

**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.

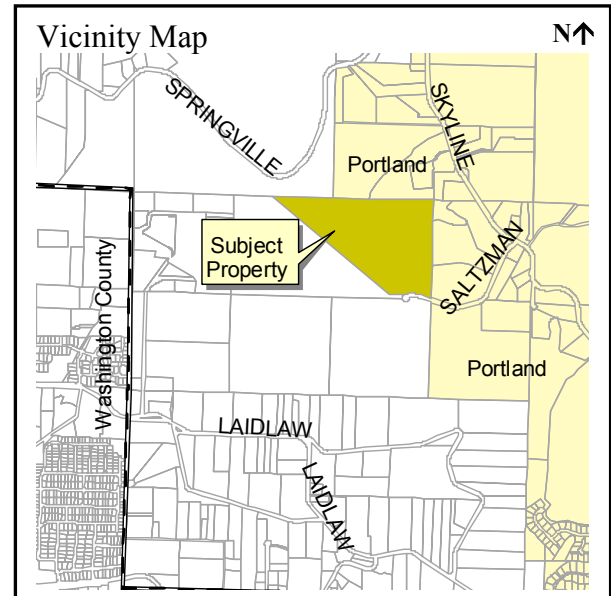
Case File: T2-05-103

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: Guy Snyder
1033 SE Yamhill St., Suite 405
Portland, OR 97205

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



Summary: Applicant is requesting a determination that a change to the remodeling plans within the existing barn can be considered farm use. The previously approved proposal contained an classroom/exercise room. This space is now proposed for use as an office associated with the equine farm operation.

Decision: Approved with conditions.

Unless appealed, this decision is effective December 6, 2005, at 4:30 PM.

Issued by:

By: _____
Tammy Boren-King, AICP,
Planner

For: Karen Schilling- Planning Director

Date: November 22, 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 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 December 6, 2005 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.

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. **The proposed improvements shall be accessory to the stabling and equine farm use. No use of the office or other improvements within the loft area shall be used for non-equine related business.**

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 October 27, 2005 and was deemed complete as of October 27, 2005. An “Opportunity to Comment” notice was mailed on November 1, 2005 to all properties within 750 feet of the subject properties in compliance with MCC 37.0530. No written comments were received. *Procedures met.*

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 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 were 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. Evidence was submitted into the record for case T2-04-068 to establish that these permits received final inspections.

Staff conducted a site visit on November 14, 2005 and observed no violations of the zoning code.

The property is in full compliance.

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: Our facility at 11175 NW Saltzman Road, in Multnomah County, Oregon, includes a six-stall barn, covered arena, outdoor arena, round coal, pastures and horse "playground."

This is a hobby farm and home business with activities including:

- Horse Boarding
- Education in Natural Horsemanship
- Training for horseback riding, as well as related ground work
- Clinics held by outside trainers

The proposed addition at the existing loft level is designed to provide an office and related storage for this home business without adding additional buildings or adding to an existing

building footprint. It does not add to the overall height of the existing barn. It is to include the following:

1. Office: Furnishings are likely 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
 - Larger table for conferences of up to eight persons
 - Layout table(s) for organization of written material
2. Storage: These spaces allow for the storage of:
 - Written materials
 - Exercise equipment not in use
 - Seasonal storage of horse blankets, fly sheets, 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 outerwear
 - Additional file storage
3. Laundry: This facility, away from the main houses, 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.
4. Bath: This space is primarily for the use of the owners and the owners of boarded horses. It is to consist of:
 - Toilet
 - Lavatory
 - Storage for towels, medicines and first aid supplies
5. Shower: This space is again primarily for the use of the owners and the owners of boarded horses. 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.

Note: This description includes items already approved in a Planning Director's Decision, case file T2-04-068, issued for this property on September 29, 2004 though some items from that decision have been removed, none have been added.

Lessons and clinics for natural horsemanship and their related activities are to occur within the existing covered arena structure, which is approximately 110 feet from the barn. This structure includes a conditioned "observation room" that is used for classroom-type instruction and meeting activity.

The storage space in the proposed loft addition is to include some items used for exercises that take place in the arena structure. Some of these items, such as certain portable exercise equipment, need to be stored in a conditioned space and are too bulky to be stored within the arena's observation room.

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 presented in decision T2-04-068 established that the Johnsons stable equines and have an indoor riding arena and outdoor riding area. As established in the previous case and as noted above, the owners hold riding classes and training clinics based on the natural horsemanship philosophy. This business is run from the property.

The barn was previously approved for a remodel with a similar floor plan and similar proposed uses. The current floor plan is included as Exhibit A.2 while the previous floor plan is included as Exhibit S.1. The notable changes include changing the “Classroom” to an office with a table large enough to serve as a conference table and changing the “Library” to an office. The overall purpose of the addition remains the operation of a horse boarding and training facility.

The major change is that the large room was previously proposed for use as a classroom. As noted by the applicant, the classroom activities such as exercise classes are now proposed to be held in the existing arena. The storage area in the barn is still proposed to house exercise equipment though no classes will be held in the barn addition.

The applicant is requesting permits to add to the barn structure a large and a small office, storage room, laundry room, bathroom and shower to allow for the growth of the farm operation in the area of training clinics for horsemanship and riding. 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 farm related business office, equine education, and training clinics.

Since these improvements include bathing facilities and are readily useable/convertible to other uses such as residential quarters or non-farm uses, staff included a condition of approval with decision T2-04-086 requiring that the property owner record a notice into the deed record that the accessory use is not a residence. This notice has been recorded and a copy is included as Exhibit S.2.

The proposed changes do not alter the fundamental purpose of the structure, which is to support and expand and equine business. The purpose of the addition remains obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics, and schooling shows.

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

‘S’ Staff Exhibits

Exhibit #	# of Pages	Description of Exhibit
A.1	1	General Application Form
A.2	1	Revised Floor Plan
'S'		Staff Exhibits
S.1	1	Floor Plan Approved in Case T2-04-068
S.2	2	Previously Recorded Accessory Building Covenant