

**MULTNOMAH COUNTY****LAND USE AND TRANSPORTATION PROGRAM**1600 SE 190<sup>TH</sup> Avenue Portland, OR 97233

PH: 503-988-3043 FAX: 503-988-3389

[http://www.co.multnomah.or.us/dbcs/LUT/land\\_use](http://www.co.multnomah.or.us/dbcs/LUT/land_use)

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## NOTICE OF DECISION

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

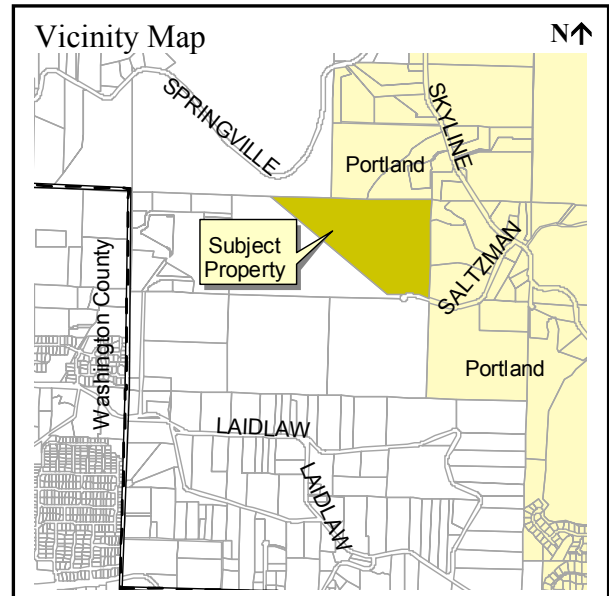
**Case File:** T2-04-068

**Permit:** Planning Director's Determination

**Location:** 11175 NW Saltzman Road  
TL 400, Sec 22, T 1N, R 1W, W.M.  
Tax Account #R64972-9140

**Applicant:** James Johnson

**Owner:** James & Nancy Johnson  
11175 NW Saltzman Road  
Portland, OR 97229



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**Summary:** Property owner is requesting a determination that a classroom/exercise room, office, bathroom, laundry area, library and storage room remodel within an existing barn be considered part of an existing farm use of horse boarding and training.

**Decision:** Approved with conditions.

Unless appealed, this decision is effective Wednesday, October 13, 2004, at 4:30 PM.

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Issued by:

By: \_\_\_\_\_  
Lisa Estrin, Planner

For: Karen Schilling- Planning Director

Date: Wednesday, September 29, 2004

**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's 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 Lisa Estrin, Staff Planner at 503-988-3043.

**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 (LUBA) 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 Wednesday, October 13, 2004 at 4:30 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC): MCC 33.2220 CFU-2 Allowed Uses, (C) Farm use..., MCC 37.0530(B) Type II Decision Process, MCC 37.0550 Initiation of Action and MCC 37.0560 Code Compliance and Applications.

Copies of the referenced Multnomah County Code sections can be obtained by contacting our office at 503-988-3043 or by visiting our website at [http://www.co.multnomah.or.us/dbcs/LUT/land\\_use](http://www.co.multnomah.or.us/dbcs/LUT/land_use).

### **Scope of Approval**

1. Approval of this land use permit is based on the submitted written narrative(s) and plan(s). No work 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. **Pursuant to MCC 37.0690, this land use permit expires two years from the date the decision is final if; (a) development action has not been initiated; (b) building permits have not been issued; or (c) final survey, plat, or other documents have not been recorded, as required. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0690 and 37.0700. Such a request must be made prior to the expiration date of the permit.**

### **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. Prior to land use sign off for building permit plan check, the property owners or their representatives shall demonstrate that the pool and pool house obtained, utilized and finalized all necessary land use and building permits for their construction. [MCC 33.0560 & MCC 33.2215]
2. Prior to land use sign off for building permit plan check, the property owners shall record an *Accessory Structure Covenant* indicating that the proposed improvements are not a residence. [MCC 33.2215]
3. Within 30 days of this decision becoming final, the property owner shall record the Notice of Decision (pages 1 through 8) and the loft floor plan. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and the proof shall be filed with the Land Use Planning Division. Recording shall be at the applicant's expense. Failure to sign and record the Notice of Decision within the 30 day period shall void the decision. [MCC 38.0670]
4. The proposed improvements shall be accessory to the stabling and equine farm use. No use of the classroom or other improvements within the loft area shall be used for non-equine related classes or training.

#### **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 criteria and Comprehensive Plan Policies are in **bold** font. The applicants statements are identified below as ‘**Applicant:**’. Staff comments and analysis are identified as ‘**Staff:**’ and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

### 1.00 ***Administration and Procedures***

#### 1.01 **TYPE II CASE PROCEDURES**

**MCC 37.0530(B): ...Upon receipt of a complete application, notice of application and an invitation to comment is mailed to the applicant, recognized neighborhood associations and property owners within 750 feet of the subject tract. The Planning Director accepts comments for 14 days after the notice of application is mailed and renders a decision...**

**Staff:** The application was submitted August 12, 2004 and was deemed complete as of August 19, 2004. An “Opportunity to Comment” notice was mailed on August 19, 2004 to all properties within 750 feet of the subject properties in compliance with MCC 37.0530. No written comments were received.

#### 1.02 **Proof of Ownership**

##### **MCC 37.0550 Initiation of Action**

**Except as provided in MCC 37.0760, Type I – IV applications may only be initiated by written consent of the owner of record or contract purchaser. PC (legislative) actions may only be initiated by the Board of Commissioners, Planning Commission, or Planning Director.**

**Staff:** The proposed project is located on Tax Lot 400, Section 22, Township: 1 North, Range: 1 West. Assessment & Taxation records show that the land is owned by James and Nancy Johnson. James Johnson has been designated the applicant in this case and has signed the General Application Form (Exhibit A.1). *This criterion has been met.*

#### 1.03 **MCC 37.0560 Code Compliance And Applications.**

**Except as provided in subsection (A), the County shall not make a land use decision, or issue a building permit approving development, including land divisions and property line adjustments, 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:** The parcel was created as part of Partition Plat 1992-153 and is known as Parcel 1. The property contains a single family dwelling with attached garage. In addition, the property contains 2 barns, 1 pool with related pool house. The dwelling and garage was permitted in 1993. The farm buildings were permitted by the County in 1996 and 1997. Discussions with the City of Portland established that a building permit for the construction of a new pool, spa, and pool equipment house was issued in March, 1995, but no inspections were completed on the project. From the tax account records (Exhibit B.2), it is evident that the structures were constructed on the site and aerial photos in the record show a pool in 1998 and a possible pool house in 2002 (Exhibits B.3 & B.4). While a Determination can be made regarding whether the proposed improvements qualify as a Farm Use, no building permits for their construction may be issued until such time as new building permits are obtained and finalized. A condition of approval has been included with this Determination in order to formally alert the property owners to this situation.

2.00 ***Commercial Forest Use – 2***

1.04 **MCC 33.2220 Allowed Uses**

**(C) Farm use, as defined in ORS 215.203.**

**ORS 215.203(2)(a) specifies that a “farm use” means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. “Farm use” includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. “Farm use” also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. “Farm use” also includes the propagation, cultivation, maintenance and harvesting of aquatic species and bird and animal species to the extent allowed by the rules adopted by the State Fish and Wildlife Commission. “Farm use” includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. “Farm use” does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in subsection (3) of this section or land described in ORS 321.267 (3) or 321.824 (3).**

*(b) “Current employment” of land for farm use includes:*

*(A) Farmland, the operation or use of which is subject to any farm-related government program;*

*(B) Land lying fallow for one year as a normal and regular requirement of good*

- agricultural husbandry;*
- (C) Land planted in orchards or other perennials, other than land specified in subparagraph (D) of this paragraph, prior to maturity;*
- (D) Land not in an exclusive farm use zone which has not been eligible for assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years;*
- (E) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use;*
- (F) Except for land under a single family dwelling, land under buildings supporting accepted farm practices, including the processing facilities allowed by ORS 215.213 (1)(x) and 215.283 (1)(u);*
- (G) Water impoundments lying in or adjacent to and in common ownership with farm use land;*
- (H) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;*
- (I) Land lying idle for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmer's immediate family. For purposes of this paragraph, illness includes injury or infirmity whether or not such illness results in death;*
- (J) Any land described under ORS 321.267 (3) or 321.824 (3); and*
- (K) Land used for the primary purpose of obtaining a profit in money by breeding, raising, kenneling or training of greyhounds for racing.*

*(c) As used in this subsection, "accepted farming practice" means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.*

- (3) "Cultured Christmas trees" means trees:*
  - (a) Grown on lands used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing or turning over the soil;*
  - (b) Of a marketable species;*
  - (c) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agriculture Marketing Services of the United States Department of Agriculture; and*
  - (d) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation, irrigation.*

**Applicant:** We use our barn and facilities, which include horse boarding, to hold educational classes, trainings, and clinics, for which we charge fees, for this for-profit endeavor. The focus is natural horsemanship and riding.

The proposed loft addition will include:

- (1) Large main room—for exercise, warm up, and riding simulations with mats and large exercise balls, as well as video/DVD viewing and larger meetings;
- (2) Office--for planning and running the business of horse boarding and training, as well as smaller meetings;
- (3) Storage---for horse paraphernalia, blankets, seasonal horse and human outerwear, (4)

- Laundry room-for cleaning of horse and human blankets, jackets, etc;
- (5) Bathroom and shower for post-exercise participant and clinician use;
- (6) Library/research room, for books, DVD's, and videos.

Our facility at 11175 NW Saltzman Road, in Multnomah County, Oregon, includes a six-stall barn, covered arena, outdoor arena, round corral, pastures and horse “playground” and is used to further a business endeavor that includes:

- Horse boarding
- Educational classes
- Training for horseback riding, as well as related ground work
- Clinics held by outside trainers
- The promotion of Natural Horsemanship

The existing observation room adjacent to the covered arena that we now use is inadequate for the activities we have grown into.

The barn is the focus for these efforts. The proposed addition at the existing loft level is designed to provide additional space without adding additional buildings or building footprint to the site. It is to include the following:

1. Classroom: This space must be large enough for groups of 12-15 people, along with instructor(s) to be able to:
  - Do exercises and riding warm-up, using mats and large exercise balls (space for 12 people, with six foot diameter of space each)
  - Conduct riding simulations
  - View films, videos and/or DVDs regarding horse training and riding
  - Conduct classes and clinics in horse training and riding techniques
  - Store chairs when space is cleared for exercising
  - Include space for a monitor and video and DVD player(s), either on a table, a portable stand or a cabinet.
2. Office: Furnishings are to include:
  - Desk and chair, adequate for writing as well as for computer monitor, keyboard, mouse pad, printer and central processing unit
  - File cabinets
  - Small table and chairs for small conferences (i.e. with boarding horse owners, horse trainers and barn workers)
  - Layout table(s) for organization of written material regarding classes, clinics and training
  - Area to lay out scheduling for boarding duties, classes, clinics and training
  - Miscellaneous chair storage, as needed.
3. Storage: This space allows for approximately two feet of storage at the perimeter, with the potential for up to three feet along the west wall, allowing three-foot-wide access:
  - Written materials for classes and training
  - Exercise equipment not in use in Classroom
  - Seasonal storage of horse blankets, flysheets, fly masks, protective leg boots and

- bandages, veterinary supplies and other such paraphernalia
- Seasonal storage of rain slickers, helmet covers, boots, hats and miscellaneous other human outer wear
- Additional file storage, as needed.

4. Laundry: This facility, away from the main house, is to be used for cleaning:

- Saddle blankets
- Horse blankets
- Human outerwear.

The space is to include storage shelves above the washer and dryer, for laundry supplies, and a countertop for folding and stacking of clean items.

5. Bath: This space is for the use of the owner (in conjunction with her use of the Office), class and training clinic participants and instructors. It is to consist of:

- Toilet
- Lavatory
- Storage for towels, medicines and first aid supplies.

6. Shower: Class and training clinic participants and instructors often come from some distance (i.e., Central Oregon). After being in the heat of a summer day among flies, dust and sweaty horses, it is reasonable for them to be able to clean up before a long drive home towing a horse trailer. Space must be adequate for dressing, and a bench is provided. This space is separate from the Bath so that both may be used simultaneously.

7. Library: While classes and/or exercises are occurring in the Classroom, others will be able to use this space for reading and research. It requires good natural light and will also serve to store and display:

- Books
- Manuals
- DVDs
- Videos
- Magazines

**Staff:** Oregon Revised Statute (ORS) 215.203 includes in its definition of *Farm Use*, the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. The evidence in the record demonstrates that the Johnsons stable equines and have an indoor riding arena and outdoor riding area (Exhibit B.2, B.3 & B.4). Per the narrative above, they hold riding classes and training clinics based on the natural horsemanship philosophy.

The applicant is requesting permits to add to the barn structure a classroom, library, office, storage room, laundry room, bathroom and shower to the building to allow for the growth of the farm operation in the area of training clinics for horsemanship and riding (Exhibit A.2, A.3, A.5, & A.6). The proposed improvements in the loft of the barn are not typically seen in an agricultural building, but in this case are necessary to provide a proper environment for their training clinics. Since these improvements are also readily useable/convertible to other uses such as residential quarters or non-farm uses, staff has included with this determination a

condition of approval requiring that the property owner record a notice into the deed record that the accessory use is not a residence.

*Based upon the information in the record, it appears that the proposed improvements fall within the category of farm use.*

### 3.00 **Conclusion**

Based on the findings and other information provided above, it has been determined that the proposed physical improvements are considered part of a *Farm Use* pursuant to ORS 215.203. This approval is subject to the conditions of approval established in this report.

### 4.00 **Exhibits**

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

‘C’ Procedural Exhibits

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form	8/12/04
A.2	2	Detailed Description of Proposed Spaces & Their Uses	8/12/04
A.3	1	Description of Farm Use	8/12/04
A.4	1	Plot & Roof Plan, Demolition Plans, General Notes, Specifications Data and Drawing Index – Page 1	8/12/04
A.5	1	Barn Plan at Lower Floor Level – Page 2	8/12/04
A.6	1	Upper Floor Framing & Floor Plans, Door Schedule – Page 3	8/12/04
A.7	1	Roof Framing & Roof Plan, Balcony Details – Page 4	8/12/04
A.8	1	West-East Building Sections, Details – Page 5	8/12/04
A.9	1	South-North Building Sections – Page 6	8/12/04
A.10	1	Exterior Elevations, Window Schedule – Page 7	8/12/04
A.11	1	Interior Elevations & Details – Upper Floor Mechanical. Electrical Floor Plan – Page 8	8/12/04
‘B’		Staff Exhibits	Date of Document
B.1	2	A&T Property Information for TL 400, 1N1W22	8/12/04
B.2	1	A&T Improvement Information for TL 400, 1N1W22	9/23/04
B.3	1	1998 Ortho Photo	9/23/04
B.4	1	2002 Ortho Photo	9/23/04
B.5	10	Photographs of Harmony Hill Stables from Website for Business	9/23/04
‘C’		Administration & Procedures	Date
C.1	1	Complete Letter – Day 1	8/19/04
C.2	5	Opportunity to Comment	8/19/04
C.3	8	Administrative Decision – Day 42	9/29/04