



**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/landuse>

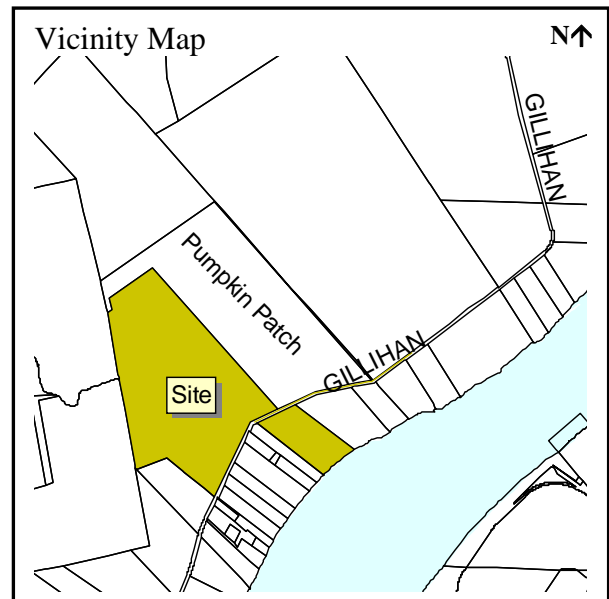
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## NOTICE OF DECISION

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

**Case File:** T2-07-068  
**Permit:** Administrative Decision by the Planning Director  
**Location:** 16205 NW Gillihan Road  
TL 200, Sec 22, T 2N, R 1W, W.M. &  
TL 400, Sec 22D, T 2N, R 1W, W.M.  
Tax Account #R97122-0050 &  
R97122-0020  
**Applicant:** Bella Organic Farms,  
Authorized Agent - NMB Corporation  
Auth. Agent of NMB Corp is Mike Hashem  
**Owner:** Mike & Elizabeth Hashem  
**Zone:** Exclusive Farm Use (EFU)



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**Summary:** The applicants are requesting approval to operate a farm stand for the sale of fruits, vegetables and other farm related products in the EFU zone. An Administrative Decision by the Planning Director is required.

**Decision:** Approved with Conditions.

Unless appealed, this decision is effective Friday, January 4, 2008, at 4:30 PM.

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Issued by:

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

For: Karen Schilling- Planning Director

Date: Friday, December 21, 2007

Instrument Number for Recording Purposes: #2007007808

**Opportunity to Review the Record:** A copy of the Planning Director's 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 Chuck Beasley, Senior Planner at 503-988-3043, ext. 22610.

**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 Friday, January 4, 2008 at 4:30 pm.**

**Applicable Approval Criteria:** Multnomah County Code (MCC): *Exclusive Farm Use Zone* - MCC 34.2625(H) Review Uses - Farm Stands, MCC 34.2660 Dimensional Requirements, MCC 34.4100 through MCC 34.4215 Off-Street Parking and Loading, MCC 34.7055(C)(3) through (7) Landscaping of Parking Areas.

*Comprehensive Plan Policies:* Policy 36- Transportation System Development Requirements, Policy 37- Utilities, Policy 38- Facilities

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/landuse>.

### **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. **This land use permit expires two (2) 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 or 37.0700, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.**

### **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. Within 30 days of this decision becoming final and prior to building permit sign-off, the property owner shall record the Notice of Decision (pages 1 – 4 of this decision) with the County Recorder. The Notice of Decision shall run with the land. Proof of recording shall be made prior to the issuance of any permits and a copy filed with Land Use Planning. Recording shall be at the applicant's expense. [MCC 37.0670]

2. The maximum number of temporary farm stalls shall be fifteen (15) as shown on applicant's revised site plan (Exhibit A.8). These temporary farm stalls shall be a maximum of 200 sq. ft in size and shall only be utilized by the independent farmers leasing land on Tax Lot 200, 2N1W22 & Tax Lot 400, 2N1W22D.
3. One permanent 20 ft by 30 ft farm stand may be constructed in the vicinity shown on the Partial Site Plan (Exhibit A.9). All permanent and temporary structures shall meet the setbacks established in MCC 34.2660(C) & (D).
4. The sale of retail incidental items shall be limited to the 20 ft by 30 ft Primary Farm Stand. The annual sale of incidental items shall make up no more than 25% of the total sales from that individual Stand and Mobile Food Cart. [MCC 34.2625(H)]
5. Within the 20 ft by 30 ft Primary Farm stand, any produce sold from outside the local agricultural area (Oregon or an adjacent county in Washington that borders Multnomah County) shall count against the 25% annual sales limitation [MCC 34.2625(H) & OAR 660-033-0130(23)(d)]
6. No fee based activities, other than u-pick, shall be allowed without the modification of this permit through a new land use application.
7. No non-farm activities such as concerts, slides, jugglers, musicians, face-painters, contests, pumpkin launching are allowed regardless of whether a fee is charged.
8. Areas for lease for agricultural production by the farmers utilizing the temporary farm stands shall be no smaller than 1 acre.
9. The use of one of the 10 ft by 20 ft Temporary Farm Stands for a Mobile Food Cart is allowed. The mobile food cart's menu shall be based on the organic produce and fruit grown on the subject farm. The mobile food cart shall only sell food when other stands are operating and may not operate independently during the off-season. The sale of prepared food from the mobile food cart shall count against the 25% annual sales limitation of the primary 20 ft by 30 ft food stand operated by Bella Organic Farms or the operator of the permanent stand. [OAR 660-033-0130(23)]
10. The farm stand may operate from 9 am to 6 pm, 7 days a week, from May to October only.
11. The agricultural products sold in the temporary farm stands are limited to "Farm crops or livestock" including both fresh and processed farm crops and livestock grown on the subject site or in the area. As used in this subsection, "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.
12. The use of any Exempt Farm Structures or Farm Stand by the public for seating, banquets, public gatherings or public entertainment is prohibited. [MCC 34.2625(H)(2)]
13. On-street parking for employees, suppliers and patrons of the Bella Organic Farms or their leaseholder farms is prohibited. All parking spaces shall be available for the parking of vehicles of customers, occupants and employees without charge or other consideration. [MCC 34.4125(A)]
14. Prior to building plan check for the 20 ft by 30 ft farm stand, or use of the property by any temporary farm stand, the property owner shall dedicate 5 feet of right-of-way along Tax Lot 200, 2N1W22 & Tax Lot 400, 2N1W22D [MCRR 5.300 & Policy 34]
15. A gravel or grass temporary parking lot shall be created on Tax Lot 400 for the U-pick blueberry field on this property. The temporary parking lot shall be for a maximum of 12 vehicles. Visitors picking berries from this tax lot shall not be required to walk across Gillihan Road to pay for their fruit. A small (10 ft by 10 ft maximum) temporary booth may be placed on Tax Lot 400 during the U-pick season. If the applicant does not want to create a temporary parking lot on Tax Lot 400, no U-pick

operations may occur on this property and the berries can be sold through the farm stand. The location of the driveway entrance to temporary parking lot shall be determined through a Sight-Line Distance Study. The driveway access to the temporary parking lot shall be placed across from the driveway access on Tax Lot 200 as closely as possible while meeting the Sight-Line Distance. Tax Lot 400 may only have a single driveway access. [MCC 34.4130(A) & MCRR 4.200]

16. Prior to construction of any parking areas for the farm stands or U-pick operation, the applicant shall reconfigure the parking area on the site plan to meet the following:
  - a. Tax Lot 200 shall be limited to 1 driveway access. The driveway access shall be the one leading to the existing dwelling. The driveway access shall meet the Multnomah County Road Rules 4.000 et al. The existing non-permitted driveway leading to the 50 ft by 100 ft exempt farm structure shall be closed and abandoned.
  - b. The applicant shall demonstrate that the driveway access on Tax Lot 200 meets the 100 ft spacing requirement between it and the nearest driveway on adjacent properties on both sides of the street.
  - c. A maximum of 36 permanent parking spaces meeting the Dimensional & Improvement Standards of MCC 34.4170, 34.4175 & 34.4180 shall be provided. The parking spaces shall be surfaced with two inches of blacktop on a four inch crushed rock base or six inches of Portland cement or other material providing a durable and dustless surface capable of carrying a wheel load of 4,000 lbs. Gravel does not qualify as a dustless surface. No overflow parking is authorized by this permit.
  - d. The permanent parking spaces shall be setback 30 feet from Gillihan Road right-of-way (after dedication) (35 feet if no dedication to Gillihan occurs) from the front property line [MCC 33.4195(A)].
17. Prior to building permit sign off for the 20 ft by 30 ft farm stand or operation of a temporary stand, the applicant shall modify the site plan to show the location of restroom facilities connected to a subsurface sewage disposal system or note on the plans that no restroom facilities will be provided for customers or workers on the site. [Policy 37 Utilities]
18. Prior to building permit sign-off for the 20 ft by 30 ft farm stand, the site plan shall be modified to reflect these conditions of approval.
19. Prior to operation of any of the farm stands or u-pick operations, all on and off-site improvements shall be completed.
20. By December 1<sup>st</sup> of each of the next three farm seasons in which the 20 ft by 30 ft farm stand operates, the property owners shall submit evidence to Land Use Planning of the gross sales from the permanent farm stand and mobile food cart and the sales of retail incidental items. [MCC 34.2625(H)(1)]

**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, Lisa Estrin, at (503) 988-3043 ext. 22597, 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 of \$53.00 will be collected. In addition, an erosion control inspection fee of \$77.00 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.

## **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*.

### ***Project Description:***

**Applicant:** This is a commercial farm on tax lot 200 and 400, together comprising approximately 114.49 acres; producing a number of different crops.

The farm will sell produce on the wholesale and retail markets. Fifty acres are presently leased, and will be farmed by a wholesale farmer named Cal Farms, LLC. The remaining acreage will be farmed by the owner, and a co-op group of farmers who will be able to wholesale and retail their products through U-Pick and booth space on the farm.

This is a practicing organic farm.

The farm operation is supported by several structures located on lot 200.

Machinery storage building 50 x 100 steel framed.

Pole barn supply and storage area.

Manufactured home (relative live in).

The farm stand will operate near the machinery storage building #1, and will contain individual stands for co-op farmers who will show and sell their farm produce. Farmers will lease a plot of land, plant the organically grown crop of their choosing, and then wholesale or retail it from their individual space allotment.

A food stand will be a natural supporting element, it will be developed to sell product that are farm grown and promoting organic farm products on the site consumption. The food stand would be house in a mobile unit.

We will provide parking for 65 spaces on a graveled area, because the use will be seasonal. We will also provide an unobstructed 20 ft paved driveway entrance leading to the parking lot. Parking spaces will not back into the public right of way.

All landscape requirements for the parking area will be met.

### **Additional Narrative Submitted on August 17, 2007**

A farm stand is a booth space similar to what you find in a farmer market.

The parking area is designed as per Ordinance (MCC 34.4100 et al). We will have one entry and one exit with satisfactory eye site clearance. With an interior circulation for vehicle movement. All public road approaches are paved. The parking area will not be paved as per code for seasonal use. Our hours of operation will vary by the harvest season from weekend only to seven days a week as fruits and vegetables are ready to be picked. We will operate May through October.

We are an organic farm. We are growing berries, fruits, and vegetables for the U-Pick and the retail market. We employ two full time and two part time employees.

The farm stand we will operate would be for the U-Pick Market, would open base on what we are selling at the time. We could open seven days a week during the berries season then go to weekend only when vegetables are picked.

The farm stand operated by the co-op farmers would mostly open on weekend. More than one vendor

can use the same stand, based on the harvest season for their products. Hours of operation will be 9 am to 6:00 PM. Each farmer will be responsible for their own sales. Only product grown on our farm would be allowed to be sold. We will monitor each farmer's sale on a weekly bases and verify compliance with the 25% rules.

At the present time, I can't think of product we want to sell, that we won't grow. If this fact changes we will keep it below the percentage allowed. We presently do not have a definite plan or a menu to operate a farm stand. Be when we do we will have our organic produce and fruit be the main line items featured in our menu.

**Staff:** In their resubmittal of August 17, 2007, the location of the farm stands was moved from adjacent to Machinery Storage Building #1 to near the farm dwelling. During the week of November 26, 2007, staff discussed the proposed application with Mr. Hashem at the Planning Counter. Mr. Hashem indicated that the minimum area to be leased to a farmer would be 1 acre. In addition, he indicated that across the street on Tax Lot 400, 2N1W22D berries would be grown and a u-pick operation would occur. Staff also discussed the layout of the parking lot in relation to the farm stands. Mr. Hashem agreed with staff that on non-busy days, most people would park closer to the farm stands in the area designated as "future parking" on the Partial Site Plan (Exhibit A.9). While Mr. Hashem has mentioned a food stand in his narrative, he has not shown its location on either the Revised Site Plan or the Partial Site Plan. Based on the applicant's narrative and discussions with planning staff, the following structures and improvements are requested as part of this farm stand application:

- One, 20 Ft by 30 Ft Permanent Farm Stand;
- Fifteen , 10 Ft by 20 Ft Temporary Farm Stands;
- One Mobile Food Cart;
- A 36 space Parking Lot on Tax Lot 200;
- A 12 space Temporary Parking Lot on Tax Lot 400;
- One 10 Ft by 10 Ft temporary booth on Tax Lot 400 during blueberry season; and
- Permanent Restroom Facilities connected to an On-Site Sewage Disposal System.

The Farm Stand use shall operate as follows:

- U-pick operation of farm crops;
- Sales from the Farm Stands are limited from May to the end of October of each year;
- Hours of the Farm Stand are limited to 9 am to 6 pm, 7 days a week;
- The Primary Farm Stand shall be operated by Bella Organic Farms or the primary farm operator on the site;
- The Temporary Farm Stands are to be utilized by the independent farmers leasing land on Tax Lot 200, 2N1W22 & Tax Lot 400, 2N1W22D.

## 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 June 26, 2007 and was deemed complete as of August 17, 2007. An “Opportunity to Comment” notice was mailed on October 1, 2007 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 200, Section 22, Township: 2 North, Range: 1 West. Assessment & Taxation records show that the land is owned by Mike & Elizabeth Hashem and they are both designated as the applicants and have 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:** There are no known violations at this time.

2.00 ***Exclusive Farm Use Criteria***

2.01 **MCC 34.2625 Review Uses.**

**(H) Farm Stands when found that:**

- (1) The structures are designed and used for the sale of farm crops or livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items, and fee-based activity to promote the sale of farm crops or livestock sold at**

**the farm stand if the annual sale of incidental items and fees from promotional activity do not make up no more than 25 percent of the total sales of the farm stand; and**

**(2) The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.**

**Staff:** In January 2007, Mike & Elizabeth Hashem purchased 114 acres in the Exclusive Farm Use zone and currently farm a portion of the site as “Bella Organic Farms”. Currently, 50 acres are leased to another farm operator, Cal Farms. Bella Organic Farms will farm a minimum of 25 acres and lease the remaining farm land to individual farmers. A minimum of 1 acre will be leased to each individual farmer. Any acres not leased at planting time will also be farmed by Bella Organic Farms or left fallow. Agricultural products from Bella Organic Farms & the individual farmers may then be marketed through the farm stands and through “U-Pick” operations. Bella Organic Farms will operate a 20 ft by 30 ft farm stand selling their agricultural products & incidentals. The individual farmers may choose to utilize one of the 15 temporary farm stalls in order sell their products on the property. The applicant indicated in his narrative that **“Only product grown on our farm would be allowed to be sold.”** Bella Organic Farms may retail/wholesale farm crops at their stand from other farmers in the area. In addition, the applicant has not indicated that any promotional activities are proposed.

As proposed, the applicant has indicated that incidental items will be sold through the farm stand. He has also indicated that the individual farmers will only be allowed to sell food crops grown on the property. Bella Organic Farm’s stand will sell incidental items from their stand. Each individual farmer will handle the sales for their product. If each farmer is responsible for sales, staff is uncertain how Bella Organic Farms will be able to provide adequate documentation of farm product sales. Each individual farmer is a separate entity. Based on the applicant’s proposal that only Bella Organic Farms will be able to sell retail incidental items, staff has imposed a condition that the incidental retail sales be solely limited to the 20 ft by 30 farm stand & mobile food cart. *As conditioned, these criteria have been met.*

2.02 **OAR 660-033-0130 Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses**

**The following standards apply to uses listed in OAR 660-033-0120 where the corresponding section number is shown on the chart for a specific use under consideration. Where no numerical reference is indicated on the chart, this division does not specify any minimum review or approval criteria. Counties may include procedures and conditions in addition to those listed in the chart as authorized by law:**

\* \* \*

**(23) A farm stand may be approved if:**

**(a) The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand, if the annual sales of the incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and**

**(b) The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does**



**not include structures for banquets, public gatherings or public entertainment.**

**(c) As used in this section, "farm crops or livestock" includes both fresh and processed farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area. As used in this subsection, "processed crops and livestock" includes jams, syrups, apple cider, animal products and other similar farm crops and livestock that have been processed and converted into another product but not prepared food items.**

**(d) As used in this section, "local agricultural area" includes Oregon or an adjacent county in Washington, Idaho, Nevada or California that borders the Oregon county in which the farm stand is located.**

**Staff:** The Land Conservation and Development Commission (LCDC) adopted changes to the farm stand approval standards that became effective on February 15, 2006. At the time this application was filed, June 2007, the County had not yet adopted these provisions. Since these OARs were in effect, the County must apply them directly to this application. The above OARs clarify what are "processed crops and livestock" and that a prepared food item is excluded from being counted as processed crops & livestock. The sale of prepared food items falls into the category of retail incidental items that as a whole may not exceed more than 25 percent of the total annual sales of the 20 ft by 30 ft primary farm stand.

Bella Organic Farms is a new farm operator and has not marketed farm crops from a farm stand on this property in the past. No financial information is available as to the level of economic activity that can be generated by a farm stand at this location. Bella Organic Farms has requested that they be allowed to operate a small mobile food cart as part of their farm stand operation. They have indicated that the ready-to-eat food will be based on the organic produce and fruit grown on the property. No menu, size or location for the food cart has been submitted.

Typically, a farm stand will sell processed crops, but these sales are not intended to be eaten immediately. To add to the farm stand experience, a farm stand may sell seasonally fresh food utilizing their crops to highlight the quality and taste of farm fresh food. While this food is readily consumable and often is, the primary use of the stand is for the sale of farm crops. To ensure that people did not operate a restaurant instead of a farm stand, LCDC separated out prepared food items from other processed crops and made them subject to the 25% retail incidental sales cap. Conditions of approval have been included with this decision to ensure that the proposed operation will stay within the thresholds of a farm stand. *As conditioned, these criteria will be met.*

## **2.03 MCC 34.2660 Dimensional Requirements.**

### **(C) Minimum Yard Dimensions – Feet**

<b>Front</b>	<b>Side</b>	<b>Street Side</b>	<b>Rear</b>
<b>30</b>	<b>10</b>	<b>30</b>	<b>30</b>

**Maximum Structure Height – 35 feet**

**Minimum Front Lot Line Length – 50 feet.**

**(D) The minimum yard requirement shall be increased where the yard abuts a street having in-sufficient 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:** The applicant has submitted a Revised Site Plan (Exhibit A.8) which indicates that it is drawn to the scale of 1” = 60 ft. The Revised Site Plan is not to scale. The Partial Site Plan (Exhibit A.9) is drawn to scale and shows all farm stands will be set back approximately 60 ft to the front property line. The Partial Site Plan does not show the side property lines to the east and west nor the rear property line. A condition of approval has been included requiring the drafting of an accurate site plan drawn to scale, showing that all proposed structures will meet the required setbacks.

Transportation Planning has indicated that Gillihan Road is a Rural Collector and that the County’s standard for Rural Collector right of way width is 60 ft. The Gillihan Road right-of-way is 50 ft wide along these two tax lots. Five additional feet would be required on the north side of Gillihan Road where the farm stands will be placed. This would require that the front yard be increased to 35 ft on Tax Lot 200, 2N1W22. It appears that the farm stands will be able to meet the additional setback. A condition of approval has been included requiring a 35 ft setback from the existing property/right-of-way to allow for compliance with this standard. *As conditioned, this criterion has been met.*

**3.00 Off-Street Parking and Loading Criteria**

**3.01 MCC 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.**

**Staff:** The applicant is proposing to add 3600 sq ft of farm stands to the subject property. This is a new use to the site and off-street parking must be provided.

**3.02 MCC 34.4120 Plan Required**

**A plot plan showing the dimensions, legal description, access and circulation layout for vehicles and pedestrians, space markings, the grades, drainage, setbacks, landscaping and abutting land uses in respect to the off-street parking area and such other information as shall be required, shall be submitted in duplicate to the Planning Director with each application for approval of a building or other required permit, or for a change of classification to O-P.**

**Staff:** The applicant has submitted a plot plan showing a proposed parking lot. The parking lot does not comply with the applicable standards of MCC 34.4100 et al as it does not meet the yard requirements, provide on-site circulation and exceeds the number of driveway access’ allowed by the County’s Road Rules. A condition of approval has been included requiring the redesign of the parking lot to comply with the off-street parking and loading ordinance prior to the commencement of the use.

**3.03 MCC 34.4205 Minimum Required Off-Street Parking Spaces.**

**(E) Unspecified Uses - Any use not specifically listed above shall have the requirements of the listed use or uses deemed most nearly equivalent by the Planning Director.**

**Staff:** The applicant has submitted a site plan with 64 parking spaces proposed and over-flow area. The square footage proposed of temporary farm stands and the primary farm stand is 3,600. In recent farm stand cases, Land Use Planning determined that 1 parking space per approximately 100 sq ft of farm stand was a sufficient amount of parking for these types of

facilities. Multnomah County Code requires retail uses provide 1 parking space per 400 sq ft of area. Retail uses occur within a defined structure. The proposed farm stands do not have a set occupancy load or boundaries and do not accurately reflect actual area utilized for the operation. The farm stand use is an accessory use to the primary use of the property as a farm. The applicant's proposal of 65 parking spaces plus overflow for the 3,600 sq. ft of farm stand space is excessive and does not reflect the use proposed and the applicant's defined limitations. To ensure that an excess amount of high-value farm land is not converted to parking, a condition of approval has capped the maximum parking area on Tax Lot 200 at 36 parking spaces. These spaces should be adequate to serve the farmers coming to the site and customers visiting the farm stand on the weekend.

The farm stands are located on Tax Lot 200. The applicant has indicated that he has U-pick blueberries across the street from the proposed farm stands on Tax Lot 200. Tax Lot 400 is 14+ acres in size and currently has 4 acres of mature plants. The applicant has indicated that he will not be planting any additional berries on Tax Lot 400 due to concerns about pedestrians crossing the road. The remainder of the site will be used probably for nursery stock.

MCC 34.4130(A) requires that parking provided for a use shall be on the property where the use exists. While an exception may be granted by the Planning Director for the use of an alternative site, there must be a safe and convenient route for pedestrians between the parking area and the use. Gillihan Road is a Rural Collector for Sauvie Island. No signal, stop sign or cross-walk is available for pedestrians to provide a safe and convenient route to the berry fields. As such, parking must be provided on the site of the U-pick berries. The U-pick blueberry season runs on Tax Lot 400 runs from around the last week in June to the end of July.

The applicant indicated to staff that during the height of the blueberry picking season, approximately 200 people a weekend will visit his farm. Oregon Department of Agriculture literature indicates when figuring for parking a U-pick business, a farmer should figure 4 individuals per vehicle. That would indicate that over a weekend in July approximately 50 cars will visit his property to pick berries. An even split of the number of vehicles per Saturday and Sunday would mean approximately 25 vehicles would be generated from his U-pick blueberry operation. Since the U-pick operation will be limited to approximately 5 weeks out of the year, a temporary parking lot with gravel or grass is approvable pursuant to MCC 34.4148(B). Based upon the traffic generated, a temporary parking lot of 12 parking spaces on Tax Lot 400 should be able to handle the parking generated by the use. A condition of approval has been added to this decision requiring that a temporary parking lot be delineated and grass or gravel installed on Tax Lot 400 or the applicant can modify his plans to not allow U-pick across the street from the main farm stand and only sell harvested berries from Tax Lot 400 at his stand.

#### 4.00 ***Comprehensive Plan Policies***

##### 4.01 **Policy 36 – Transportation System Development Requirements**

(The portions of this policy applicable to the subject request are the following excerpted policies)

**The County's policy is to increase the efficiency and aesthetic quality of the Trafficways and public transportation by requiring:**

**A. The dedication of additional right-of-way appropriate to the functional classification of the street given in Policy 34 and chapter 11.60.**

**B. The number of ingress and egress points be consolidated through joint use agreements;**

### **C. Vehicular and truck off-street parking and loading areas;**

**Staff:** Staff finds that by their terms, Policies 36A, 36B and 36C are mandatory criteria that are directly applicable to the approval of individual permits. Findings showing compliance with Policy 36C are set forth above in the Sections 3.00 through 3.03 regarding off-street parking. Findings showing compliance with Policy 36A & 36B are below.

Comprehensive Plan Policy 36A calls for dedication of additional right-of-way if a development proposal affects the road system. This policy is implemented through Chapter 29 of the County code and the County road rules. A development proposal affects the road system when it has a *Transportation Impact*. According to County Road Rules 5.300, a Transportation Impact exists when new construction, including alterations, 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. A minimum increase of 10 new trips per day is required to find a transportation impact.

The ITE manual does not provide a trip standard for fruit and vegetable stands. The proposed Tax Lot 200, 2N1W22 will have 16 farm stands. The applicant is proposing 64 parking spaces with an overflow lot. Land Use Planning is authorizing 36 permanent parking spaces on Tax Lot 200. Tax Lot 400 is proposed to have a “U-pick” operation and Land Use Planning is authorizing a 12 space temporary parking lot to be used during the blueberry picking season. Based on the number of parking spaces authorized, an 80 percent occupancy of the parking lot will generate 57 trips per hour on Tax Lot 200 and 19 trips on Tax Lot 400. This is an increased number of trips over the existing farm use and the proposed development will have a transportation impact on Gillihan Road. This road is classified as a Rural Collector facility with a standard right-of-way width of 60 feet. The existing right-of-way of Gillihan Road at the site’s frontage is 50 feet. A right-of-way dedication requirement of 5 feet mitigates the traffic impact because it brings the right-of-way up to the Rural Collector standard at the site’s frontage.

A dedication requirement of 5 feet of right-of-way is proportional to the impact of the project because the development is occurring in a rural area where a smaller number of properties utilize the road system. This means that transportation impacts associated with a given development are greater than what occurs in an urban area where there is a much larger number of properties. A typical farm operation will have minimal trips generated by the existence of the dwelling and its workers coming to the site. In the case of this proposal, the number of farmers and workers are increased from a typical farm as there are multiple operators. In addition, the farm stand(s) and U-pick operation add additional vehicle trips by customers. As described above, the number of increased trips can average 66 trips per hour with the parking lot 80 percent full. The proposed use will generate significantly more trips than a typical farm use of this size. A requirement that the property owners dedicate 5 feet of right-of-way for the length of the two tax lots is incorporated as a condition of approval.

Policy 36B triggers the requirement for application for an access permit in compliance with the Multnomah County Road Rules (MCRR). Those road rules are authorized under MCC 29.500 and are intended to implement applicable policies of the Multnomah County Comprehensive Framework Plan, including policies 33 – 36 [MCRR 2.00]. In addition, the purpose of the rules is to provide a link between the County’s ordinance provisions authorizing road rules and the County’s Design and Construction Manual adopted under the provisions of the road rules [MCRR 2.00]. Furthermore, the street standards are noted as being the street standard rules referenced in the Land Division Code chapters of the County’s zoning ordinance [MCRR 2.00]. The access requirements are authorized pursuant to Statewide Planning Goal 12 and are intended to implement the requirements of the Transportation Planning Rule (TPR). As set

forth above, the TPR includes a mandate to protect the capacity of the transportation facilities by appropriate access restrictions.

MCRR allows the County to require applicants for a new or reconfigured access onto a road under County jurisdiction to provide a plot plan, complete a traffic study, provide an access analysis and a sight distance certification from a registered traffic engineer and to provide such other site-specific information as may be requested by the County Engineer [MCRR 4.000]. This section must be read in conjunction with MCRR 18.250, relating to Access Permits, which defines an “altered” access to be one where a change in the development it serves has a Transportation Impact as defined in Section 6.000 of the road rules [MCRR 18.250(A)(1)]. Under Section 5.000, a transportation impact occurs when any new construction or alteration would increase the number of trips generated by a site by more than 20 percent, by more than 100 trips per day or more than 10 trips in the peak hour [MCRR 5.300].

MCRR 4.200 restricts access to arterials and collectors to one driveway access per property. In this case, the applicant has shown on his Partial Site Plan two existing driveways leading from Tax Lot 200 to Gillihan Road. Right of Way staff was contacted to review driveway permits for this property. Right-of-Way staff found a driveway access permit for the driveway leading to the manufactured dwelling. No permit was found for the second driveway access onto the site. Transportation Planning has determined that only a single access point will be allowed for Tax Lot 200. The applicant will need to close any non-permitted driveway accesses on the two tax lots or obtain necessary permits.

*Comprehensive Plan Policy 36 has been met through conditions of approval.*

#### 4.02 **Policy 37 – Utilities**

(The portion of this policy applicable to the subject request is under the heading “Water and Disposal System”)

##### **Water and Disposal System**

- A. Shall be connected to a public sewer and water system, both of which have adequate capacity; or**
- B. Shall be connected to a public water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system on the site; or**
- C. Shall have an adequate private water system, and the Oregon Department of Environmental Quality (DEQ) will approve a subsurface sewage disposal system; or**
- D. Shall have an adequate private water system and a public sewer with adequate capacity.**

**Staff:** A private well system will be used to provide water for the farm stand operation. The applicant has proposed to provide 4 portable toilets for use by farm stand customers. The provision of portable toilets does not meet the requirements for providing a subsurface sewage disposal system. The applicant has two choices:

1. Provide no restroom facilities for customers and workers; or
2. Provide facilities that are hooked up to an on-site sewage disposal system.

The subject site currently has a septic system for the existing manufactured dwelling. It may be feasible to connect into this existing system. This system can be improved or a second system added to the property to serve the farm stand operations. A condition of approval has been

included giving the applicant these two options. *Comprehensive Plan Policy 37 has been met through a condition of approval.*

#### 4.03 **Policy 38 – Facilities**

**It is the County’s policy to coordinate and encourage involvement of applicable agencies and jurisdiction in the land use process to ensure:**

##### **Fire Protection**

**B. There is adequate water pressure and flow for fire fighting purposes; and**

**C. The appropriate fire district has had an opportunity to review and comment on the proposal.**

**Staff:** The farm stands are within the boundary of and are served by the Sauvie Island Rural Fire Protection District. The applicant has submitted a service provider form from the Fire District signed by a representative of the Sauvie Island Rural Fire Protection District stating that the farm stands are exempt farm structures and exempt from the fire flow processes. The appropriate fire district has had an opportunity to review and comment on the proposal (Exhibit A.5). *Comprehensive Plan Policy 38 has been met.*

#### 4.04 **Police Protection**

**D. The proposal can receive adequate local police protection in accordance with the standards of the jurisdiction providing police protection.**

**Staff:** Multnomah County Sheriff Department has indicated that they can provide adequate police protection for the proposed operation. They have indicated that in October during the height of the operation of the Pumpkin Patch Corn Maze they may have a deficiency in service. This deficiency is not caused by the proposed operation but is an existing condition due to the level of farm stand activities on Sauvie Island during the fall harvest season.

#### 5.00 **Conclusion**

Based on the findings and other information provided above, the applicant has carried the burden necessary for the approval of a Planning Director’s Decision to establish a farm stand in the Exclusive Farm Use district. This approval is subject to the conditions of approval established in this report.

#### 6.00 **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	6/26/07
A.2	1	Site Plan	6/26/07
A.3	1	Narrative	6/26/07
A.4	4	Certification of On-Site Sewage Disposal	6/26/07
A.5	4	Fire District Review Fire Flow Requirements	6/26/07
A.6	4	Statutory Warranty Deed Recorded 1/12/07	6/26/07

A.7	2	Clarification of Farm Stand Operations	8/17/07
A.8	1	Revised Site Plan	8/17/07
A.9	1	Partial Site Plan	8/17/07
<b>‘B’</b>		<b>Staff Exhibits</b>	<b>Date of Document</b>
B.1	2	A&T Property Records for 2N1W22 - 00200	11/19/07
B.2	2	A&T Property Records for 2N1W22D - 00400	6/26/07
B.3	4	Transportation Memorandum	7/5/07
B.4	4	Transportation Memorandum	12/6/07
B.5	1	Sheriff Comments	12/20/07
<b>‘C’</b>		<b>Administration &amp; Procedures</b>	<b>Date</b>
C.1	3	Incomplete Letter	7/20/07
C.2	1	180 Day Response Letter	8/1/07
C.3	1	Complete Letter – Day 1 (8/17/07)	9/20/07
C.4	3	Opportunity to Comment	10/1/07
C.5	15	Administrative Decision	12/21/07