

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

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

http://www.co.multnomah.or.us/dbcs/LUT/land_use

NOTICE OF DECISION

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

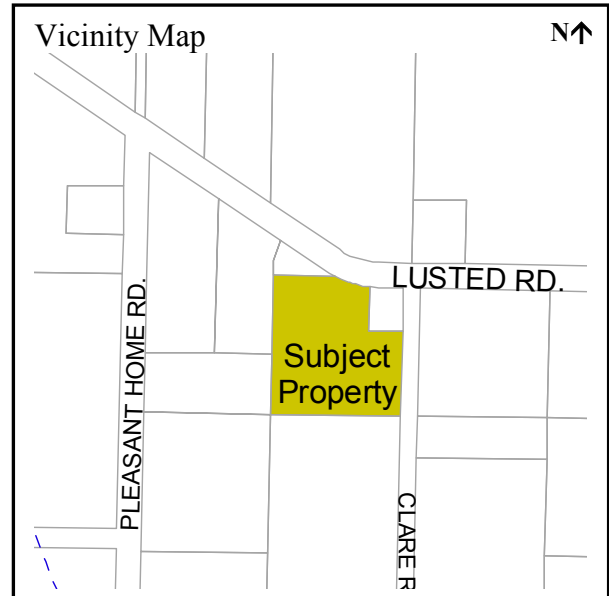
Case File: T2-05-004

Permit: Administrative Determination by the
Planning Director

Location: 31904 SE Lusted Road
TL 900, Sec 20AA, T1S, R4E, W.M.
Tax Account #R677803400

Applicant: Dan Abelein
Winter Creek Construction
13711 SE 312th
Boring, OR 97009

Owner: Greg Brown
31904 SE Lusted Rd.
Gresham, OR 97080



Summary: Request for a Director's Determination of whether a proposed pole barn for storage of hay and to house horses is customarily accessory or incidental to the dwelling on the subject property in the Multiple Use Agriculture – 20 (MUA-20) Zone District.

Decision: The Planning Director has determined that the proposed pole barn for the storage of hay and to house horses is customarily accessory to the dwelling on the subject property

Unless appealed, this decision is effective March 14, 2005, at 4:30 PM.

Issued by:

By: _____
George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: Monday, February 28, 2005

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 George A. Plummer, 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 March 14, 2005 at 4:30 pm.

Applicable Approval Criteria: Multnomah County Code (MCC): 37, MCC 36.0005(L)(13): Definitions Lot of Record and MCC 36.2870: Multiple Use Agriculture, Lot of Record

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.

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.**

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| Notice to Mortgagee, Lien Holder, Vendor, or Seller: |
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| ORS Chapter 215 requires that if you receive this notice it must be promptly forwarded to the purchaser. |
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Note: To address Multnomah County Code requirements staff provides findings as necessary, referenced in the following section. Headings for each category of finding are underlined. Multnomah County Code language is referenced using a **bold** font. The Applicant's narrative, when provided, follows in *italic font*. Planning staff analysis and findings follow the **Staff** label. At the end of the report, Exhibits are described. The applicant's submittal is included and made part of this decision as Exhibit I.

1. **Project Description**

MCC 37.0740 Interpretations: (A) The Planning Director shall have the authority to decide all questions of interpretation or applicability to specific properties of any provision of the comprehensive framework plan, rural area plan, or other land use code. Any interpretation of a provision of the comprehensive framework plan, rural area plan or other land use code shall consider applicable provisions of the comprehensive framework plan, rural area plan, and the purpose and intent of the ordinance adopting the particular code section in question. A request for an interpretation shall be processed as a Type II application.

Staff: The request is for a Planning Director's Determination of whether a proposed pole barn for storage of hay and to house horses is customarily accessory or incidental to the dwelling on the subject property. The proposed pole barn is 36 by 48 square feet and about 21 feet in height (Exhibit 1.2 and 1.4).

2. **Site and Vicinity Characteristics**

Staff: The property is located in the West of the Sandy River Plan Rural Area  within the in the Multiple Use Agriculture – 20 (MUA-20) Zone District. A new dwelling has been permitted on the property and an existing dwelling is being converted for personal storage. The property is relatively flat. The property is 2.0 acres in size. The area around the property is a mix of residential uses and farm uses (Exhibit 2.2). There are several properties in the vicinity that are small acreage farming plots with a dwelling. The property is located amongst several parcels south of Lusted Road which range in size from about one acre to about four acres with several about the size of the subject property. Most of these properties have a dwelling with outbuildings. To the north, east and west of this pocket of smaller residential properties are larger properties which are in farm use. To the south the properties tend to be even smaller subdivision lots including the unincorporated Community of Pleasant Home.

3. **Type II Case Procedures**

MCC 37.0530 (B): Type II decisions involve the exercise of some interpretation and discretion in evaluating approval criteria. Applications evaluated through this process are assumed to be allowable in the underlying zone. County Review typically focuses on what form the use will take, where it will be located in relation to other uses and natural features and resources, and how it will look. However, an application shall not be approved unless it is consistent with the applicable siting standards and in compliance with approval requirements. 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. The Planning Director's decision is appealable to the Hearings Officer. If no appeal is filed the Planning Director's decision shall become final at the close of business on the 14th day after the date on the

decision. If an appeal is received, the Hearings Officer decision is the County's final decision and is appealable to the Land Use Board of Appeals (LUBA) within 21 days of when the signed Hearings Officer decision is mailed pursuant to 37.0660(D).

Staff: Procedures outlined in MCC 37.0530 were followed in processing this case. An opportunity to appeal this case will be provided, if not appeal is failed the decision will become final after 14 days after the date on the decision. The application was submitted January 11, 2005 and was deemed complete on January 11, 2005 as submitted.

An "Opportunity to Comment" notice was mailed on February 3, 2005 to all owners of property within 750 feet of the subject site. They were given a 14-day period to provide comments on the application (MCC Chapter 37). Staff received no comments.

4. Use Customarily Accessory in the Multiple Use Agriculture District

MCC 34.2820 Allowed Uses

(F) Other structures or uses customarily accessory or incidental to any use permitted or approved in this district.

Staff: The applicant is proposing a 1728 square foot pole barn to use to house horses and for the storage of hay. In the rural areas of the County it is a common for property owner to have horses for personal use.

The applicant submitted photographs (Exhibit 1.5) of several pole barns in the area similar to the size that the applicant is proposing. These photos were labeled with the following addresses:

- 31937 SE Lusted Road ,
- 318 SE Lusted Road (I believe this is the structure a 31842 Lusted),
- 31718 SE Lusted Road , and
- 31942 SE Lusted Road (This may be the property listed in the County Assessment database as 31842 Lusted Road, the eight should be a nine because is within the nine series addresses).

For our analysis of accessory building sizes to determine as to whether the proposed building is a customary accessory structure in the district we chose an area of a quarter mile surrounding the property. Below is a table listing properties within a quarter mile of the subject property which have accessory buildings located on them. The information in the table was obtained from County Assessment records, attached to this decision as Exhibit 2.2. Only one of the properties is in the agriculture tax deferral program. Like the subject property, the rest of these properties are classified as residential land by County Assessment. Since the subject property is not in farm deferral and the proposed building will not be associated with a for profit agricultural use, the proposed building would need to be accessory to the residential use.

As the table shows, three of nearby buildings are larger than the proposed barn. There is one building just 100 square feet less in size. One of the larger buildings is an agricultural building. The other buildings are accessory to residential uses. The proposed building fits into the range of sizes for accessory building in the area.

| | Address | County Assessment Alt. Tax Account # | Size of property in Acres | In Farm Deferral? | Size of Building in Sq. Ft. |
|---|---------------------|---|---------------------------------|----------------------|-----------------------------------|
| 1 | 31619 SE Lusted Rd. | R116100030 | 1.94 | No | 1632 |
| 2 | 31718 SE Lusted Rd. | R994170500 | 1.6 | No | 720 |
| 3 | 31734 SE Lusted Rd. | R994170220 | 1.06 | No | 1080 |
| 4 | 31842 SE Lusted Rd. | R677804120 | 2.01 | No | 1152 |
| 5 | 31937 SE Lusted Rd. | R994170250 | 23.57 | Yes | 1800 |
| 6 | 32109 SE Grace St. | R677805390 | 3.4 | No | 1440 |
| 7 | 31751 SE Grace S | R677802790 | 2.52 | No | 2000 |
| 8 | 31751 SE Grace S | R677802790 | 2.52 | No | 2800 |

5. **Conclusion**

Considering the findings and other information contained herein, in nearby area around the subject property the use an accessory building to house horse for personal use is a customary practice within the district on nearby the subject property. Given that within a quarter mile there are two larger buildings accessory to residential uses and one just a hundred square feet smaller, the proposed building size is customary within the district.

6. **Exhibits**

Exhibits 1: Submitted by the Applicant

- Exhibit 1.1: Application form submitted 1/11/05 (1 page);
- Exhibit 1.2: Site plan submitted 1/11/05 (1 page);
- Exhibit 1.3: Statement of proposed pole barn use signed by Greg A. Brown, property owner submitted 1/11/05 (1 page);
- Exhibit 1.4: Proposed barn elevation views and building plans submitted 1/11/05 (4 pages);
- Exhibit 1.5: Photographs of nearby accessory structures submitted 1/11/05 (4 pages);
- Exhibit 1.6: Fire District Review forms signed by Mike Kelly, Deputy Fire Marshall, Gresham Fire & Emergency Services submitted 1/11/05 (9 pages);
- Exhibit 1.7: Certification of On-Site Sewage Disposal indicating review by Philp Crawford, Sanitarian, City of Portland submitted 1/11/05 (1 page);
- Exhibit 1.8: Strom Water Certificate signed by Stephen R. Heryford, Registered Professional Engineer submitted 1/25/05 (1 page).

Exhibits 2 Supplied by County

- Exhibit 2.1: County Assessment Records for the subject properties (1 page);
- Exhibit 2.2: 2002 Aerial Photo of the subject property and vicinity (1 page);
- Exhibit 2.3: County Assessment Records for the nearby properties listed in the table in this decision (15 pages).