

NOTICE OF DECISION and Notice of Potential Appeal

This notice concerns a Planning Director Decision on the land use case(s) cited and described below.

Case File: T2-2016-6559

Permit: Administrative Decision by the Planning Director and Type B Home Occupation

Location: 14675 NW Gillihan Road
Tax Lot 300, Section 28, Township 2 North, Range 1 West, W.M.
Tax Account #R971280680
– and –
14645 NW Gillihan Road
Tax Lot 400, Section 28A, Township 2 North, Range 1 West, W.M.
Tax Account #R971280280

Applicant(s): Vail Fletcher

Owner(s): Vail Fletcher and Greg Stamp
Charles Nachtigal

Base Zone: Multiple Use Agriculture – 20 (MUA-20)

Overlay(s): Significant Environmental Concern for Wetlands (SEC-w)

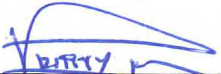
Summary: The applicant is requesting an Administrative Decision by the Planning Director to allow the retail sales of farm products raised or grown on the premises or the immediate vicinity. The applicant also proposes to establish a Type B Home Occupation for short-term lodging and home office.

Decision: Approved with Conditions

Unless appealed, this decision is effective Tuesday, July 11, 2017, at 4:00 PM.

Issued by:

By:


Rithy Khut, Planner

For: Michael Cerbone, AICP
Planning Director

Date: Tuesday, June 27, 2017

Instrument Number for Recording Purposes: #2014013229

Vicinity Map

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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, Rithy Khut, Staff Planner at 503-988-0176.

Opportunity to Appeal: This decision may be appealed within 14 days of the date it was rendered, pursuant to the provisions of MCC 37.0640. An appeal requires a \$250.00 fee and must state the specific legal grounds on which it is based. To obtain appeal forms or information on the procedure, contact the Land Use Planning offices at 1600 SE 190th Avenue (Phone: 503-988-3043). This decision cannot be appealed to the Land Use Board of Appeals until all local appeals are exhausted.

This decision is final at the close of the appeal period, unless appealed. The deadline for filing an appeal is Tuesday, July 11, 2017 at 4:00 pm.

NOTICE OF POTENTIAL APPEAL HEARING

If an appeal of this decision is filed, a public hearing will be held on Friday, August 11, 2017. The hearing will begin at 10:30 AM or soon thereafter.

The hearing will take place in Room 103 (Columbia Room) at the Land Use Planning and Transportation Program office located at 1600 SE 190th Avenue, Portland, OR 97233. If no appeal is filed, a notice canceling this hearing will be posted on the outside of the Yeon Annex Building doors. You can also call the receptionist at 503-988-3043 option '0' to inquire on the status of the hearing after Friday, August 11, 2017.

The Hearing would be regarding an Administrative Decision by the Planning Director to allow the retail sales of farm products raised or grown on the premises or the immediate vicinity and establishment of a Type B Home Occupation for short-term lodging and home office.

Any issue that is intended to provide a basis for an appeal to the Land Use Board of Appeals (LUBA) must be raised prior the close of the public record. Issues must be raised and accompanied by statements or evidence sufficient to afford the County and all parties an opportunity to respond to the issue.

A public hearing to consider any appeal will be conducted before one of the County Hearings Officer's.

Applicable Approval Criteria: Multnomah County Code (MCC) and Multnomah County Road Rules (MCRR): Multnomah County Code (MCC): MCC 37.0560 Code Compliance and Applications, MCC 34.0005 Definitions

Multiple Use Agriculture MUA-20: MCC 34.2825 Review Uses, MCC 34.2855 Dimensional Requirements and Development Standards, MCC 34.2870 Lot of Record, MCC 34.2880 Off-Street Parking and Loading, MCC 34.2885 Access

Type B Home Occupation: MCC 34.0050

Off-Street Parking and Loading – OP: MCC 34.4105 General Provisions, MCC 34.4125 Use of Space, MCC 34.4130 Location of Parking and Loading Spaces, MCC 34.4135 Improvements Required, MCC 34.4145 Joint Parking or Loading Facilities, MCC 34.4160 Standards of Measurement, MCC 34.4170 Access, MCC 34.4175 Dimensional Standards, MCC 34.4180 Improvements, MCC 34.4185 Lighting, MCC 34.4200 Landscape and Screening Requirements, MCC 34.4205 Minimum Required Off-Street Parking Spaces

Multnomah County Road Rules (MCRR): MCRR 4.000 Access to County Roads, MCRR 5.000 Transportation Impact, MCRR 6.000 Improvement Requirements, MCRR 18.00 Right-of-Way Permits

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

Conditions of Approval

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parenthesis.

- 1) Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work or activity shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with these documents and the limitations of approval described herein.
- 2) This land use permit for retail sales of farm products raised or grown on the premises or the immediate vicinity (Sauvie Island) expires two (2) years from the date the decision is final pursuant to MCC 37.0690(B) as applicable, if construction of improvements to parking area and driveway and accessway have not commenced. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0695, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period. [MCC 37.0690(A)]
- 3) The land use permit for the Type B home occupation may continue for a period of three years from date of the final decision provided it is in compliance with the approved permit. At the end of the three year period, the right to operate the Type B home occupation from the property expires automatically unless the permit is renewed for an additional three year period pursuant Type B home occupation renewal criteria in County code at that time.* [MCC 34.0550(D)]

***Note:** To obtain a renewal of the Type B home occupation, the business operator shall use the forms provided by the Planning Director and shall submit the application prior to expiration of the permit. Provided the renewal application is submitted on or before the expiration date, the business operator may continue the Type B home occupation pending the County's final decision on the renewal request.

- 4) Notwithstanding the transfer of approval rights in MCC 37.0770, approval of a Type B home occupation does not run with the land and is not transferred with ownership of the land. Approval of a Type B home occupation is personal to the business operator and specific to the authorized premises. Approval of a Type B home occupation terminates automatically, immediately and without notification if the business owner ceases to reside full-time on the authorized premises. [MCC 34.0550(C)]
- 5) Within 30 days of the decision the applicant(s), owners or their representative(s) shall:
 - a) Record pages 1 through 5 of this decision with the County Recorder. The Notice of Decision shall run with the land and the conditions shall be met by the current and all future property owners unless amended through a later decision by the authorized authority. Proof of recording shall be submitted to Multnomah County Land Use Planning prior to land use review for signing off the building permit. Recording shall be at the applicant's expense. [MCC 37.0670]
 - b) Record a covenant with County Records that states that the owner understands and agrees that the any accessory structure on the property cannot be occupied as a dwelling or for any other form of permanent or temporary residential use. [MCC 34.0550(A)(1) and MCC 34.0550(B)]

- c) Record covenant with County Records that implements the provisions of the Oregon Right to Farm Law. [MCC 34.2825(C)]
 - d) Acquire a right of way access permit for tax lot 300, 2 North, 1 West, Section 28 (R971280680) and tax lot 400, 2 North, 1 West, Section 28A (R97128028) for the site's access onto NW Gillihan Road, Multnomah County right of way. [MCRR 4.000, MCRR 5.000, MCRR 6.000, MCRR 11.000, and MCRR 18.250]
- 6) Prior to Land Use Planning sign-off, the applicant(s), owners or their representative(s) shall:
- a) Provide an updated site plan showing:
 - i. An updated parking plan showing markings, bumpers, curbs, and other permanent landscape barriers that will delineate parking lot spaces and movement areas. The parking plan shall be designed to meet the standards of MCC 35.4170 through 35.4200. [MCC 34.4175 and MCC 34.4180(B) and (C)]
 - ii. A pullout that is located 50 to 100 feet north of NW Gillihan Road. The pullout shall be a minimum of 10 feet wide and 30 feet in length. [MCC 34.4170]
- 7) Prior to operation of the business, the applicant(s), owners or their representative(s) shall:
- a) Provide evidence that the Exempt Agricultural Structure, where the retail sales of farm crops will occur, has been converted into an Accessory Building. [MCC 34.2825(C)]
 - b) Construct a pullout that is located 50 to 100 feet north of NW Gillihan Road along the accessway. The pullout shall be a minimum of 10 feet wide and 30 feet in length. [MCC 34.4170]
 - c) Pave a 20-foot approach to NW Gillihan Road on tax lot 300, 2 North, 1 West, Section 28A (R971280430), which provides the accessway via easement for tax lot 300, 2 North, 1 West, Section 28 (R971280680) . The paved approach will be measured from the edge of pavement of NW Gillihan Road and must not create any drainage problems along the County Road. This paved approach will help to protect the County Road from debris from the driveway and will improve the safety of this access.* [MCRR 4.000, MCRR 5.000, MCRR 6.000, MCRR 11.000, and MCRR 18.250]
- *Note:** Please contact the Right of Way office at row.permits@multco.us or (503) 988-3582 regarding this requirement.
- 8) Prior to expiration of this land use permit for retail sales of farm products or within 2 years of this decision, whatever date is later, the applicant(s), owners or their representative(s) shall improve the driveway from the road to the subject property with an alternate surfacing systems to be approved by the County, including but not limited to, either cement, concrete, pavers, or chip sealing that provides a durable dustless surface. [MCC 34.4180]
- 9) As an on-going condition, the short-term rental home occupation shall:
- a) Occur only within the room designated in Exhibit A.2 and A.8. At no time shall the entire single-family dwelling be utilized as a short-term rental and at no time shall any portion of any accessory buildings on the property be utilized as a short-term rental.
 - b) At no time, have more than two short-term renters on the premises at any one time, which includes guests and visitors of the renter(s).
 - c) Not generate noise, vibration, glare, flashing lights, dust, smoke, fumes, or odors detectable at the property line. [MCC 34.0550(A)(1), (3) (7) and MCC 34.0550(B)]

10) As an on-going condition, the applicant(s), owner(s), or their representatives shall:

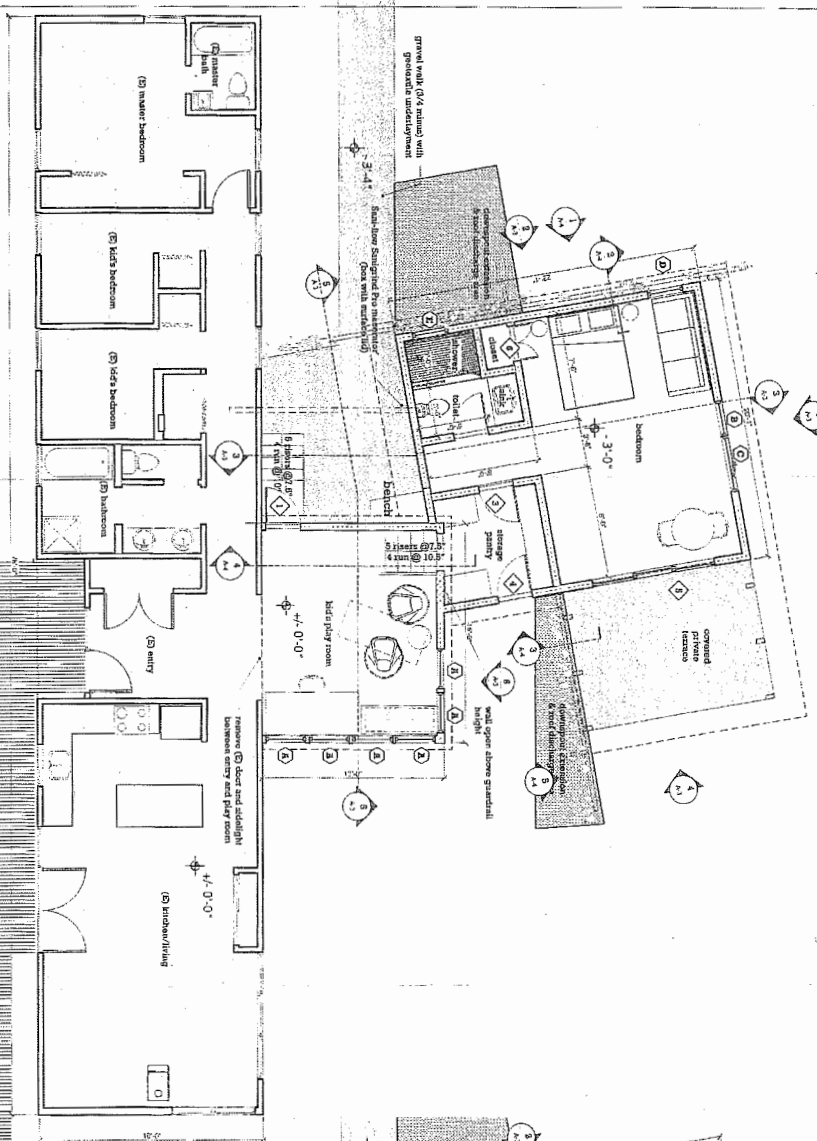
- a) Not utilize the public right of way known as NW Gillihan Road for the parking of vehicles visiting the subject properties. [MCRR 4.000]
- b) Be limited to a total of 20 trips/day for all of the proposed uses for this decision. [MCRR 5.000]

11) All exterior lighting shall comply with MCC 34.0570. [MCC 34.2855]

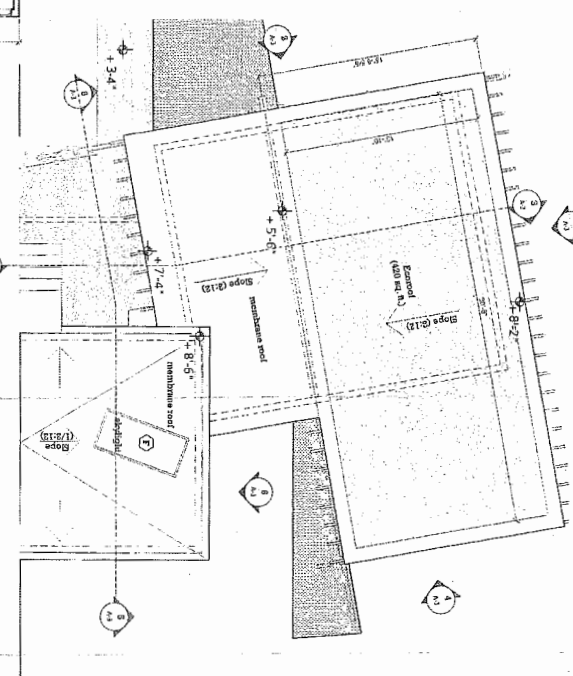
Note: Once this decision is final, application for building permits may be made with the City of Portland. When ready to have building permits signed off, the applicant shall call the Staff Planner, Rithy Khut, at (503) 988-0176, for an appointment for review and approval of the conditions and to sign the building permit plans. Please note, Multnomah County must review and sign off the building permits before the applicant 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. At the time of building permit review, a fee will be collected. In addition, an erosion control inspection fee may be required.

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

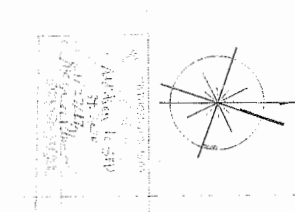
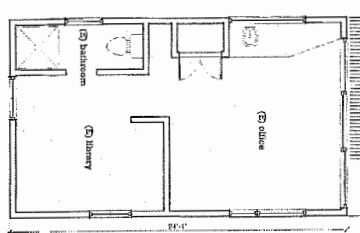
ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser.



Floor Plan 1
Scale: 1/8" = 1'-0"



Roof Plan 2
Scale: 1/8" = 1'-0"



STORMWATER REDUCTION TECHNIQUE	TOTAL AREA MANAGED (SQUARE FEET)	REDUCTION CAPACITY (GALLONS PER DAY)	FACILITY SIZE (SQ. FT.)
Permeable Pavement	430 sq. ft.	11,000 gpd	400
Detention Pond	(1) 2,500 sq. ft.	10,000 gpd	400
Detention Pond	(2) 2,500 sq. ft.	10,000 gpd	400
Detention Pond	(3) 2,500 sq. ft.	10,000 gpd	400
Detention Pond	(4) 2,500 sq. ft.	10,000 gpd	400
Detention Pond	(5) 2,500 sq. ft.	10,000 gpd	400
Detention Pond	(6) 2,500 sq. ft.	10,000 gpd	400
Detention Pond	(7) 2,500 sq. ft.	10,000 gpd	400
Detention Pond	(8) 2,500 sq. ft.	10,000 gpd	400
Detention Pond	(9) 2,500 sq. ft.	10,000 gpd	400
Detention Pond	(10) 2,500 sq. ft.	10,000 gpd	400
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Detention Pond	(97) 2,500 sq. ft.	10,000 gpd	400
Detention Pond	(98) 2,500 sq. ft.	10,000 gpd	400
Detention Pond	(99) 2,500 sq. ft.	10,000 gpd	400
Detention Pond	(100) 2,500 sq. ft.	10,000 gpd	400

Findings of Fact

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

1.00 Project Description:

Staff: The applicant is requesting an Administrative Decision by the Planning Director to allow the retail sales of farm products raised or grown on the premises or the immediate vicinity. The retail sales would occur through a Produce Stand and Community Supported Agriculture direct sales. The applicant also proposes to establish a Type B Home Occupation for short-term lodging.

2.00 Property Description & History:

Staff: The subject properties are located within the Multiple Use Agriculture – 20 (MUA-20) zoning district in the Sauvie Island/Multnomah Channel Rural Area and located adjacent to NW Gillihan Road. Tax lot 300, 2 North, 1 West, Section 28, where the direct sales will occur is 4.94 acres and tax lot 400, 2 North, 1 West, Section 28A, where the u-pick berry is located is 10 acres.

Leonard Yoon originally owned Tax lot 300, 2 North, 1 West, Section 28. The property was eventually sold to Courtney Vail Fletcher and Gregory Stamp on June 6, 2013. The property currently contains a single-family dwelling that was established in 2013, as BP-2013-2735 as demonstrated from Multnomah County Assessment, Records and Taxation (DART) records and building permit records. However, there have been recent additions since the initial establishment of the single-family dwelling. Below is a list of land use and building permits on record:

- T1-2013-2708 – 02/07/2013 – Address Assignment
- BP-2013-2735 - 02/21/2013 – New Single-family dwelling
- BP-2014-3316 - 02/21/2014 – Detached office and modification to BP-2013-2735
- BP-2016-4778 - 02/16/2016 – Registration of four (4) agricultural buildings
- BP-2017-6819 - 01/30/2017 – Addition to previously permitted single-family dwelling

Frederick Nachtigal, originally owned tax lot 400, 2 North, 1 West, Section 28A. The property was eventually sold to Charles Nachtigal on August 27, 2008. The property currently contains a single-family dwelling, detached garage and farm building that was established in 1966 as demonstrated from Multnomah County Assessment, Records and Taxation (DART) records and building permit records. However, there have been recent additions since the initial establishment of the single-family dwelling. Below are building permits that are on record:

- Building Permit – 08/05/1994 – Addition to the single-family dwelling

3.00 Public Comments:

Staff: Public comment has been from one neighbor during the Opportunity to Comment Period (Exhibit D.1 and D.2). Planning staff has summarized concerns/comments received below:

Greenfield: The subject properties' adjacent and immediate neighbors have met and discussed the application with the applicants/property owners. While they support the application, they express reservations and concerns. Their main concerns are about minimizing conflicts and potential liability with farm practices on their property and the applicants/property owners' proposed uses. Their second concern is concerning the use of the easement on their driveway with tax lot 300. They have requested that the application be subject to additional conditions of approval, if the application is approved. The conditions are below:

1. **Limitations on Home Occupation** - The home occupation shall be limited to short-term rental of only a single bedroom located within their residence, and parking for a single vehicle. Residential use of any accessory structure by the property owners or their guests, including vacation rental use, is prohibited.
2. **Covenant Regarding Accessory Structures and Farm Practices** - Prior to commencing business under this approval, the applicants shall record a covenant with County Records that states that they understand and agree that accessory structures located on their property cannot be occupied as a dwelling or for any other form of permanent or temporary residential use. The covenant shall further recognize the rights of adjacent farm managers to farm and practice forestry on their lands.
3. **Potential changes in the law Regarding Short-Term Rentals** - In the event that Oregon law and subsequent County action should permit residential use of accessory structures in the MUA zone, then upon applicants' use of an accessory structure for such purpose, the home occupation shall cease immediately.
4. **Trespass and Liability** - The applicants shall notify every overnight guest that the adjoining sheep pasture is on private property that they are not to trespass onto. Further, the applicants shall sign a written statement that they will assume full liability for any damage or injury occurring to people, livestock or property as a consequence of an overnight guest trespassing onto that private property.
5. **Partial Widening of Driveway** - Prior to commencing business under this approval, the applicants, at their sole expense, shall hire Dave Eakin Trucking or another company, if Dave Eakin is not available, to gravel a portion of the driveway over which they have an access easement. The area to be graveled is the more open area located on the west side of the driveway, beginning approximately 50 feet from the shoulder of NW Gillihan Road and extending northward from there. The graveled area shall be approximately 30 feet in length and five feet wide, to accommodate cars leaving the property that need to pull over when another car is entering the driveway from Gillihan Road.
6. **Asphalt Chip Seal of the Driveway** - The applicants shall pay one-half the cost of placing an asphalt chip seal over that portion of the driveway adjacent to their property. Payment need not occur prior to July 1, 2019, unless applicants choose to pay at an earlier time. Unless unavailable, Dave Eakin Trucking shall perform the work.
7. **Relocation of Access to Produce Stand** - Within one year following County determination that customer traffic at the produce stand has reached 20-25 vehicles a day on more than just a handful of days, but no sooner than calendar year 2020, the applicants shall cease use of their easement over their neighbor's driveway to provide access to the produce stand. In its place, applicants shall construct a new

access directly connecting their produce stand with Gillihan Road through their property, or use a shared driveway entrance with the grantors of the easement, provided that the applicants widen the entrance to accommodate two automobiles and direct traffic through the currently gated area to their property that is located approximately 10-20 feet from the edge of the shoulder of Gillihan Road.

8. **Permits do not Run with the Land** - Approval of this application is personal to the applicant, does not run with the land, and is not transferred with ownership of the land.

Subsequently, on April 2, 2017, Mark Greenfield wrote an addendum e-mail altering the proposed condition under Condition 7 (Exhibit D.2). It now reads as follows:

Within one year following County determination that customer traffic at the produce stand has reached 30 or more vehicles a day on 14 or more days in the calendar year, but no sooner than calendar year 2020, the applicants shall cease use of their easement over their neighbor's driveway to provide access to the produce stand.

Staff has provided findings below that address these comments. Some of conditions proposed by Mark Greenfield are incorporated into Conditions of Approval, as applicable to Multnomah County Code. Condition 3 was not incorporated because the standards that relate to home occupations do not provide the ability to terminate a home occupation based on potential changes to Oregon state law. However, the standards do require that the applicant reapply for the home occupation on a three-year interval. Condition 7 was not incorporated because the standards that relate to retail sales of farm products and off-street parking do not require the applicant to relocate their access since they have an approved access. Condition 8 was not incorporated because MCC 37.0770 states that, "any approval granted under this code runs with the land and is transferred with ownership of the land." Lastly, staff is unable to condition that preference be given to an individual contractor or individual to perform work in relationship to driveway improvements.

4.00 Code Compliance Criteria:

4.01 § 37.0560 CODE COMPLIANCE AND APPLICATIONS.

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

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

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

(B) For the purposes of this section, Public Safety means the actions authorized by the permit would cause abatement of conditions found to exist on the property that

endanger the life, health, personal property, or safety of the residents or public. Examples of that situation include but are not limited to issuance of permits to replace faulty electrical wiring; repair or install furnace equipment; roof repairs; replace or repair compromised utility infrastructure for water, sewer, fuel, or power; and actions necessary to stop earth slope failures.

Staff: Tax Lot 300, Section 28, Township 2 North, Range 1 West, W.M. has had two previous code compliance cases that are still open, UR-2016-4701 and ZV-2016-5785. They are both associated with the non-permitted use of an accessory structure for overnight lodging. The applicant is currently working with County staff to resolve the issues and fulfill the requirements of ZV-2016-5785 and the Order of Civil Penalty. The permit for a Type B home occupation in the existing single-family dwelling will result in the property coming into full compliance.

Tax Lot 400, Section 28A, Township 2 North, Range 1 West, W.M. has an open code compliance case, UR-2017-7469 that is associated with non-permitted placement of approximately 200 cubic yards of fill material on the property and within a mapped wetlands. The Code Compliance Office has sent the property owner a Request for Voluntary Compliance. The property owner has agreed to the conditions of the Voluntary Compliance Agreement and as a result will result in the property coming into full compliance (Exhibit B.10).

These criteria are met.

5.00 Lot of Record Criteria

5.01 § 34.0005 DEFINITIONS

Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) complies with the criteria for the creation of new lots or parcels described in MCC 34.7785. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

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

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

- 1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or**
- 2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or**
- 3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in recordable form prior to October 19, 1978; or**
- 4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and**

5. "Satisfied all applicable land division laws" shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See Date of Creation and Existence for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU district.)

(c) Separate Lots of Record shall be recognized and may be partitioned congruent with an "acknowledged unincorporated community" boundary which intersects a Lot of Record.

1. Partitioning of the Lot of Record along the boundary shall require review and approval under the provisions of the land division part of this Chapter, but not be subject to the minimum area and access requirements of this district.

2. An "acknowledged unincorporated community boundary" is one that has been established pursuant to OAR Chapter 660, Division 22.

§ 34.2870 LOT OF RECORD

(A) In addition to the Lot of Record definition standards in MCC 34.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

- (1) July 10, 1958, SR zone applied;
- (2) July 10, 1958, F-2 zone applied;
- (3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;
- (4) October 6, 1977, MUA-20 zone applied, Ord. 148 & 149;
- (5) October 13, 1983, zone change from EFU to MUA-20 for some properties, Ord. 395;
- (6) May 16, 2002, Lot of Record section amended, Ord. 982, reenacted by Ord. 997.

(B) A Lot of Record which has less than the minimum lot size for new parcels or lots, less than the front lot line minimums required, or which does not meet the access requirement of MCC 34.2885, may be occupied by any allowed use, review use or conditional use when in compliance with the other requirements of this district.

(C) Except as otherwise provided by MCC 34.2860, 34.2875, and 34.4300 through 34.4360, no sale or conveyance of any portion of a lot other than for a public purpose shall leave a structure on the remainder of the lot with less than minimum lot or yard requirements or result in a lot with less than the area or width requirements of this district.

(D) The following shall not be deemed to be 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) An area of land created by court decree.

Staff: Tax lot 300, 2 North, 1 West, Section 28 was found to be a Lot of Record in land use case T2-05-094. The current Bargain and Sale deed as recorded under instrument number 2014-013229 on February 12, 2014 (Exhibit B.8) matches the description from land use case T2-05-094. Therefore, the property, Tax lot 300, 2 North, 1 West, Section 28 continues to be Lot of Record.

Tax lot 400, 2 North, 1 West, Section 28A was first described on August 6, 1985. Originally known as tax lot 28, the property was a larger parcel that was approximately 50 acres and contained tax lot 35, 36, 42, and 43. Through various contracts of sale, tax lot 35 was described in Book 318, Page 574 and tax lot 36 was described in Book 318, Page 575, both recorded on September 2, 1955 (Exhibit B.6). At that time in 1955, there was no zoning applied over those properties.

Then in 1959, Tax lot 42 and tax lot 43 were described in Book 1966, Page 242 and 444, recorded on July 23, 1959 and July 21, 1959 (Exhibit B.6). At the time that those properties were described they were zoned F-2, which required a minimum lot size of 2 acres. Since each of these properties were 10 acres, each of the properties would have met the zoning requirements at that time.

The subject property now known as tax lot 400 was not described due to the creation of tax lot 35, 36, 42, and 43 and is therefore a remainder of the tax lot 28. At the time, the remainder of the parcel, tax lot 28, was zoned F-2, which required a minimum lot size of 2 acres. Tax lot 28 or what is now known as tax lot 400 was 10 acres. Therefore, the property met the zoning requirements at that time. Considering the facts above, the subject property, also known as tax lot 400, is a lot of record.

These criteria are met.

6.00 Review Uses Criteria

6.01 § 34.2825 REVIEW USES

(C) Wholesale or retail sales of farm or forest products raised or grown on the premises or in the immediate vicinity, subject to the following condition:

The location and design of any building, stand or sign in conjunction with wholesale or retail sales shall be subject to approval of the Planning Director on a finding that the location and design are compatible with the character of the area; provided that the decision of the Planning Director may be appealed to the approval authority, pursuant to MCC 34.0785 and 34.0790.

Applicant: "Wholesale or retail sales of farm or forest products raised or grown on the premises or in the immediate vicinity," 34.2825(C) permits us to have a produce stand, operate a u-pick berry operation, and have a CSA program. We will briefly describe these three uses.

Our produce stand would operate year-around with 90% of all business to occur between June 1 and September 30 (essentially, summer season). We will be selling mainly produce (honey, fruit, plants, and vegetables) grown on our own farm property, however we will also collaborate with other island neighbors (in our "immediate vicinity") on items we do not grow and/or that supplement what we grow. We will work to support other small-scale on island

farmers in finding a local space to sell their produce to market customers. We anticipate being 'open' most summer days from 10 am-6pm and anticipate a fairly small operation of four to six customers maximum per day during the summer months. In the winter, we will only being open on weekends and anticipate approximately zero to one customer maximum per day. The produce stand will operate in our newly MC and City permitted and engineered barn. We will provide parking for four to five cars on gravel within 25 feet of the barn. Sample items sold at the stand include: heirloom tomatoes, cucumbers, lettuce, kale, potatoes, garlic, honey, apples, raspberries, blueberries, plants, baby trees, eggplants, pepper, flowers, peaches, plums, corn, and beans (this list is not exhaustive). Customers will not have access to a bathroom while visiting.

Our u-pick berries operation will occur only during blueberry season (approximately June 15- July 15). It is in collaboration with our neighbor, Charlie J. Nachtigal. Charlie has 2000 blueberry bushes on his farm, which abuts our property, and we will work to jointly sell the blueberries. Charlie has reviewed and signed this application (see general application form). We will also have the option to have customers pick our raspberries and apples, once available (the plants are young). We anticipate only a couple pickers per day maximum, and parking will occur adjacent to our barn on gravel. We have reserved an additional two parking spaces for pickers, though between the produce stand and pickers, we still do not anticipate more than a couple cars here at any one given time. This is a limited seasonal operation, usually lasting only a few weeks in June and/or July. Customers will not have access to a bathroom.

Our CSA would operate year round with deliveries to residential homes or commercial business happening only one day a week (one trip out and one trip home by us). Mainly we sell to local families in the city of Portland and/or other small restaurant kitchens. We will be delivering vegetables and/or fruit directly to the customer, thus no new trips will be created to the farm and/or island. We will be selling items similar to those listed as 'sample items' in the produce stand.

Staff: The property owners/applicants are proposing multiple uses for the property. As discussed on their application narrative above (Exhibit A.2 and A.9), they are proposing a produce stand, u-pick blueberries, and community supportive agriculture (CSA) direct sales of farm crops. The above uses are all types of retail sales of farm products raised or grown on the premises or in the immediate vicinity.

The applicant/property owners are proposing to use a building in conjunction with the retail sales of farm crops. In order to ensure compliance with MCC 34.2825, an Administrative Decision by the Planning Director needs to occur. The proposed building to be used for the retail sales is currently an Exempt Agricultural Structure. The applicant is proposing that the building be converted into an Accessory Structure. This conversion will need to occur to allow the public to enter the building so that sales of various farm crops could be conducted from that building. The converted building will be used to sell farm crops, including honey, fruit, plants, and vegetables, grown on the farm property or within the immediate vicinity, which is defined as Sauvie Island. To ensure that this conversion is done, a condition of approval will be required demonstrating that the Exempt Agricultural Structure has been converted into an Accessory Building.

The applicants/property owners have also provided plans showing the location and design of the converted structure (Exhibit A.8) in addition to pictures and narrative describing the structure (Exhibit A.9). Their narrative states:

"Our newly built barn/accessory structure was designed with the island aesthetic in the forefront of our minds. One main feature is that it is made with red cedar siding... Western red cedar is native to Oregon and provides a natural durability...[and] is also particular useful because many of the buildings and accessory structures on the island are made of the same materials, making our new structure a natural fit with the surrounding structures including our closest neighbors' ...hay barn, which is made of the same material.

As part of the narrative, the applicant also discusses the hours of operation and the expected number of customers. The barn/accessory building where the retail sales and the u-pick will occur will operate year-around from 10 AM – 6 PM with more limited hours during the winter. The applicant expects upwards of 10 visitors for the retail sales and u-pick. Because of the expected visitation and proximity of the barn/accessory structure to other associated farm uses on adjacent properties, a recording of a covenant that implements the provisions of the Oregon Right to Farm will be required.

Based on the findings above, to ensure that this use is consistent with the character of the area and the Multiple Use Agriculture – 20 (MUA-20) zoning, the decision contain various conditions of approval as described by County code and supported by public comment. *As conditioned, this criterion is met.*

(K) A Type B home occupation when approved pursuant to MCC 34.0550.

Staff: The applicant/property owners have applied for a Type B home occupation. Subject to compliance with the approval criteria listed in MCC 34.0550, the proposed use is allowed through a Type II review process. Staff has made findings for these criteria in Section 7.00. *As conditioned, this criterion is met.*

6.02 § 34.2855 DIMENSIONAL REQUIREMENTS AND DEVELOPMENT STANDARDS

(C) Minimum Yard Dimensions - Feet

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

Staff: The most recent site plan, approved as BP-2017-6819 indicates that all structures that will be used for this permit, the structure used for retail sales of farm crops and the single-family dwelling where the Type B Home Occupation will occur are all located further than 30 feet from the property lines (Exhibit A.8). The building plans from BP-2017-6819 also indicate that the buildings are all less than 35 feet in height. *This criterion is met.*

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

Staff: Multnomah County Transportation Division has reviewed the project and it has been determined that the proposal does not need additional yard requirements due to insufficient right of way. Their findings can be found in Section 9.00. *This criterion is met.*

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

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

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

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

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

Staff: The most recent site plan, approved as BP-2017-6819 indicates that all structures are less than 35 feet in height and more than 30 feet from any property line (Exhibit A.8). *These criteria are met.*

(G) All exterior lighting shall comply with MCC 34.0570.

Staff: To ensure that these requirements are met, a conditional of approval will be required that all exterior lighting comply with MCC 34.0570. *As conditioned, this criterion is met.*

6.03 § 34.2880 OFF-STREET PARKING AND LOADING

Off-Street parking and loading shall be provided as required by MCC 34.4100 through 34.4220.

Staff: The applicant/property owners have applied for a permit to conduct the retail sales of farm products raised or grown on the premises or in the immediate vicinity and a Type B Home Occupation. Subject to compliance with the approval criteria listed in MCC 34.4100 through 34.4220, the proposed use is allowed through a Type II review process. Staff has made findings for these criteria in Section 8.00. *This criterion is met.*

6.04 § 34.2885 ACCESS

All lots and parcels in this district shall abut a public street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles. This access requirement does not apply to a preexisting lot and parcel that constitutes a Lot of Record described in MCC 34.2870(B).

Staff: Each of the parcels abuts NW Gillihan Road, which is a public street. *This criterion is met.*

7.01 § 34.0550 TYPE B HOME OCCUPATION

(A) Type B home occupation is a lawful commercial activity that is conducted in a dwelling or accessory building on a parcel by a business operator, is subordinate to the residential use of the premises, and complies with the following:

Applicant: We will be operating a short-term rental in our primary dwelling that consists of 368 square feet of guest space in our primary dwelling - it will include one bedroom and one bathroom in the back section of our primary house (building plans have been submitted). Guests will only have access to this space. This business will occur entirely within our main dwelling, with parking of one guest car near our home in a designated graveled spot 25 feet from the house. We will also be using our 336 square foot detached office as a farm office for our farm business. We shall not employ more than one employee and will not have more than two customers combined in either of these spaces at once. Compliant with MC code, these two spaces shall not exceed 25% of the total gross area of our dwellings and/or accessory structures. (1,855 main house + 336 detached office + 1,680 barn = 3,871 sq ft/4 = 968 square ft equals 25% of total square footage allowed for Home Occupancy B). Between these two spaces, we will be using only 704 square feet or 18% of the total dwelling and accessory structure. Additionally, no more than two trips per day by customers will occur combined. Notwithstanding MCC 34.7400-34.7505, we will have only one, non-illuminated, identification sign not to exceed two square feet in area attached to a building used for the business.

Nether the short term rental use or farm office use shall generate noise, vibration, glare, flashing lights, dust, smoke, fumes, or odors detectable at the property line. Both uses shall comply with all of the other code mandates outlined in MC 34.0550. Additionally, both spaces are engineered, permitted by the City of Portland, and pass all safety inspections.

Staff: The business operator is Courtney Vail Fletcher and Gregory Stamp. Vail and Gregory own and reside on tax lot 300, where the Type B Home Occupation(s) will be located. As the business operator Vail Fletcher will utilize part of the single-family dwelling as a short-term rental and will use the detached accessory structure adjacent to the single-family dwelling as a farm office. *This criterion is met.*

(1) The on-site business functions of the home occupation shall take place entirely within a dwelling unit or enclosed accessory building on the premises, except for employee and customer parking and allowed signage. No outdoor storage, business activities or displays shall occur outside of an enclosed building.

Staff: The narrative discusses the Type B Home Occupation that will occur on the tax lot 300. The applicant is proposing to operate a short-term rental in the single-family dwelling. The short-term renter(s) will utilize one bedroom and one bathroom that will be entirely enclosed within the dwelling (Exhibit A.2, A.8, and A.9). Additionally, the home office for the farm will be located inside an accessory building that is adjacent to the single-family dwelling. *This criterion is met.*

(2) Type B home occupation shall not exceed 25 percent of the total gross floor area of the dwelling, attached garage and accessory buildings, or 1,000 sq. ft., whichever is less.

Staff: The site plan, submitted and approved as BP-2017-6819 shows that there is approximately 3,914 square feet (narrative states 3,871 square feet) of buildings on the subject property, which includes the dwelling and two detached accessory structures. The area of the single-family dwelling that will be used for a short-term rental will be approximately 443 square feet and the home office is approximately 339 square feet (Exhibit A.8). The applicant states that the area used for a short-term rental as 368 square feet and the home office is 336 square feet (Exhibit A.2 and A.9). In either case, the total, 782 (19%) [Narrative states 704 (18%)] is less than 1,000 square feet and is less than 25 percent of the total gross floor area of the dwelling and any accessory buildings. However, to ensure that the short-term rental does not exceed the gross floor area requirements, two conditions will be required 1) that limits the home occupation to the rooms highlighted in the narrative and 2) that prohibits the use of the accessory building or use of the entire single-family dwelling as a short-term rental. *As conditioned, this criterion is met.*

(3) The home occupation shall not employ more than one non-resident employee. There shall be no more than two customers on the premises at any one time.

Staff: The applicant discusses in their narrative that there will not be more than one non-residential employee and no more than two customers on the premises at any one time (Exhibit A.2 and A.9). To ensure that this criterion is met, a condition will require that there is no more than one non-resident employee. Additionally, since the Type B home occupation will be a short-term rental, no more than two renters shall be allowed on the premises at any one time, which includes guests and visitors of the renter(s). *As conditioned, this criterion is met.*

(4) No more than a total of 20 vehicle trips per day by customers of the home occupation, delivery service providers serving the home occupation and the employee may be authorized through the review process. No deliveries or pick-ups associated with the home occupation between the hours of 7 p.m. – 7 a.m. are permitted. Deliveries and pick-ups shall occur on the premises only. The road serving the premises may not be used for loading or unloading purposes. No more than two pick-ups or deliveries shall occur on any given day.

Staff: The narrative states that the home occupation will have no more than two trips per day by customers (Exhibit A.2 and A.9). Because the home occupation is a short-term rental, it can be assumed that there will be additional trips as the renter(s) travel to visit other destinations on Sauvie Island. However, those trips should not exceed 20 vehicle trips per day. The applicant also states that there will be no deliveries or pick-ups associated with the home occupation. *This criterion is met.*

(5) In addition to the required residential parking, the premises has on-site parking pursuant to MCC 34.4100–34.4215 to accommodate the total number of employees and customers proposed to be on the premises at any one time. The use, parking or storing of any vehicle in excess of a gross vehicle weight of 11,000 pounds is prohibited.

Staff: The applicant is proposing a short-term rental as a home occupation. A short-term rental is equivalent to a motel or hotel. As per MCC 34.4205, a motel or hotel is required to have one space for each guest room or suite. The applicant proposes one parking space that is 25 feet from the house. The applicant is not proposing to park or store any vehicle in excess of a gross vehicle weight of 11,000 pounds. *This criterion is met.*

(6) Notwithstanding MCC 34.7400–34.7505, only one, non-illuminated, identification sign not to exceed two square feet in area may be attached to a building used for the business.

Staff: The applicant is proposing to have one non-illuminated identification sign that is no larger than two square feet. The sign will be attached to the building. *This criterion is met.*

(7) The use shall not generate noise, vibration, glare, flashing lights, dust, smoke, fumes, or odors detectable at the property line. This standard does not apply to vehicles entering or exiting the premises, but does apply to idling vehicles. All storage, use and disposal of chemicals and materials shall be in conformance with all other applicable state pollution control regulations.

Staff: The applicant states that the Type B Home Occupation shall not generate noise, vibration, glare, flashing lights, dust, smoke, fumes, or odors detectable at the property line. To ensure compliance with this criterion, a condition will be required to ensure that the renter(s) renting short-term rental are aware of these requirements. *As conditioned, this criterion is met.*

(8) No repair or assembly of any motor or motorized vehicles. A motorized vehicle includes any vehicle or equipment with an engine including automobiles, motorcycles, scooters, snowmobiles, outboard marine engines, lawn mowers, and chain saws.

Staff: No repair or assembly of any motor or motorized vehicles is proposed. *This criterion is met.*

(9) No building or structure is proposed to be constructed or modified in a manner that would not otherwise be allowed in the zoning district. Buildings or structures used as part of the home occupation shall not have or require a building code occupancy rating other than R-3 or U as determined by the building official.

Staff: The applicant is proposing to use a single-family dwelling and accessory building for this home occupation. A single-family dwelling has an occupancy rating of R-3. Accessory buildings typically have an occupancy rating of R-3 or U. *This criterion is met.*

(10) In the EFU zone district, the home occupation will not unreasonably interfere with other uses permitted in the general district and the use will:

- (a) Not force a significant change in, or significantly increase the cost of, accepted forestry or farming practices on surrounding forest or agricultural lands;**
- (b) Not significantly increase fire hazard, or significantly increase fire suppression costs, or significantly increase risks to fire suppression personnel.**

Staff: The proposed home occupation is located in the Multiple Use Agriculture – 20 (MUA-20) zone district; therefore, these criteria do not apply. *These criteria are met.*

8.00 Off-Street Parking and Loading – OP Criteria

8.01 § 34.4105 GENERAL PROVISIONS

In the event of the erection of a new building or an addition to an existing building, or any change in the use of an existing building, structure or land which results in an intensified use by customers, occupants, employees or other persons, off-street parking and loading shall be provided according to the requirements of this Section. For nonconforming uses, the objectives of this section shall be evaluated under the criteria for the Alteration, Modification, and Expansion of Nonconforming Uses.

Staff: The applicant/property owners have applied for a permit to conduct the retail sales of farm products raised or grown on the premises or in the immediate vicinity and a Type B home occupation, which would be a short-term lodging of guests. The retail sales of farm products and Type B home occupation would result in an intensified use by adding upwards of four to six customers per day and two short-term rental occupants. Therefore, the proposed uses must be reviewed pursuant to MCC 35.4100 et al.

8.02 § 34.4130 LOCATION OF PARKING AND LOADING SPACES

(A) Parking spaces required by this Section shall be provided on the lot of the use served by such spaces.

(B) Exception – The Planning Director may authorize the location of required parking spaces other than on the site of the primary use, upon a written finding by the Director that:

- (1) Parking use of the alternate site is permitted by this Ordinance;**
- (2) The alternate site is within 350 feet of the use;**
- (3) There is a safe and convenient route for pedestrians between the parking area and the use;**
- (4) Location of required parking other than on the site of the use will facilitate satisfaction of one or more purposes or standards or requirements of this Chapter; and,**
- (5) There is assurance in the form of a deed, lease, contract or other similar document that the required spaces will continue to be available for off-street parking use according to the required standards.**

(C) Loading spaces and vehicle maneuvering area shall be located only on or abutting the property served.

Staff: The site plan, submitted and approved as BP-2017-6819 shows the parking areas. The parking areas are located west of the dwelling and west of the barn/accessory structure (Exhibit A.8). For customers that will be participating in u-pick activities on tax lot 400, owned by Charles Nachtigal, the proposed parking location near the barn/accessory structure is within 350 feet of the use. The u-pick activities are located across a lightly used gravel accessway owned by the adjacent neighbor, Jane Hartline. The applicant has an easement over 2N1W28A-00300, which allows for an easement area for the, “guest, employees, agents, contractors, tenants and invitees” (Exhibit B.9). *These criteria are met.*

8.03 § 34.4145 JOINT PARKING OR LOADING FACILITIES

(A) In the event different uses occupy the same lot or structure, the total off-street parking and loading requirements shall be the sum of the requirements for each individual use.

Staff: The applicant is proposing a multiple uses for the subject property. The uses include a produce stand, u-pick blueberry, community supported agriculture and a Type B Home Occupation for short-term vacation rentals. Based on the proposed uses, the minimum required the sales of farm crops will require four parking spaces and the short-term rental home occupation will require one space. The applicant is proposing only five parking spaces adjacent to the barn and one space near the dwelling for the short-term vacation rental.

8.04 § 34.4170 ACCESS

(A) Where a parking or loading area does not abut directly on a public street or private street approved under MCC 34.7700 et seq., the Land Division Chapter, there shall be provided an un obstructed driveway not less than 20 feet in width for two-way traffic, leading to a public street or approved private street. Traffic directions therefore shall be plainly marked.

(B) The Approval Authority may permit and authorize a deviation from the dimensional standard in paragraph (A) of this section upon finding that all the following standards in subparagraphs (1) through (4) are met:

- (1) The authorized provider of structural fire service protection services verifies that the proposed deviation complies with such provider's fire apparatus access standards, or, if there is no such service provider, the building official verifies that the proposed deviation complies with the Oregon Fire Code;**
- (2) The County Engineer verifies that the proposed deviation complies with the County Road Rules and the County Design and Construction Manual Standards;**
- (3) Application of the dimensional standard would present a practical difficulty or would subject the property owner to unnecessary hardship; and**
- (4) Authorization of the proposed deviation would not:**
 - (a) be materially detrimental to the public welfare;**
 - (b) be injurious to property in the vicinity or the zoning district in which the property is located; or**
 - (c) adversely affect the appropriate development of adjoining properties.**

(C) Parking or loading space in a public street shall not be counted in fulfilling the parking and loading requirements of this section. Required spaces may be located in a private street when authorized in the approval of such private street.

Staff: The parking area does not abut directly on a public/private street therefore; MCC 34.4170 requires that the accessway be widened to 20 feet to accommodate two-way traffic. The widening of the current 12-foot wide accessway to a 20-foot wide accessway would present practical difficulty due to topographical limitations and cost as described in a letter from Mark Greenfield, the husband of Jane Hartline, the adjacent property owner, who maintains control the easement (Exhibit D.1 and D.2). Additionally, Sauvie Island Fire District (A.6) and Multnomah County Transportation Division (see Section 9.00) have reviewed the

proposed deviation and have found that the deviation is in compliance with adopted Fire District standards and County standards for access.

However because the length of the accessway is approximately 350 feet in length to the barn/farm building and 400 feet to the single-family dwelling to ensure that deviation is not detrimental to the public entering and exiting the property or injurious to the property of Jane Hartline, a turnout will be required to let vehicles pass each other. The turnout shall be constructed 50 to 100 feet north of NW Gillihan Road to ensure that the public accessing the site can have adequate areas for vehicles entering and exiting the property. Additionally, no parking shall be allowed in the right of way known as NW Gillihan Road. *As conditioned, these criteria are met.*

8.05 § 34.4175 DIMENSIONAL STANDARDS

(A) Parking spaces shall meet the following requirements:

- (1) At least 70% of the required off-street parking spaces shall have a minimum width of nine feet, a minimum length of 18 feet, and a minimum vertical clearance of six feet, six inches.**
- (2) Up to 30% of the required off-street parking spaces may have a minimum width of eight-and-one-half feet, a minimum length of 16 feet, and a vertical clearance of six feet if such spaces are clearly marked for compact car use.**
- (3) For parallel parking, the length of the parking space shall be 23 feet.**
- (4) Space dimensions shall be exclusive of access drives, aisles, ramps or columns.**

(B) Aisle width shall be not less than:

- (1) 25 feet for 90 degree parking,**
- (2) 20 feet for less than 90 degree parking, and**
- (3) 12 feet for parallel parking.**
- (4) Angle measurements shall be between the center line of the parking space and the center line of the aisle.**

Staff: The site plan submitted and approved as BP-2017-6819 shows the parking lot is located west of the barn/accessory structure and single-family dwelling. The site plan shows five spaces that are less than 90-degree parking. The aisle widths for the five spaces that are less than 90-degree parking are approximately 20 feet (Exhibit A.8). However to ensure that the requirements of MCC 34.4175 are met, condition of approval will be included requiring that the parking spaces be delineated with markings, planting or other measures to ensure compliance with MCC 35.4175 (A) & (B). The findings can be found below.

8.06 § 34.4180 IMPROVEMENTS

(A) Surfacing

- (1) Except as otherwise provided in this section, all areas used for parking, loading or maneuvering of vehicles, including the driveway, shall be surfaced with at least two inches of blacktop on a four inch crushed rock base or at least six inches of Portland cement, unless a design providing additional load capacity is required by the fire service provider, building official or County Engineer, as applicable.**

(2) The Approval Authority may permit and authorize a deviation from the surfacing standard in paragraph (A)(1) of this section and thereby authorize, alternate surfacing systems that provide a durable dustless surface including gravel. A deviation under this paragraph may be permitted and authorized only upon finding that each parking area supporting the existing and the proposed development meets the following standards in subparagraphs (a) and (b) and, for parking areas of four or more required parking spaces, also meets the following standards in subparagraphs (c) and (d):

(a) The authorized provider of structural fire protection services verifies that the proposed deviation complies with such provider's fire apparatus access standards, or, if there is no such service provider, the building official verifies that the proposed deviation complies with the Oregon Fire Code;

(b) The County Engineer verifies that the proposed deviation complies with the County Road Rules and the County Design and Construction Manual Standards. Alternative surfacing can be considered for all areas used for parking, loading and maneuvering, including the driveway; however, approaches to paved public rights-of-way shall be paved for a minimum distance of 21 feet from the fog line, or for a greater distance when required by the County Engineer;

(c) Authorization of the proposed deviation would not:

- 1. be materially detrimental to the public welfare;**
- 2. be injurious to property in the vicinity or zoning district in which the property is located; or**
- 3. adversely affect the appropriate development of adjoining properties; and**

(d) Any impacts resulting from the proposed surfacing are mitigated to the extent practical. Mitigation may include, but is not limited to, such considerations as provision for pervious drainage capability, drainage runoff control and dust control. A dust control plan is required when a dwelling, excluding any dwelling served by the driveway, is located within 200-feet of any portion of the driveway for which gravel or other similar surfacing materials is proposed. Common dust control measures include, but are not limited to, reduced travel speeds, gravel maintenance planning, establishment of windbreaks and use of binder agents.

(3) Notwithstanding paragraph (A)(1) of this section, parking fields for intermittent uses such as special events associated with farm stands and public parks, sporting events, and the like may be surfaced with gravel, grass or both and spaces may be unmarked if the parking of vehicles is supervised. Grass fields used for parking shall be maintained so that grass is kept short and watered to minimize fire risk and reduce dust.

Staff: The parking area does not abut directly on a public/private street therefore; MCC 34.4170 requires that the accessway shall be surfaced with at least two inches of blacktop on a four inch crushed rock base or at least six inches of Portland cement. The surfacing of the accessway would present practical difficulty due to topographical limitations and cost as described in a letter from Mark Greenfield, the husband of Jane Hartline, the adjacent property

owner who maintains control the easement (Exhibit D.1 and D.2). Additionally, Sauvie Island Fire District (Exhibit A.6) and Multnomah County Transportation Division (see Section 9.00) have reviewed the proposed deviation and have found that the deviation complies with adopted Fire District standards and County standards for access.

However because the length of the accessway is approximately 350 feet in length to the barn/farm building and 400 feet to the single-family dwelling to ensure that deviation is not detrimental to the public entering and exiting the property or injurious to the property of Jane Hartline, the grantor of the easement, two conditions will be required. Due to the number of vehicles entering and exiting the subject property, the applicant shall improve the accessway with an alternate surfacing system, which includes, but not limited to, concrete, pavers, or chip sealing that provides a durable dustless surface. Multnomah County Transportation Division shall also require the paving of the first 20-feet of the accessway apron to ensure that it complies with County Road Rules and limits damage to NW Gillihan Road. *As conditioned, these criteria are met.*

(B) Curbs and Bumper Rails

- (1) All areas used for parking, loading, and maneuvering of vehicles shall be physically separated from public streets or adjoining property by required landscaped strips or yards or in those cases where no landscaped area is required, by curbs, bumper rails or other permanent barrier against unchanneled motor vehicle access or egress.**
- (2) The outer boundary of a parking or loading area shall be provided with a bumper rail or curbing at least four inches in height and at least three feet from the lot line or any required fence except as provided in (3) below.**
- (3) Except for development within the BRC, CFU-1, CFU-2 and CFU-5 zones, the outer boundary of a parking or loading area with fewer than four required parking spaces may use a five foot wide landscape strip or yard planted with a near-continuous number of shrubs and/or trees. If the outer boundary of the parking area is within 50 feet of a dwelling on an adjacent parcel, the plant materials shall create a continuous screen of at least four feet in height except at vision clearance areas where it shall be maintained at three feet in height.**

Staff: The site plan submitted and approved as BP-2017-6819 does not indicate that curbs or bumper rails will be installed to delineate areas of parking and maneuvering of vehicles (Exhibit A.8). The length of the accessway has a hayfield on the eastern portion of the accessway and has trees along the western portion. These barriers should prevent unchanneled motor vehicle access and egress off the accessway leading up to the barn/accessory structure and single-family dwelling. However, to ensure that the requirements of MCC 34.4184(B) are met, a condition of approval will be included requiring that the parking areas be better delineated with either curbs, bumper rails or other permanent landscape barriers. *As conditioned, these criteria are met.*

(C) Marking – All areas for the parking and maneuvering of vehicles shall be marked in accordance with the approved plan required under MCC 34.4120, and such marking shall be continually maintained. Except for development within the BRC zone, a graveled parking area with fewer than four required parking spaces is exempt from this requirement.

Staff: The site plan submitted and approved as BP-2017-6819 does not indicate that the parking spaces will be marked (Exhibit A.8). However, staff does not know of a product that could be used as markings on gravel. Therefore, to indicate the parking location and vehicle-parking angle, the applicant shall install bumper rails, curbing, a fence, or some other physical indicator to clearly delineate the parking and maneuvering areas for vehicles. *As conditioned, this criterion is met.*

(D) Drainage – All areas for the parking and maneuvering of vehicles shall be graded and drained to provide for the disposal of all surface water on the lot.

Staff: The area for the parking and maneuvering of vehicles is a gravel pervious surface. The site plan, submitted and approved as BP-2017-6819 indicates that there is hay surrounding the parking lot (Exhibit A.8). These areas are porous and will provide for adequate drainage. *This criterion is met.*

8.07 § 34.4205 MINIMUM REQUIRED OFF-STREET PARKING SPACES

(A) Residential Uses

(3) Motel or Hotel – One space for each guest room or suite.

(C) Retail and Office Uses

(1) Store, Supermarket, and Personal Service Shop – One space for each 400 square feet of gross floor area.

(3) Bank or Office, including Medical and Dental – One space for each 300 square feet of gross floor area.

Staff: The proposed retail sales of farm products raised or grown on the premises or in the immediate vicinity and a Type B Home Occupation, which would be a short-term lodging of guests and a home office, will utilize 2,337 square feet of a total of 3,914 square feet buildings on the subject property (Exhibit A.8). The sale of farm products will utilize a barn/accessory building that is 1,680 square feet. The sale of farm products is similar to a store or supermarket, which will require one space for each 400 square feet of gross area. Therefore, the sales of farm crops will require four parking spaces. The home occupation will require one space and the detached office would require one space for each 300 square feet of gross area. Therefore, the office would require one space. The narrative proposes that the single-family dwelling will have parking adjacent to the dwelling for the short-term rental home occupation and home office. The area near the barn/accessory structure will have five parking spaces for the sales of farm crops. *This criterion is met.*

9.00 Transportation Standards

9.01 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 has proposed to construct a reconfigured (altered) access from tax lot 300, 2 North, 1 West, Section 28 (R971280680) onto NW Gillihan Road, a County road under County Jurisdiction. An access is considered reconfigured when it will be physically altered, or when a change in the development that it serves has a Transportation Impact as defined in section 6.000 of the Multnomah County Road Rules. The reconfigured access is shown on the applicant's site plan (Exhibit A.8). 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: Tax lot 300, 2 North, 1 West, Section 28 (R971280680) is served by one shared accessway with the adjacent parcel to the west. Tax lot 400, 2 North, 1 West, Section 28A (R97128028) is served by a driveway taking access directly off NW Gillihan Road. *This criterion 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 facility, the spacing standard is 99 feet. The minimum distance is applied to both driveways/accessways on the same side of the street as well as driveways/accessways opposite to the site. No new access points are being proposed. *This criterion is met.*

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

Staff: The site plan, submitted and approved as BP-2017-6819 shows an access width of 12 feet (Exhibit A.8). For an agricultural use, a new or reconfigured access must be 20 to 35 feet wide. The reconfigured access will be 12 feet wide. To ensure that driveway and accessway width are met, a condition will be required. *As conditioned, this criterion 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.

The applicant must either demonstrate that sight distance requirements are met, propose mitigation measures that will meet this standard, or propose alternate measures acceptable to the County Transportation Division to mitigate sub-standard sight distance. Given the increase in traffic that this proposal will generate at the accessway location, it is vital to the safety of the traveling public to insure that adequate sight distance is available. Providing this sight distance will help to prevent traffic crashes in the future. *As conditioned, this criterion is met.*

9.02 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 subsection 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.

The applicant estimates a maximum of 20 new trips based on the proposed uses, as detailed the land use application, summarized below (Exhibit A.2 and A.9).

- Produce stand: Seasonal operation (peak: June 1-September 30; limited off-season operations during winter)
 - Hours of operation: 10 AM-6 PM weekdays and weekends
 - New trips: 8-12 (4-6 customers per a day)
- U-Pick blueberries: Seasonal operation (approximately June 15-July 15)
 - New trips: 4 (2 customers per a day)
- Community Supported Agriculture (CSA)
 - Delivered to customers
 - No net new trips
- Type B Home Occupation (short-term rental and farm office)
 - New trips: 4 (One employee and maximum of two guests)

The proposed uses result in a transportation impact as the number of trips generated by the site will be increased by more than 10 trips per day. Improvement requirements shall be required as discussed below in Section 9.03.

9.03 MCRR 6.000 IMPROVEMENT REQUIREMENTS

MCRR 6.100 SITE DEVELOPMENT: The owner of the site or the applicant for a proposed development, which is found to cause a Transportation Impact will be responsible for improvements to the right-of-way as follows:

A. Frontage Improvement Requirements***

Staff: As discussed above, the proposed uses result in a transportation impact as the number of trips generated by the site will be increased by more than 10 trips per day. The accessway serving the site must have a 20-ft wide paved approach to NW Gillihan Road, a county road. This paved approach will help to protect the County Road from debris from the new accessway, and will improve the safety of this access. This paved approach will be measured from the edge of pavement of NW Gillihan Road. It must not create any drainage problems along the County Road. A deposit will be required for the paved approach. Please contact Right of Way at (503) 988-3582 regarding this requirement. *As conditioned, this criterion is met.*

9.04 MCRR 18.250 ACCESS/ENCROACHMENT PERMIT

A. An Access/ Encroachment Permit (A/E Permit) may be required for the following activities within the right-of-way:

- 1. New or altered access to roads under County jurisdiction. An access is considered altered when a change in the development that it serves has a Transportation Impact as defined in section 6.000 of these rules;**

B. Unless otherwise provided in the special provisions of the permit, any work authorized pursuant to an access/encroachment permit shall be initiated within ninety days from the date the permit issued and completed within a reasonable time thereafter as determined by the County Engineer.

Staff: An access is considered reconfigured when it will be physically altered, or when a change in the development that it serves has a Transportation Impact as defined in section 6.000 of the Multnomah County Road Rules. As result of the proposed change in use, the access will be considered altered. Thus, the applicant is required to obtain an access permit for the altered access. *As conditioned, this criterion is met.*

10.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Administrative Decision by the Planning Director to conduct retail sales of farm products raised or grown on the premises or the immediate vicinity and to establish a Type B Home Occupation for short-term lodging in the Multiple Use Agriculture – 20 (MUA-20) zone. This approval is subject to the conditions of approval established in this report.

11.00 Exhibits

'A' Applicant's Exhibits

'B' Staff Exhibits

'C' Procedural Exhibits

'D' Comments Received

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 T2-2016-6559 at the Land Use Planning office.

Exhibit #	# of Pages	Description of Exhibit	Date Received / Submitted
A.1	1	General Application Form	12/30/2016
A.2	3	Narrative	12/30/2016
A.3	3	Site Plan and Building Plan, dated December 30, 2016	12/30/2016
A.4	3	Septic Review Certification for Barn	12/30/2016
A.5	4	Septic Review Certification for addition to Single-Family Dwelling	12/30/2016
A.6	2	Fire Service Agency Review	12/30/2016
A.7	3	Storm Water Certificate	12/30/2016
A.8*	3	Site Plan and Building Plan, dated January 23, 2017 and approved as BP-2017-6819	01/27/2017
A.9	1	Updated Narrative	02/07/2017
'B'	#	Staff Exhibits	Date
B.1	2	Department of Assessment, Records and Taxation (DART): Property Information for 2N1W28 -000300 (R971280680)	12/30/2016
B.2	1	Department of Assessment, Records and Taxation (DART): Map with for 2N1W28 -000300 (R971280680)	12/30/2016
B.3	2	Department of Assessment, Records and Taxation (DART): Property Information for 2N1W28A -000400 (R971280280)	12/30/2016
B.4	1	Department of Assessment, Records and Taxation (DART): Map with for 2N1W28A -000400 (R971280280)	12/30/2016
B.5	11	Pre-Filing Conference Summary Notes	12/30/2016
B.6	1	Parcel Record – Cartographic Unit for 2N1W28A -000400	03/15/2017
B.7	1	Warrant Deed from Book 1853, Page 1858 recorded on August 6, 1985	03/15/2017
B.8	2	Bargain and Sale Deed, recorded as 2014-013229 on February 12, 2014	03/15/2017

B.9	9	Access Easement Agreement recorded as Instrument 2013-095018 on July, 1, 2013	03/15/2017
B.10	4		06/23/2017
'C'	#	Administration & Procedures	Date
C.1	4	Incomplete letter	01/26/2017
C.2	1	Applicant's acceptance of 180 day clock	02/17/2017
C.3	1	Complete letter (day 1)	03/15/2017
C.4	3	Opportunity to comment & mailing list	03/20/2017
C.5		Administrative decision & mailing list	
'D'	#	Public Comment	Date
D.1	15	Letter sent by Mark Greenfield dated March, 31, 2017	03/31/2017
D.2	1	E-mail sent by Mark Greenfield dated April 2, 2017	04/02/2017