Staff: The subject property is proposed to be served by one driveway. The site plan currently shows three access points, two of which are proposed to be demolished. A sight distance analysis has been conducted for the northern-most access, which is the proposed driveway.

A condition has been added requiring demolition of the two access points southwest of the proposed permanent access point. An access permit will also be required. As conditioned, this standard is met.

MCRR 4.300 Location: All new access points shall be located so as to meet the access spacing standards laid out in the Design and Construction Manual.

Staff: For a road classified as a *Rural Collector*, the spacing standard is 100 feet. The minimum distance is applied to both driveways on the same side of the street as well as driveways opposite to the site. The Applicant has submitted a site plan demonstrating that the proposed driveway can meet the spacing standard.

This standard is met.

MCRR 4.400 Width: Driveway and Accessway widths shall conform to the dimensions laid out in the Design and Construction Manual.

Staff: For a *Single Family Residential* use, a new or reconfigured driveway must be 12 to 25 feet wide. The Applicant's site plan demonstrates that the new driveway will be 20 feet wide.

This standard is met.

MCRR 4.500 Sight Distance: All new access points to roads under the County's jurisdiction must have a minimum sight distance equal to the standards in the Design and Construction Manual and AASHTO's A Policy on Geometric Design of Highways and Streets.

Staff: Multnomah County Road Rules Section 4.500 states that access points to roads under the County's jurisdiction must have a minimum sight distance equal to the standards in the County Design and Construction Manual or AASHTO's *A Policy on Geometric Design of Highway and Streets*. The Applicant has submitted for the review of the County Transportation Division a sight distance certification from a registered traffic engineer, which provides an assessment of sight distance at the intersection in question consistent with AASHTO standards. Per the submitted site distance analysis, sufficient site distance was found in both directions for safe and efficient operation of the site access. The study finds that vegetation near the access has to be cleared to provide a minimum of 350 feet of sight distance in the eastern direction. A condition has been added to reflect this.

As conditioned, the standard is met.

MCRR 5.000 Transportation Impact

MCRR 5.100 To determine if a Transportation Impact is caused by a proposed development, the County Engineer will determine the number of new trips generated by a site by one of the following methods:

- A. Calculations from the most recent edition of the Institute of Transportation Engineers' Trip Generation (ITE); or**
- B. A site development transportation impact study conducted by a professional engineer registered in the State of Oregon and accepted by the County.**

MCRR 5.200 The County Engineer will use the information obtained pursuant to sub-section 5.100 and/or the frontage length of the subject property to determine the pro-rata share of the requirements set forth in Section 6.000.

MCRR 5.300 Except where special circumstances require the County Engineer to make an alternate determination, any new construction or alteration which will increase the number of trips generated by a site by more than 20 percent, by more than 100 trips per day or by more than

10 trips in the peak hour shall be found to have a *Transportation Impact*. A minimum increase of 10 new trips per day is required to find a transportation impact.

Staff: The Multnomah County Road Rules defines a Transportation Impact as the affect of any new construction or alteration which will increase the number of trips generated by a site by more than 20 percent, by more than 100 trips per day or by more than 10 trips in the peak hour [MCRR 3.000]. A minimum increase of 10 new trips per day is required to find a transportation impact.

According to the ITE Manual, 8th Edition, a single family dwelling generates 10 trips per day. The property is currently vacant. Therefore, a transportation impact will be caused by the proposed development since trips generated by the site will be increased by more than 20 percent.

MCRR 9.000 Compliance Method

MCRR 9.100 Once frontage or off-site improvement requirements have been established, one or any combination of the following methods must be used to satisfy those requirements::

9.400 Non-Remonstrance Agreement: This agreement shall be recorded in the County’s Deed Records against the affected property and “runs with the land”, thereby obligating the property owner and any successors in interest to share in the cost of the necessary improvements and to not remonstrate (object) against a petition or resolution for necessary improvements. In approving this method, the County Engineer may require a temporary improvement appropriate to the circumstances.

Staff: A non-remonstrance agreement, or “deed restriction” will require that the property participate in standard rural collector road improvements along the site’s frontage that are not completed as a part of the site’s required interim improvements. The Applicant is not, at this time, required to construct improvements, therefore a deed restriction is required.

A condition has been added to require the deed restriction. As conditioned, this standard is met.

7.00 Conclusion

Based on the foregoing findings and the record in this matter, the Applicant/Owner has demonstrated satisfaction of the standards and criteria, as proposed and with conditions of approval, for approval of a land use permit for a “dwelling customarily provided in conjunction with a farm use on not high-value farmland soils, capable of producing the median level of annual gross sales” pursuant to MCC 33.2625(D)(3), and for the associated Significant Environmental Concern-Wildlife Habitat and Hillside Development Permits.

8.00 Exhibits

- ‘A’ Applicant’s Exhibits
- ‘B’ Staff Exhibits
- ‘C’ Procedural Exhibits

Exhibits with a “*” after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T2-2014-3377 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	4/01/2014

A.2	13	Preliminary Title Report for Property Address 12535 NW Springville Road	4/01/2014
A.3	1	Site Plan – Sheet C2.1 a. Sheet C2.1 Site Plan	4/01/2014
A.4	12	Narrative for Non-High Value Soils Farm Dwelling	4/01/2014
A.5	16	Guidelines for Preparing Estimates of Potential Gross Sales for Farm Parcels by Oregon Counties dated August 15, 1996	4/01/2014
A.6	16	2012 Oregon County and State Agricultural Estimates dated May 2013	4/01/2014
A.7	1	2013 Farm Rates / SAV / MSAV	4/01/2014
A.8	7	Narrative for Significant Environmental Concern- Wildlife Habitat and Hillside Development criteria	4/01/2014
A.9	4	Hillside Development Permit Geotechnical Reconnaissance and Stability Preliminary Study [HDP Form 1]	4/01/2014
A.10.	18	Geotechnical Report & Landslide Hazard Study	4/01/2014
A.11	6	Fire Service Agency Review – 2 pages a. Email from Andrew Tull to Drew DeBois, TVFR – 1 page b. Letter from TVFR reviewing Access and Fire Flow – 2 page c. Site Plan attached to TVFR Review stamped by Fire Agency (Sheet C2.1) – 1 page	4/01/2014
A.12	1	On-Site Sewage Evaluation & Services Receipt	4/01/2014
A.13	3	Technical Memorandum regarding Sight Distance Evaluation	4/01/2014
A.14	6	Response to Incomplete Letter dated May 30, 2014	6/02/2014
A.15	8	Letter of Authorization from Dale Burger for Scott and Stacy Reed to submit the land use applications on the subject parcels dated May 11, 2014 a. Preliminary Title Report for Issuing Title Insurance	6/02/2014
A.16	1	Certification of Water Service	6/02/2014
A.17	1	Site Plan – Sheet C2.2	6/02/2014
A.18	1	Utility Plan – Sheet C3.0	6/02/2014
A.19	1	Grading Plan – Sheet C2.2	6/02/2014
A.20	1	Site Plan – Sheet C2.1	
A.21	1	New General Application Form due to the Reeds' purchasing property (new property owner)	7/15/2014
A.22	2	Statutory Warranty Deed transferring the property from Burger Farms, LLC to Scott and Stacy Reed on June 23, 2014 Recorded at 2014-061384	7/15/2014

A.23	4	Nationwide Agribusiness Farmowner Insurance Policy for Scott Reed	7/15/2014
A.24	1	PGE Bill for Stacy N. Reed at address 12534 NW Springville Road for May-June 2014	7/15/2014
A.25	6	Email from Scott Reed regarding incomplete application	7/15/2014
A.26	30	Photographs of cows, outbuildings, various equipment for milking cows	7/15/2014
A.27	5	Farm Agricultural Building Registration for two small buildings	8/25/2014
A.28	1	Letter from Michael Robinson, Perkins Coie regarding 60 day time extension dated September 25, 2014	9/26/2014
A.29	4	Response to Neighbors' Comments to Proposed Dwelling in Conjunction with Farm Use	10.15.2014
A.30	4	Letter from Garrett Stephenson regarding Scott Reed Application for a Farm Dwelling dated June 5, 2015	6/5/2015
A.31	1	Exhibit 1: Soil and Income Chart	6/5/2015
A.32	3	Exhibit 2: Undated Farm Income Tables	6/5/2015
A.33	21	Exhibit 3: Photos of Use	6/5/2015
A.34	6	Exhibit 4: Memo dated May 30, 2014 regarding Incomplete Letter	6/5/2015
A.35	10	Springwood Farm Business Plan	6/5/2015
A.36	1	2013 Schedule F	6/11/2015
A.37	1	May, 2015 Farm Sales Ledger	6/11/2015
A.38	1	Seed Purchase Receipt	6/11/2015
A.39	2	2015 Farm Insurance Coverage Summary	6/11/2015
A.40	1	Scott Reed Affidavit	6/11/2015
'B'	#	Staff Exhibits	Date
B.1	2	A&T Property Information for 1N1W16D – 02800	4/01/2014
B.2	2	A&T Property Information for 1N1W16D – 03100	
B.3	2	A&T Property Information for 1N1W15C – 00600	
B.4	1	DLCD Letter from Katherine Daniels, Farm and Forest Lands Specialist regarding Multnomah County's use of OAR 660-033-0135(2)	8/11/2014
B.5		Gross Sales Farm Income Report, Non-high Value Soils	
'C'	#	Administration & Procedures	Date
C.1	3	Incomplete Letter	4/30/2014

C.2		Applicant's Acceptance of 180 Day Clock	
C.3	1	Complete Letter (Day 1 – August 13, 2014)	8/21/2014
C.4	8	Opportunity to Comment	8/25/2014
C.5		Administrative Decision	
'D'	#	Comments Received (if needed)	Date
D.1	1	Winkler Comments	8/28/2014
D.2	1	Plep Comments	9/4/2014
D.3	1	Cave Comments	9/4/2014
D.4	1	Goldfield Comments	9/8/2014
D.5	1	Goldfield Correction Email	9/8/2014

Name	R#	Address	Farm Tract Size	Deferral Program	Income
Malinowski	R324332, R324313, R504750	13130 NW Springville Rd	1.22 acres 9.35 acres 23.01 acres A&T 33.58 acres (Reed 33.02972)	Farm 7c & 10b Farm 7c, 10b & 7b Farm 7b, 14c, 21b, 43c	
Zahler	R324301, R324297	13937 & 14111 NW Springville Rd	20.07 acres 16.69 acres A&T 36.76 acres (Reed 37.47799)	Farm – (20)7b, 7c, 7d, & 14c Farm – 11.19 / Forest – 5.5 7b, 14c, 10b	
Tri-County Investments	R610456	14120 NW Springville Rd	A&T 38.32 acres (Reed 38.23117)	Farm 7b, 7c, 10b & 55	
Beovich	R324239	11525 NW Springville Rd	94.03 acres	Farm 7b, 7c, 7d, 7e, 7f	
Burnham	R324350 R324346, R324295, R324348, R324306, R324360	14419 & 14417 NW Springville Rd	2.18 acres 37.12 acres 34.05 acres 24.62 acres 15.38 acres 2.18 acres A&T 115.53 acres (Reed 114.7481)	Farm 7b, 7c, 10b Farm 30.12/Fort 7 [7b, 14c, 7c, 7d, 10b] Farm 28.05/Fort 6 [7b, 10b, 14c, 7c, 7d, 7e] Farm 7b, 7c, 7d Farm 7b, 7c, 7d, 7e Farm 7b, 7c, 14c	
Springville Investors	R324312	14425 NW Springville Rd	37.57 acres	Forest 24.57 acres NQ 13 acres	
Thomson	R106143, R106142	NW Old Germantown Rd	5.81 acres 29.72 acres A&T 35.53 acres	Forest	

(Reed 37.72158)

Description	Class	Percent of average of HV only	Combined weighted gross sales per acre	Estimated Potential Gross Sales Per Acre For Each Land Class
Dry	I	156%	\$ 432	\$ 674.29
Dry	II	112%	\$ 432	\$ 484.11
Dry	III	92%	\$ 432	\$ 397.66
Dry	IV	47%	\$ 432	\$ 203.89
Dry	V	24%	\$ 432	\$ 103.74
Irrigated	I	133%	\$ 2,282	\$ 3,026.94
Irrigated	II	86%	\$ 2,282	\$ 1,960.31
Irrigated	III	81%	\$ 2,282	\$ 1,859.41

Stephenson, Garrett H.

From: Stephenson, Garrett H.
Sent: Tuesday, September 07, 2021 8:24 PM
To: Stephenson, Garrett H.
Subject: FW: Fire Letter

From: Scott Reed <scott@reedcommunity.com>
Sent: Friday, September 03, 2021 2:01 AM
To: Stephenson, Garrett H. <GStephenson@SCHWABE.com>
Subject: FW: Fire Letter

Scott L. Reed, CRE CCIM
Managing Partner

Reed Community Partners LLC
1050 SW 6th Avenue, Suite 1100
Portland, OR 97204
t: 503.974.7555 x 101
c: 914-391-6995
f: 503.974.7558
e: scott@reedcommunity.com
reedcommunity.com

From: Rithy KHUT <rithy.khut@multco.us>
Date: Wednesday, June 14, 2017 at 8:38 AM
To: Scott Reed <scott@reedrealtygroup.com>
Cc: Randy Page <pagernd@gmail.com>
Subject: Re: Fire Letter

Hello Scott,

After discussion with the Senior Planner about this requirement, it looks like the letter will not be sufficient to demonstrate compliance with this requirement. We will require building plans show the sprinkler system that we will stamp and sign off. The Senior Planner and I also have some additional comments about that I'm putting in a letter, which I should have by the end of the day.

Rithy Khut
Land Use Planner

Multnomah County | Department of Community Services
Land Use Planning Division
Yeon Annex | 1600 SE 190th Ave | Portland OR 97233
T (503) 988-0176
E rithy.khut@multco.us

<https://multco.us/landuse/>

On Wed, Jun 14, 2017 at 7:57 AM, Scott Reed <scott@reedrealtygroup.com> wrote:

Click with Caution! This email came from OUTSIDE of the County. If you do not know the sender, do not open attachments or click links.

Rithy,

I am following up on the fire letter from Drew at Tualatin Valley Fire & Rescue that I sent last Thursday. I want to confirm that satisfies the sprinkler requirement along with the notes we have on the plans.

Thanks, SCOTT

Scott L. Reed
Managing Director
Reed Realty Group, LLC
1001 SW 5th Avenue, Suite 1100
Portland, OR 97204
[914.391.6995](tel:914.391.6995) c
[866.742.0249](tel:866.742.0249) f
www.reedrealtygroup.com

From: Scott Reed <scott@reedrealtygroup.com>
Date: Thursday, June 8, 2017 at 11:33 PM
To: "rithy.khut@multco.us" <rithy.khut@multco.us>
Cc: Randy Page <pagernd@gmail.com>
Subject: Fire Letter

Rithy,

Thanks for your time and recommendations. Attached is the letter from Drew at Tualatin Valley Fire & Rescue. Let me know if this satisfies the sprinkler requirement along with the notes we have on the plans.

Best,
SCOTT

Scott L. Reed
Managing Director
Reed Realty Group, LLC
1001 SW 5th Avenue, Suite 1100
Portland, OR 97204
[914.391.6995](tel:914.391.6995) c
[866.742.0249](tel:866.742.0249) f
www.reedrealtygroup.com

Stephenson, Garrett H.

From: Stephenson, Garrett H.
Sent: Tuesday, September 07, 2021 8:25 PM
To: Stephenson, Garrett H.
Subject: FW: Reed Farm Dwelling Revisions and Agricultural Building Review

From: Scott Reed <scott@reedcommunity.com>
Sent: Friday, September 03, 2021 2:04 AM
To: Stephenson, Garrett H. <GStephenson@SCHWABE.com>
Subject: FW: Reed Farm Dwelling Revisions and Agricultural Building Review

Scott L. Reed, CRE CCIM
Managing Partner

Reed Community Partners LLC
1050 SW 6th Avenue, Suite 1100
Portland, OR 97204
t: 503.974.7555 x 101
c: 914-391-6995
f: 503.974.7558
e: scott@reedcommunity.com
reedcommunity.com

From: Rithy KHUT <rithy.khut@multco.us>
Date: Wednesday, August 23, 2017 at 1:18 PM
To: Scott Reed <scottloganreed@yahoo.com>, Scott Reed <scott@reedrealtygroup.com>
Cc: Katie SKAKEL <katie.skakel@multco.us>
Subject: Reed Farm Dwelling Revisions and Agricultural Building Review

Hello Scott,

I have been working on your Agricultural Building Review, Grading and Erosion Control permit, and building plan. I have finished the Agricultural Building Review for the barn/dairy in the South pasture. The Agricultural Review is attached.

Because of the complexity of your land use case and building plan set, I have asked the Senior Planner to assist me in the review. Since you have altered the location of the house, from Exhibit A.3a, the location of the house has been moved to sit on a property line. I didn't realize that your property consisted on Parcel 1 and Parcel 2, until I read your deed for Farm Remonstrance. Since structures need to meet minimum yard dimensions, you cannot locate a building on a lot line. Therefore there are two options that you have to rectify this situation.

1. Consolidate the parcels I and II to remove the lot line. This is a Type 1 application with a fee of \$259. I need the Type 1 application filled out and signed by you and Stacy and the fee.
 - o I have all the materials that would be included as part of the application. However, once the report is issued, I will need an unrecorded deed that accurately reflects the approved consolidation. Once I stamp the legal description as approved it will need to be recorded with the County Clerk.
2. Move the location of the dwelling so it more closely matches Exhibit A.3a. Thereby meeting the setback requirements from parcel I and II.

From my review of your land use case, you have completed all of the Conditions except for Condition 4, 8 and 15. During our review, we have found additional revisions need to be made to satisfy those conditions.

- Condition 4 and 8 - C701: Existing and Future -
 - I am missing an item that was shown on Exhibit A.3a but not on C701. As agreed upon in Condition 8, please include the location of the Hillside Development overlay on C701 (**bold** and *italic*).

8. Prior to the Planning Director's signoff for any building permit for development on the Property, the Owner shall submit to the Planning Director a Revised Site Plan (to be labeled Ex. A.41 when submitted) at a standard architect or engineers scale on a sheet larger than 11x17 inches such that the Revised Site Plan clearly and accurately demonstrates existing and proposed attributes of the Property as follows:

b. Location of the Significant Environmental Concern for streams (SEC-s) overlay zone, the Significant Environmental Concern for wildlife habitat overlay zone (SEC-w), and the **Hillside Development** overlay zone for purposes of demonstrating that none of the attributes listed in subparagraph (a) of this Condition 8 shall occur within such zones. Notwithstanding the preceding sentence, grazing is allowed within the SEC-s subject to review and approval by the Oregon Department of Agriculture. Nothing in this Condition prohibits the Owner from requesting land use approval for a use, including development, in such overlay zones in the future;

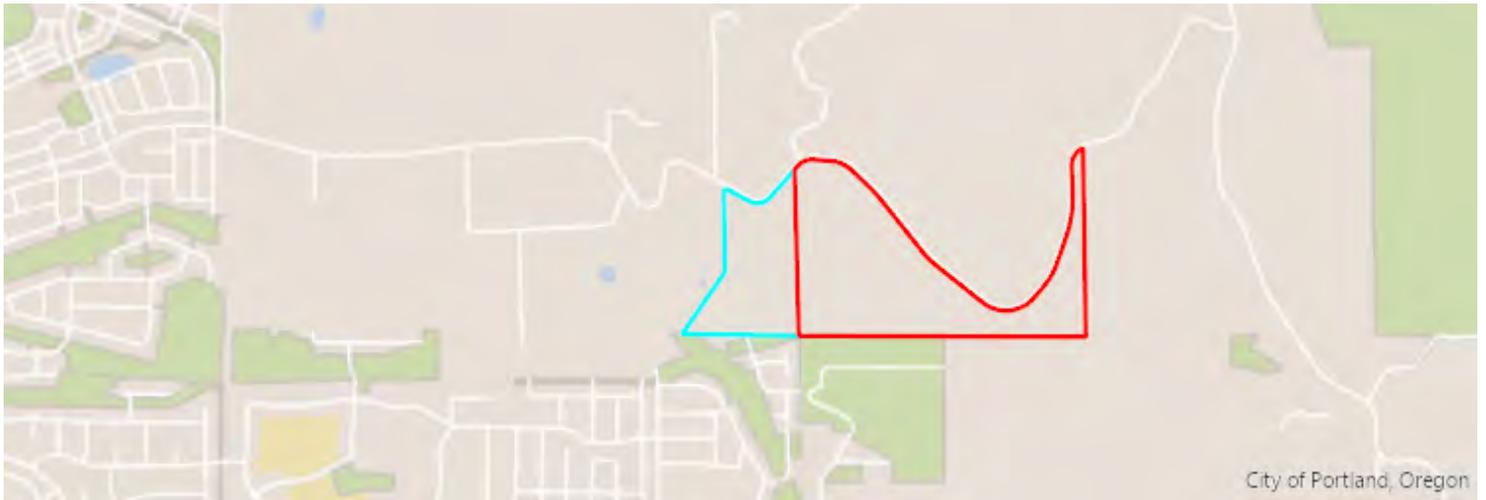
- There are two typos. Vineyard is spelled incorrectly and it is SEC not NEC.
- Condition 15
 - The Fire Plan still indicates that there are "guest" rooms. Since I have to stamp those plans, I request these references to "guest" rooms be removed or whited out.

Once the Hillside Development overlay areas are indicated on the site plan, I can issue the Grading and Erosion Control permit.

Rithy Khut
Land Use Planner

Multnomah County | Department of Community Services
Land Use Planning Division
Yeon Annex | 1600 SE 190th Ave | Portland OR 97233
T (503) 988-0176
E rithy.khut@multco.us

<https://multco.us/landuse/>



**12424 WI/ NW SPRINGVILLE RD
PORTLAND, OR 97229**

2018-124305-000-00-RS

PERMIT

IVR Number	4164411
Permit/Case Type	Residential Bldg/Trade Permit Single Family Dwelling New Construction
Work/Case Description	NEW SINGLE FAMILY RESIDENCE/2 STORY WITH BASEMENT/8 CAR GARAGE/20% SLOPE/COMPLEX/FIRE SPRINKLERS REQUIRED*** ELECTRICAL, MECHANICAL AND PLUMBING PERMITS TO BE OBTAINED SEPARATELY *** MULTNOMAH COUNTY REVIEW *** ON WELL AND SEPTIC SYSTEMS *** VERIFY PORTLAND PUBLIC SCHOOLS
Set Up Date	2/20/2018
Under Review Date	3/27/2018
Issue Date	
Final Date	
Latest Activity	4/23/2020
Status	Admin Hold

Activity

Activity	Type	Must Check	Activity Status	Last Acti
Administration	Application	N	Hold	04/23/20
2nd Screen App Set-Up	Application	Y	Approved	03/27/20
P & Z - Property Check	Application	Y	Approved	03/27/20
Life Safety - Application Check	Application	Y	Approved	03/27/20
Intake - DSC	Issuance/Intake	Y	Intake	03/27/20

Activity	Type	Must Check	Activity Status	Last Acti
Assign Plan and File Location	Process Management	N	Admin Hold	05/29/20
Assign Reviews - RS	Process Management	N	Open	02/20/20
Corrections Received - RS	Process Management	N	Completed	06/20/20
Corrections Received - RS	Process Management	N	Completed	08/24/20
Corrections Received - RS	Process Management	N	Completed	10/26/20
Corrections Received - RS	Process Management	N	Completed	06/14/20
Corrections Received - RS	Process Management	N	Completed	03/09/20
Plans checked out to Applicant	Process Management	N	Open	08/06/20
Point of Contact	Process Management	N	Open	03/27/20
Assign Address	Addressing	Y	Not Required	08/24/20
County Right of Way Review	Multnomah County	Y	Approved	04/05/20
County Zoning Review	Multnomah County	Y	Approved	03/27/20
Spec. Insp. - Site Dev.	Site Development	Y	Required	04/06/20
Site Development Review	Site Development	Y	Approved	06/25/20
Life Safety Plan Review	Life Safety	Y	Approved	10/29/20
Structural Review	Structural	Y	Admin Hold	04/08/20
Spec. Insp. - Structural	Structural	N	Required	10/17/201
Deferred Submittals	Structural	N	Required	07/18/201
Soils Spec. Insp. Form Req'd	Special Inspections Review	Y	Approved	03/09/20
Struct Spec. Insp. Form Req'd	Special Inspections Review	Y	Approved	03/09/20
Residential Subsurface Site Evaluation	Plumbing/Subsurface Review	Y	Admin Hold	03/17/20:
Fire Plan Review	Fire Bureau	Y	Admin Hold	03/13/20:
BES Environmental Review	Environmental Services	Y	Not Required	06/11/201
Water Available	Water Bureau Review	Y	Not Required	03/29/20
Water SDC Payment Plan	Water Bureau Review	N	Open	02/20/20
Send Letter of intent to expire	Document Management	N	Admin Hold	05/29/20
Pre-Issuance Check	Issuance	Y	Open	06/25/20
Expire Permit	Permit Expiration	N	Extended	09/12/20
Expire Permit	Permit Expiration	N	Corrections Extended	03/09/20
Expire Permit	Permit Expiration	N	Extended	03/18/20

1600 SE 190th Avenue, Portland OR 97233-5910 • PH. (503) 988-3043 • Fax (503) 988-3389

GRADING AND EROSION CONTROL PERMIT
CASE FILE: T1-2017-9729
February 14, 2018

Request: The applicant is seeking approval for grading activities associated with a new single-family dwelling.

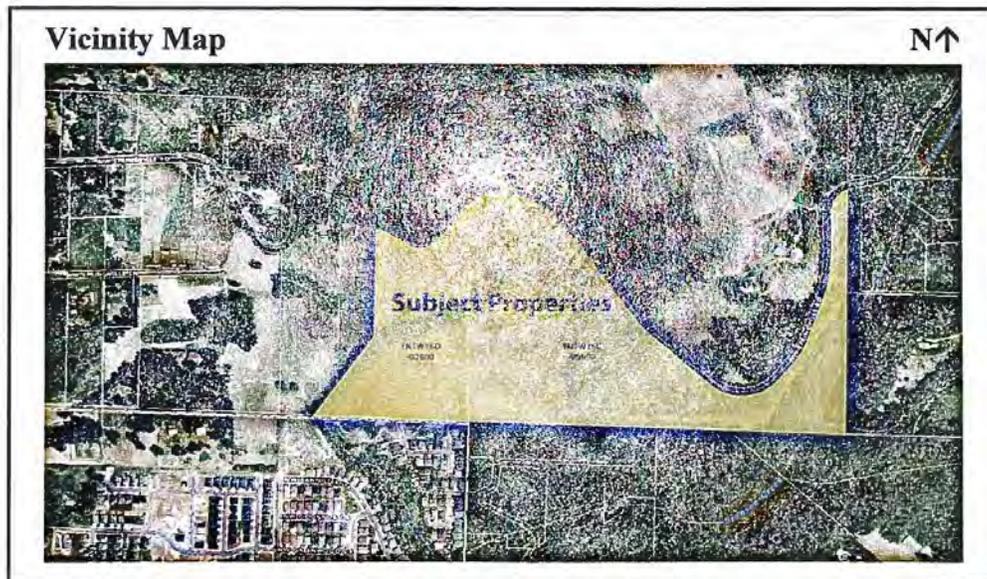
Location: 12424 NW Springville Road
Tax Lot 2800, Section 16D, Township 1 North, Range 1 West, W.M.
Tax Account #R961160130

- and -

Tax Lot 600, Section 15C, Township 1 North, Range 1 West, W.M.
Tax Account #R961150770

Applicant: Scott and Stacy Reed

Owner: Scott and Stacy Reed



Issued by:

Signed: 
Rithy Khut, Planner

For: Michael Cerbone, AICP
Planning Director

Date: February 14, 2018

ORDINANCE REQUIREMENTS:

Applicable standards for this permit can be found within Chapter 29.330 et seq., Grading and Erosion Control of the Multnomah County Building and Specialty Codes, copies of which are available at our offices.

MODIFICATIONS AND LIMITATIONS:

This permit is based on written narrative(s), plan(s) and an elevation certificate provided by the applicant. No development shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner to comply with these documents and the limitations described herein.

Prior to any land disturbing activities:

1. When you are ready to start the grading work approved in this permit, the permit notice card is to be posted at the driveway entrance in a clearly visible location. This notice is to remain posted until such time as the grading work is completed. In the event the notice is lost, destroyed, or otherwise removed prior to completion of the grading work, the applicant shall immediately contact the Land Use Planning office to obtain a replacement. [MCC 29.345(C)(2)]
2. When ground-disturbing activities authorized by this permit are ready to commence; within the seven (7) days, please email Rithy Khut at rithy.khut@multco.us with the commencement date of the activities. Work may commence once written notice is completed. The County's inspector will be visiting the project site to ensure that Best Management Practices are occurring. [MCC 29.345(C)(2)]
3. The applicant's representative shall flag the boundaries where ground-disturbing activities are allowed and where equipment and supplies are to be staged. Areas outside of these boundaries are not to be disturbed. [MCC 29.345(A)(2)(b) & (e)]

During Construction / On-Going Restrictions:

4. All work shall conform to the stamped construction drawings/plans complying with the applicable requirements of Multnomah County Code (MCC) 29.342 [MCC 29.342(D)].
5. The property owner or representative shall install erosion control measures consistent with the approved erosion control plan. The property owner is responsible for maintaining best erosion control practices through all phases of development. Erosion control measures are to include the installation of sediment fences/barriers at the toe of all disturbed areas and post construction re-establishment of ground cover. Straw mulch, erosion blankets, or 6-mil plastic sheeting shall be used as a wet weather measure to provide erosion protection for exposed soils. All erosion control measures are to be implemented as prescribed in the current edition of the City of Portland's Erosion Control Manual, copies of which are available for purchase at our office, or through the City of Portland. The property owner shall verify that all erosion control measures are properly installed and in working order prior to initiating grading activities. [MCC 29.345(A)(2)(a)]
6. The County may supplement described erosion control techniques if turbidity or other down slope erosion impacts results from on-site grading work. The Portland Building Bureau (Special Inspections Section), the local Soil and Water Conservation District, or the U.S. Soil Conservation Service can also advise or recommend measures to respond to unanticipated erosion effects. [MCC 29.345(C)(2)]

7. On-site disposal of construction debris is not authorized under this permit. Any spoil materials removed off-site shall be taken to a location approved for the disposal of such material by applicable Federal, State and local authorities. This permit does not authorize dumping or disposal of hazardous or toxic materials, synthetics (i.e. tires), petroleum-based materials, or other solid wastes which may cause adverse leachates or other off-site water quality effects.
8. The property owner is responsible for removing any sedimentation caused by development activities from all neighboring surfaces and/or drainage systems. If any features within adjacent public right-of-way are disturbed, the property owner shall be responsible for returning such features to their original condition or a condition of equal quality. [MCC 29.345(B)(1)]

Follow up requirements after construction:

9. All disturbed areas shall be graveled or seeded with native grasses within five (5) days of the date grading activities are concluded. [MCC 29.345(B)(2)]

Exhibits:

'A' Applicant's Exhibits

'B' Staff Exhibits

Exhibits with a "*" after the exhibit # have been included as part of the mailed decision. Exhibits are available for review in Case File T1-2017-8544 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	Type 1 Application Form	08/08/2017
A.2	1	Grading and Erosion Control Worksheet for Proposed Farm Structure and Agricultural road	08/08/2017
*A.3	1	Site Plans: G-101 – Title Page C-701 – Existing and Future Farm Use G-103 – Construction Notes C-201 – Existing Access and Demolition Plan C-301 – Erosion Control Plan C-302 – Erosion Control Details C-601 – Site Grading C-602 – Water Quality C-603 – Drainage Details	08/08/2017
'B'	#	Staff Exhibits	Date
B.1	2	Department of Assessment, Records and Taxation (DART): Property Information for 1N1W16D -02800 (R961160130)	08/08/2017
B.2	2	Department of Assessment, Records and Taxation (DART): Property Information for 1N1W15C -00600 (R961150770)	08/08/2017
B.3	1	Department of Assessment, Records and Taxation (DART) Map with 1N1W15C -00600 Highlighted	08/08/2017
B.4	1	Department of Assessment, Records and Taxation (DART) Map with 1N1W16D -02800 and -03100 Highlighted	08/08/2017
B.5	1	Grading and Erosion Control Sign	02/14/2018



Land Use Planning Division
1600 SE 190th Ave, Ste 116
Portland OR 97233

EROSION CONTROL CONCERNS?

CALL 503-988-3043

PERMIT#/ADDRESS T1-2017-9729 / 12424 NW SPRINGVILLE RD

THIS DEVELOPMENT HAS BEEN REVIEWED BY MULTNOMAH COUNTY LAND USE PLANNING AND IS REQUIRED TO KEEP SEDIMENTATION AND EROSION TO A MINIMUM. IF YOU ARE CONCERNED ABOUT THE CONDITION OF THE EROSION CONTROL MEASURES, PLEASE CONTACT THE ABOVE NUMBER WITH THE FOLLOWING INFORMATION: PERMIT # OR ADDRESS OF PROJECT AND A GENERAL DESCRIPTION OF YOUR CONCERNS.

Stephenson, Garrett H.

From: Scott Reed <scott@reedcommunity.com>
Sent: Tuesday, September 07, 2021 5:54 PM
To: Stephenson, Garrett H.
Subject: Dozer with rippers Nichols Excavations rented...

...to dig out basement with the excavator he owned. Pic taken September 22, 2018 at 8:33 am



Scott Reed, CRE CCIM
Managing Partner

Reed Community Partners LLC
[1050 SW 6th Avenue, Suite 1100](#)
[Portland, OR 97204](#)
t: [503.974.7555 x 101](#)
c: [914-391-6995](#)
f: [503.974.7558](#)
e: scott@reedcommunity.com

reedcommunity.com

Stephenson, Garrett H.

From: Stephenson, Garrett H.
Sent: Tuesday, September 07, 2021 8:21 PM
To: Stephenson, Garrett H.
Subject: FW: Grading Concerns

From: scott reed <scottloganreed@yahoo.com>
Sent: Friday, August 20, 2021 10:50 PM
To: Stephenson, Garrett H. <GStephenson@SCHWABE.com>
Subject: Fw: Grading Concerns

----- Forwarded Message -----

From: Rithy KHUT <rithy.khut@multco.us>
To: Scott Reed <scottloganreed@yahoo.com>
Sent: Wednesday, August 1, 2018, 02:39:10 PM PDT
Subject: Grading Concerns

Hi Scott,

Just wanted to check in because I have been receiving a few phone calls and e-mails about your grading work. For the most part, I have communicated to the individuals who have contacted me that you have a valid Grading and Erosion Control permit and you are operating within that permit.

It looks like the construction area is well fenced and the silt fences are up. I would like to remind you that because it has been so hot and you have bare soil, dusty conditions are more likely to occur. As your Erosion Control plan detail state: 11. If dusty conditions exist, the permittee shall apply a fine spray of water on the surface to control the dust.

The permit also states that you are required to follow the City of Portland's Erosion Control Manual, which can be read on page 112. Here is the link to the manual -- <https://www.portlandoregon.gov/bds/article/192327>

Other than that, hope everything is going well with the construction and permitting at the City of Portland.

Rithy Khut
Land Use Planner
(503) 988-0176 | <https://multco.us/landuse/>

Preferred pronouns: (*he / him / his*)

Multnomah County
Department of Community Services
Land Use Planning Division
1600 SE 190th Ave.
Portland OR 97233

Stephenson, Garrett H.

From: Stephenson, Garrett H.
Sent: Tuesday, September 07, 2021 8:30 PM
To: Stephenson, Garrett H.
Subject: FW: Reminders and Dust Concerns
Attachments: T1-2017-9729 - Decision.pdf

Begin forwarded message:

From: Scott Reed <scottloganreed@yahoo.com>
Date: May 9, 2019 at 10:59:18 AM PDT
To: "Garrett H. Stephenson" <gstephenson@schwabe.com>
Subject: Fwd: Reminders and Dust Concerns

Garrett,

On the email below I noticed that Lisa Estrin was copied. I thought part of our settlement with the County would be that Lisa would no longer have an part of the project.

Let me know if my memory is correct.

Thanks, SCOTT

Scott Reed

Begin forwarded message:

From: Rithy Khut <rithy.khut@multco.us>
Date: May 9, 2019 at 9:47:08 AM PDT
To: Scott Reed <scottloganreed@yahoo.com>
Cc: LUT Code Compliance <lut.compliance@multco.us>, Lisa ESTRIN <lisa.m.estrin@multco.us>
Subject: Reminders and Dust Concerns

Hello Scott,

I just wanted to let you know that I will be going on vacation this weekend. I don't typically e-mail applicants, but since I had to bring up a few other things I wanted to let you know in advance.

I have also received notice that you have begun work on your single-family dwelling again. I would like to remind you as part of your Grading and Erosion Control permit, you or your contractors are required to maintain "Best Management Practices", which includes dust mitigation and management. I know we discussed it last year, but since your starting again and it has been unseasonably hot, I wanted to remind you that you should wet the soil and use other methods to keep the dust down.

As another reminder, your permit that authorized the single-family dwelling required that you maintain and mark off the boundary between the where the soil is being contoured and the creek. The buffer you agreed upon was 250 feet from the center of the creek.

Lastly, your grading and erosion control permit limits you to 3000 cy of fill to be brought to the site to prepare for the single-family dwelling. If you exceed that amount, you will need to come in to revise your grading and erosion control plan.

Rithy Khut
Land Use Planner
(503) 988-0176 | <https://multco.us/landuse/>

Preferred pronouns: (*he / him / his*)

Multnomah County
Department of Community Services
Land Use Planning Division
1600 SE 190th Ave.
Portland OR 97233

Stephenson, Garrett H.

From: Rithy Khut <rithy.khut@multco.us>
Sent: Thursday, June 11, 2020 1:00 PM
To: Scott Reed
Cc: Stephenson, Garrett H.
Subject: Re: Permit 18-124305-000-00-CO
Attachments: T220143377.pdf

Hello Scott,

Based on my understanding of your land use case, T2-2014-3377 (attached); the land use permit that authorized your dwelling in conjunction with a farm use has expired. As the permit was issued on September 11, 2015, the permit states under Condition of Approval #5:

- **5. This Permit EXPIRES as provided in MCC 37.0690**
 - **a. A request for EXTENSION of the expiration deadline under MCC 37.0695 must be submitted prior to the expiration of the approval period.**
 - **b. Construction of any farm buildings that may be required to be constructed as a condition of this Permit, shall be sufficient grounds to justify at least one (1) extension period.**

As referenced, MCC 37.0690 states:

§ 37.0690 EXPIRATION OF TYPE II OR TYPE III DECISIONS.

(C) A Type II or III decision approving residential development on land zoned for Exclusive Farm Use or Commercial Forest Use outside of an urban growth boundary is subject to the following provisions:

(1) The approval shall expire as described in (a) or (b) below:

- (a) When construction has not commenced within four years of the date of the final decision. Commencement of construction shall mean actual construction of the foundation or frame of the approved structure.**
- (b) When the structure has not been completed within four years of the date of commencement of construction. Completion of the structure shall mean completion of the exterior surface(s) of the structure and compliance with all conditions of approval in the land use approval.**

The four year date as provided under (C)(1)(a) for the permit was September 11, 2019. Land Use Planning did not receive a written application requesting to extend the timeline of the permit as required by MCC 37.0695 (now renumbered to MCC 39.1195). As no extension was requested a new land use permit must be sought to authorize the dwelling.

Note: Due to COVID-19, I am currently teleworking. My schedule is Tuesday, Thursday, and Friday from 7:00 AM until 4:30 PM. I am out of the office every Monday and Wednesday, as I am on intermittent leave. Due to my leave status, my response will likely be longer than usual. I apologize in advance.

My gender pronouns are: (he / him / his)

Rithy Khut | Land Use Planner

Disclaimers:

- *The following statements are not a land use decision and should not be relied upon as such.*
- *This email is a public record of Multnomah County and is subject to public inspection unless exempt from disclosure under Oregon Public Records Law. This email is also subject to the County's Public Records Retention Schedule.*

On Wed, Jun 10, 2020 at 10:03 AM Scott Reed <scottloganreed@yahoo.com> wrote:



Rithy,

I am following up on the email below because it has been a week and we have not heard anything back from you regarding our permit issue. The City is claiming that the County has put a hold on our building permit.

Thanks, SCOTT

Scott Reed

On Jun 2, 2020, at 10:45 AM, scott reed <scottloganreed@yahoo.com> wrote:

Rithy,

See email below from City of Portland. The City is saying that Multnomah County land use permit has expired and cannot be extended. Our permit with the City of Portland has been under their review since 2018.

Please look into this issue and let me know what you discover.

Thanks,
SCOTT

----- Forwarded Message -----

From: Duquette, Shelly <shelly.duquette@portlandoregon.gov>
To: Scott Reed <scottloganreed@yahoo.com>
Sent: Tuesday, June 2, 2020, 10:39:57 AM PDT
Subject: Re: Permit 18-124305-000-00-CO

Hi Scott,

From what I can tell via some cryptic notes in our permitting system it looks like this is coming from Multnomah County. There are notes stating that the Multnomah County land use permit has expired and cannot be extended - via an email from the Multnomah County land use department. That is why the permit has been placed on hold. I don't know if this stops the clock on the City permit (I think it does, but I'm not 100% sure) that would be a question best sent to BDS@portlandoregon.gov or 503.823.7300.

Shelly

From: Scott Reed <scottloganreed@yahoo.com>
Sent: Tuesday, June 2, 2020 10:28 AM
To: Duquette, Shelly <Shelly.Duquette@portlandoregon.gov>
Subject: Re: Permit 18-124305-000-00-CO

Thanks for the quick reply! Best, SCOTT

Scott Reed

On Jun 2, 2020, at 10:26 AM, Duquette, Shelly <Shelly.Duquette@portlandoregon.gov> wrote:

Never mind it's in the subject line - web email access is driving me crazy.

From: Duquette, Shelly <Shelly.Duquette@portlandoregon.gov>
Sent: Tuesday, June 2, 2020 10:25 AM
To: scott reed <scottloganreed@yahoo.com>
Subject: Re: Permit 18-124305-000-00-CO

Hi Scott,

Can you send me your permit number so I can see if I can figure out what is going on with the permit and maybe find an appropriate contact?

Shelly

From: scott reed <scottloganreed@yahoo.com>
Sent: Tuesday, June 2, 2020 10:21 AM
To: Duquette, Shelly <Shelly.Duquette@portlandoregon.gov>
Subject: Re: Permit 18-124305-000-00-CO

Shelly,

I am reaching back out to you after 3 emails and 3 voicemails to BDS have lead to nothing. Emails to BDS reply with instructions to call (503) 823-7357. Calls to BDS roll to voicemail. The one return call we received was from Roman who explained that I can not turn in any plans because my permit is on "Admin hold".

Please give me the contact information to an individual at BDS who can assist to accept the revised architectural plans you requested.

Thanks,
SCOTT

On Tuesday, May 5, 2020, 08:19:04 AM PDT, Duquette, Shelly <shelly.duquette@portlandoregon.gov> wrote:

Procedure can be found here: <https://www.portlandoregon.gov/bds/article/756804>

From: scott reed <scottloganreed@yahoo.com>

Sent: Tuesday, May 5, 2020 2:32 AM

To: SCOTTLOGANREED@YAHOO.COM <SCOTTLOGANREED@YAHOO.COM>; Duquette, Shelly <Shelly.Duquette@portlandoregon.gov>

Cc: Tarries, David <David.Tarries@portlandoregon.gov>; Stacy Reed <stacynicolereed@yahoo.com>

Subject: Re: Permit 18-124305-000-00-CO

Shelly & David- We are ready to submitted the requested plans. I am sending this email to confirm the process with permitting services. Thanks, Scott Reed (914-391-6995)

On Tuesday, April 7, 2020, 04:18:09 PM PDT, <shelly.duquette@portlandoregon.gov> wrote:

Please respond to the attached checksheet. Please confirm response process with permitting services prior to submitting.



This email was encrypted for your privacy and security

Stephenson, Garrett H.

From: Carol Johnson <carol.johnson@multco.us>
Sent: Wednesday, July 01, 2020 4:57 PM
To: Stephenson, Garrett H.
Cc: Lisa Estrin
Subject: Fwd: Payment of Application/Appeal Fee

Dear Mr. Stephenson,

Multnomah County received your 'Appeal of Staff Decision on expiration of T2-2014-3377.' The County has rejected your appeal as improperly filed pursuant to MCC 39.1160(A)(2) because the County has not issued a Type II decision on the expiration of T2-2014-3377. If you would like to request a Planning Director's interpretation regarding the status of T2-2014-3377, please submit an application for that determination.

If you have any questions, please include Lisa Estrin in your reply as I may be out of the office over the next week due to a medical issue. She will coordinate with me if I am unable to respond to you directly.

Sincerely,
Carol Johnson

Carol Johnson, AICP

Land Use Planning Director
Multnomah County
Land Use Planning Division
1600 SE 190th Avenue, Suite 116
Portland, OR 97233
desk: 503-988-0218
mobile: 971-280-3743
carol.johnson@multco.us
pronouns: she/her/hers

----- Forwarded message -----

From: Stephenson, Garrett H. <GStephenson@schwabe.com>
Date: Wed, Jul 1, 2020 at 3:00 PM
Subject: RE: Payment of Application/Appeal Fee
To: land.use.planning@multco.us <land.use.planning@multco.us>
Cc: scott reed <scottloganreed@yahoo.com>, Rithy Khut <rithy.khut@multco.us>



To Whom it may Concern:

You should have received my client (Scott Reed's) appeal by June 16. To date, we have not received any word regarding its acceptance. Can you please let me know the status of this appeal?

Thank you.

Garrett H. Stephenson

Shareholder

Direct: 503-796-2893

Mobile: 503-320-3715

gstephenson@schwabe.com

Schwabe Williamson & Wyatt

[Please visit our COVID-19 Resource page](#)



From: Stephenson, Garrett H.
Sent: Monday, June 15, 2020 3:59 PM
To: 'land.use.planning@multco.us' <land.use.planning@multco.us>
Cc: 'scott reed' <scottloganreed@yahoo.com>
Subject: Payment of Application/Appeal Fee

To whom it may concern,

I have a client who intends to submit an appeal and needs to pay the \$250.00 fee. He will be sending in a check tomorrow, but I wanted to see if it would be possible to pay the fee electronically. We will also send a copy of the notice of appeal electronically.

Thanks you.

Garrett H. Stephenson

Shareholder

Direct: 503-796-2893

Mobile: 503-320-3715

gstephenson@schwabe.com

Schwabe Williamson & Wyatt

[Please visit our COVID-19 Resource page](#)



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Multnomah County

Department of Community Services - Land Use Planning Division

1600 SE 190th Ave., Portland OR 97233

T: 503-988-3043

Our public counter hours are: Tuesday - Friday, 8am - 4pm



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Stephenson, Garrett H.

From: Scott Reed <scott@reedcommunity.com>
Sent: Tuesday, August 24, 2021 1:48 PM
To: Stephenson, Garrett H.
Subject: FW: In progress foundation pics

From: Scott Reed <springwoodacresfarm@gmail.com>
Date: Tuesday, August 24, 2021 at 1:42 PM
To: Scott Reed <scott@reedcommunity.com>
Subject: In progress foundation pics





Stephenson, Garrett H.

From: Scott Reed <scott@reedcommunity.com>
Sent: Tuesday, August 24, 2021 1:47 PM
To: Stephenson, Garrett H.
Subject: FW: Foundation start pics

Scott L. Reed, CRE CCIM
Managing Partner

Reed Community Partners LLC
1050 SW 6th Avenue, Suite 1100
Portland, OR 97204
t: 503.974.7555 x 101
c: 914-391-6995
f: 503.974.7558
e: scott@reedcommunity.com
reedcommunity.com

From: Scott Reed <springwoodacresfarm@gmail.com>
Date: Tuesday, August 24, 2021 at 1:41 PM
To: Scott Reed <scott@reedcommunity.com>
Subject: Foundation start pics







Nichols Excavation LLC

Brad Nichols
 18187 S. Matthew Ct.
 Oregon City, OR 97045

Invoice Invoice

Date	Invoice #
10/7/2018	168

Phone #	E-mail
503-816-0273	bradozer@yahoo.com

Bill To
Scott Reed 12535 NW Springville Rd. Portland, Or. Lot Grading

Project

Dozer Grading Rock Roads

Cleaout stalls Regrade around barn

P.O. No.	Terms

Description	Qty	Rate	Amount
9-18-18, Mob in, pull berm back for cat work w/ mini hoe.	1.5	125.00	187.50
9-19-18, Mob in dozer, grade berm.	9.5	125.00	1,187.50
9-20-18, Grade berm, push to courtyard.	8.5	125.00	1,062.50
9-21-18, Grade berm, courtyard, basement.	8.5	125.00	1,062.50
9-22-18, Grade road to creek, courtyard and basement.	9	125.00	1,125.00
9-24-18, Start rocking road, 3 trucks rented.	9.5	125.00	1,187.50
Truck Rental.		60.00	60.00
Varchan Enviromental LLC	9.75	100.00	975.00
Ground Level Construction LLC	6.75	110.00	742.50
Claborn Enterprises LLC	8.75	120.00	1,050.00
9-25-18, Rock road, clean up barn field. 2 trucks from Northside Rock.	10	125.00	1,250.00
9-26-18, Rock road, barn field, dump field. 2 trucks from Northside Rock.	9.5	125.00	1,187.50
9-27-18, Barn dirt pad, rock road and courtyard pad, dump field. 2 trucks from Northside Rock.	8.5	125.00	1,062.50
9-28-18, Barn pad, grade rock, construction entrance, strip topsoil, topsoil berm.	9	125.00	1,125.00
9-29-18, Finish street berm, grade flat next to basement.	8	125.00	1,000.00
10-1-18, Track walk berms, clean up blackberry dirt, road to spring.	9.5	125.00	1,187.50
Fuel for dozer. 720.15 gal. @ \$3.17 per gal	720.15	3.17	2,282.88
		Total	\$17,735.38

Balance Due	\$17,735.38
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Oregon Administrative Code - 2015

Oregon Administrative Rules Compilation
Chapter 660. Department of Land Conservation and Development
Division 33. Agricultural Land

OAR 660-033-0140

660-033-0140. Permit Expiration Dates

Currentness

(1) Except as provided for in section (5) of this rule, a discretionary decision, except for a land division, made after the effective date of this division approving a proposed development on agricultural or forest land outside an urban growth boundary under [ORS 215.010 to 215.293](#) and [215.317 to 215.438](#) or under county legislation or regulation adopted pursuant thereto is void two years from the date of the final decision if the development action is not initiated in that period.

(2) A county may grant one extension period of up to 12 months if:

(a) An applicant makes a written request for an extension of the development approval period;

(b) The request is submitted to the county prior to the expiration of the approval period;

(c) The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period; and

(d) The county determines that the applicant was unable to begin or continue development during the approval period for reasons for which the applicant was not responsible.

(3) Approval of an extension granted under this rule is an administrative decision, is not a land use decision as described in [ORS 197.015](#) and is not subject to appeal as a land use decision.

(4) Additional one-year extensions may be authorized where applicable criteria for the decision have not changed.

(5) (a) If a permit is approved for a proposed residential development on agricultural or forest land outside of an urban growth boundary, the permit shall be valid for four years.

(b) An extension of a permit described in subsection (5)(a) of this rule shall be valid for two years.

(6) For the purposes of section (5) of this rule, “residential development” only includes the dwellings provided for under [ORS 215.213\(3\)](#) and [\(4\)](#), [215.284](#), [215.705\(1\)](#) to [\(3\)](#), [215.720](#), [215.740](#), [215.750](#) and [215.755\(1\)](#) and [\(3\)](#).

Credits

Stat. Auth.: [ORS 197.040](#) & 215

Stats. Implemented: [ORS 197.015](#), [197.040](#), [197.230](#) & [197.245](#)

Hist.: LCDC 6-1992, f. 12-10-92, cert. ef. 8-7-93; LCDD 1-2002, f. & cert. ef. 5-22-02; LCDD 4-2011, f. & cert. ef. 3-16-11; LCDD 6-2013, f. 12-20-13, cert. ef. 1-1-14

Current through rules published in the Oregon Bulletin dated January 1, 2016

OAR 660-033-0140, OR ADC 660-033-0140

End of Document

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Foundation Construction Costs

Design	\$150,056.15	City of Portland Vendor	\$8,111.82	Grading Vendor	\$169,901.76	Foundation Vendor	\$30,223.00
6/3/16 Randy Page	\$2,550.00	03/30/18 City of Portland	\$8,111.82	06/07/17 EZ Excavator Rental	\$950.00	03/08/17 CMT Surveying	\$6,000.00
6/3/16 Randy Page	\$2,400.00			06/07/17 Multnomah County	\$66.00	07/03/17 Nichols Excavating	\$11,365.00
6/13/16 Randy Page	\$3,300.00			06/13/17 EZ Excavator Rental	\$450.00	07/09/18 Nichols Excavating	\$12,858.00
6/21/16 Randy Page	\$3,300.00			06/14/17 EZ Excavator Rental	\$24.00		
6/27/16 Randy Page	\$3,750.00			06/19/17 EZ Excavator Rental	\$450.00		
7/6/16 Randy Page	\$3,799.50			06/20/17 EZ Excavator Rental	\$32.40		
7/11/16 Randy Page	\$2,400.00			06/21/17 Columbia River Tractor Rental	\$3,950.00		
7/18/16 Randy Page	\$1,575.00			06/28/17 Northside Rock Products	\$13,585.34		
7/25/16 Randy Page	\$2,100.00			07/07/17 EZ Excavator Rental	\$750.00		
8/2/16 Randy Page	\$3,790.50			07/12/17 EZ Excavator Rental	\$21.00		
8/9/16 Randy Page	\$2,055.30			07/17/17 EZ Excavator Rental	\$900.00		
8/15/16 Randy Page	\$1,800.00			07/18/17 EZ Excavator Rental	\$425.00		
8/23/16 Randy Page	\$1,475.00			07/31/17 EZ Excavator Rental	\$165.10		
8/29/16 Randy Page	\$2,100.00			10/06/17 EZ Excavator Rental	\$750.00		
9/12/16 Randy Page	\$3,191.04			10/10/17 EZ Excavator Rental	\$723.00		
9/16/16 Randy Page	\$1,929.48			1/2/18 CMT Survey	\$1,500.00		
9/27/16 Randy Page	\$2,400.00			5/15/18 EZ Excavator	\$750.00		
10/12/16 Randy Page	\$1,650.00			5/18/18 EZ Excavator	\$518.80		
02/06/17 Bulter Consulting	\$11,917.75			5/19/18 EZ Excavator	\$350.00		
2/9/17 Randy Page	\$5,000.00			5/19/18 EZ Excavator	\$30.80		
02/13/17 Randy Page	\$5,000.00			5/22/18 Ez Excavator	\$40.40		
4/10/17 Randy Page	\$5,000.00			5/30/18 Core & Main	\$1,040.00		
04/17/17 Randy Page	\$5,000.00			08/22/18 Northside Rock	\$998.08		
5/20/17 Randy Page	\$5,000.00			09/12/18 Star Rentals	\$2,850.00		
05/22/17 Erik Esparanza	\$1,500.00			09/17/18 EZ Excavator	\$750.00		
05/24/17 Randy Page	\$5,000.00			09/19/18 EZ Excavator	\$28.80		
05/30/17 Trihn Tran	\$5,000.00			09/24/18 Geotk	\$1,625.00		
06/06/17 Erik Esparanza	\$1,500.00			10/03/18 United Rentals	\$68.75		
06/12/17 Willamette Print	\$652.45			10/23/18 Star Rentals	\$1,350.00		
06/20/17 Trihn Tran	\$5,000.00			11/08/18 Star Rentals	\$1,350.00		
08/10/17 Willamette Print	\$136.26			11/27/18 Northside Rock	\$10,000.00		
10/16/17 Willamette Print	\$45.00			12/13/18 Star Rentals	\$1,350.00		
02/05/18 Gordon Bartram	\$500.00			12/20/18 Northside Rock Products	\$16,542.00		
02/05/18 Gordon Bartram	\$134.50			01/03/19 Star Rentals	\$1,350.00		
02/20/18 Gordon Bartram	\$925.00			2/25/19 Ivan Matrishev	\$2010.57		
03/07/18 Gordon Bartram	\$1,103.39			3/19/19 Ivan Matrishev	\$4690.77		
03/19/18 Gordon Bartram	\$1,673.01			3/25/19 Ivan Matrishev	\$2610.00		
04/05/18 Gordon Bartram	\$2,214.95			03/25/19 Geotk	\$1,175.00		
05/07/18 Gordon Bartram	\$901.93			03/26/19 Northside Rock	\$1,712.85		
05/07/18 Rapid Soil Solutions	\$300.00			03/27/19 Northside Rock	\$3,416.93		
05/31/18 Gordon Bartram	\$2,428.76			3/28/19 Ivan Matrishev	\$2610.00		
06/13/18 Gordon Bartram	\$2,469.58			4/1/19 Ivan Matrishev	\$3796.80		
06/19/18 Gordon Bartram	\$1,803.30			04/05/19 Old Castle Precast	\$3,747.00		
07/02/18 Gordon Bartram	\$2,678.00			4/5/19 Elizev Kuzmin	\$960.00		
07/10/18 Gordon Bartram	\$2,391.74			4/10/19 Nick Martishev	\$2610.00		
07/31/18 Gordon Bartram	\$3,251.13			04/11/19 Platt Electric	\$113.13		
08/30/18 Gordon Bartram	\$1,057.20			04/11/19 Geotk	\$375.00		
10/09/18 Gordon Bartram	\$1,350.00			04/18/19 Core & Main	\$4,151.06		
10/22/18 Gordon Bartram	\$2,387.93			04/18/19 Core & Main	\$430.32		
11/19/18 Gordon Bartram	\$1,418.66			4/19/19 Nick Martishev	\$1568.00		
12/11/18 Gordon Bartram	\$1,526.11			04/22/19 Core & Main	\$489.40		
12/24/18 Gordon Bartram	\$1,059.66			04/22/19 Core & Main	\$228.00		
01/14/19 Gordon Bartram	\$1,586.76			05/10/19 EZ Excavator	\$1,000.00		

01/17/19	Willamette Blueprint	\$103.20
02/06/19	Gordon Bartram	\$2,244.41
04/02/19	Gordon Bartram	\$2,080.12
04/11/19	Gordon Bartram	\$1,731.09
05/06/19	Gordon Bartram	\$1,077.79
06/17/19	Willamette Blueprint	\$76.65
7/23/19	Erik Esparza	\$1200.00
12/05/19	Butler Consulting	\$7,064.00

05/13/19	EZ Excavator	\$715.40
5/13/19	Nick Martishev	\$2787.00
5/13/19	Ivan Matrishev	\$1512.00
05/15/19	Geotk	\$924.25
5/15/19	Connelly Construction	\$1000.00
5/28/19	Nick Martishev	\$2160.00
6/3/19	Nichols Excavation	\$12138.00
06/10/19	EZ Excavator	\$600.00
06/12/19	EZ Excavator	\$56.80
7/1/19	Ivan Matrishev	\$1847.50
7/8/19	Ivan Matrishev	\$517.50
7/8/19	Ivan Matrishev	\$2620.00
07/09/19	EZ Excavator	\$4,396.80
7/15/19	Ivan Matrishev	\$2943.50
7/29/19	Ivan Matrishev	\$2100.00
08/01/19	EZ Excavator	\$1,440.00
8/12/19	Ivan Matrishev	\$4770.00
08/13/19	EZ Excavator	\$678.71
8/22/19	Ivan Matrishev	\$5680.00
8/26/19	Ivan Matrishev	\$4340.00
9/9/19	Ivan Matrishev	\$3520.00
10/15/19	EZ Excavator	\$1,300.00
10/18/19	Ivan Matrishev	\$1540.00
11/27/19	Columbia River Rentals	\$6,885.00