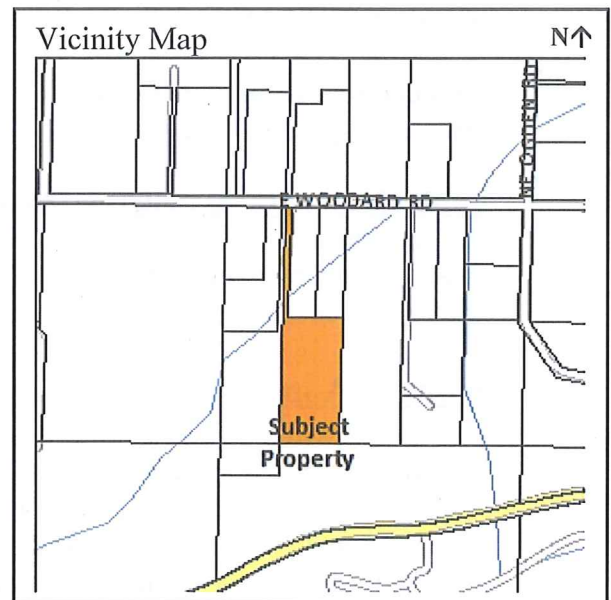


NOTICE OF DECISION

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

Case File: T2-2013-3103
Permit: Accessory Use Determination
Location: 29700 E. Woodard
Tax Lot 1100, Section 31DD
Township 1 North, Range 4 East, W.M.
Tax Account #R944310470
Applicants: Dale Burkholder
Owners: Jim Tarpley Jr. Administrator for the
Estate of Jim Tarpley Sr.
Base Zone: Multiple Use Agriculture - 20
Overlays: Significant Environmental Concern for
stream (SEC-s)



Summary: Applicant is requesting an Accessory Use Determination to legalize an existing addition to a previously reviewed Exempt Farm Agricultural Building. The building is to be used for the raising, breeding and training of the property owner's horses as a Farm Use including sale of the horses within the Multiple Use Agriculture - 20.

Decision: Approved with Conditions

Unless appealed, this decision is effective February 14, 2014, at 4:00 PM.

Issued by:

By: 
George A. Plummer, Planner

For: Karen Schilling- Planning Director

Date: Friday, January 31, 2014

Opportunity to Review the Record: A copy of the Planning Director Decision, and all evidence submitted associated with this application, is available for inspection, at no cost, at the Land Use Planning office during normal business hours. Copies of all documents may be purchased at the rate of 30-cents per page. The Planning Director Decision contains the findings and conclusions upon which the decision is based, along with any conditions of approval. For further information on this case, contact Lisa Estrin, Staff Planner at 503-988-3043, ext. 29152.

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 February 14, 2014, at 4:00 PM

Applicable Approval Criteria: Multnomah County Code (MCC): MCC 35.2800 et. al: Multiple Use Agriculture – 20. Copies of the referenced Multnomah County Code (MCC) 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> or <http://web.multco.us/transportation-planning>.

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 years from the date the decision is final pursuant to MCC 37.0690(A) as applicable. The property owner may request to extend the timeframe within which this permit is valid, as provided under MCC 37.0695, as applicable. The request for a permit extension must be submitted prior to the expiration of the approval period.**

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 property owner shall submit a request to the County Land Use Planning Office for an Exempt Farm Agricultural Building zoning signoff.
2. The subject building shall not be used to board horse unless approved through a Community Service Conditional Use.

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.

Note: Once this decision is final, application for building permits may be made with the City of Gresham. When ready to have building permits signed off, the applicant shall call the Staff Planner, George Plummer at (503) 988-3043 ext. 29152, for an appointment for review and approval of the conditions and to sign the Farm Exempt Agricultural Building plans and form. At the time of the review, a fee of \$32.00 will be collected. In addition, an erosion control inspection fee of \$82.00 may be required.

Findings of Fact

FINDINGS: Written findings are contained herein. The Multnomah County Code (MCC) criteria and Comprehensive Plan Policies are in **bold** font. Staff analysis and comments are identified as '**Staff:**' and address the applicable criteria. Staff comments may include a conclusionary statement in *italic*.

1. Project Description:

Staff: Applicant is requesting an Accessory Use Determination to legalize an existing addition to a previously reviewed Exempt Farm Agricultural Building. The building is to be used for the raising, breeding and training of the property owner's horses as a Farm Use including sale of the horses within the Multiple Use Agriculture – 20.

2. Property Description & History (if needed):

Staff: An addition was built onto the existing agricultural building without obtaining zoning review approval from County Land Use Planning. The existing building was approved through zoning review as an Exempt Farm Agricultural Building on March 28, 1990 (Exhibit B.5). The manufactured home on the property was placed through Permit Number MMH 93 4735 issued July 07, 1993 and finalized on September 20, 1993 (Exhibit A.7).

3. MULTIPLE USE AGRICULTURE – 20 ZONE

3.1. Allowed Uses

MCC 35.2820(A) Farm uses, as defined in ORS 215.203 (2) (a) for the following purposes only:

- (1) Raising and harvesting of crops;**
- (2) Raising of livestock and honeybees; or,**
- (3) Any other agricultural or horticultural purpose or animal husbandry purpose or combination thereof, except as provided in MCC 35.2830 (B).**

MCC 35.2820(F) Accessory Structures:

- (1) Structures or uses listed below when customarily accessory or incidental to any use permitted or approved in this district:**
- (2) If the accessory structure is a building, then to be an "allowed use" the foot print of the building in combination with the foot- print of all other accessory buildings on the property shall not exceed 2500 square feet.**

* * *

(4) Buildings in conjunction with farm uses as defined in ORS 215.203 are not subject to these provisions.

Staff: ORS 215.203 (2) (a) definition of “Farm Use” includes”

“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.” and

“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 us’ includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection.

While a “riding academy or the boarding of horses for profit” requires Community Service Conditional Use permit approval per MCC 35.6015(A)(19) in the MUA-20 zone [MCC 35.2830], horse breeding and training for the commercial sale of the horses is an allowed “Farm Use” per MCC 35.2820(A).

The applicant states that, “the intended use is for the breeding and training horses by the new owners of the property for resale.” The applicant continues stating there will be “no boarding ...” of horses. Due to the rainy climate, it is customary horse farms to have a large building with an arena area for exercise and training. Staff finds the existing building is proposed to be used for a Farm Use Agricultural Building.

Farm use buildings are not limited by any maximum size. A condition of approval can require that the property owner obtain an Exempt Farm Agricultural Building zoning review signoff from County Land Use Planning documenting the building with the addition as a Exempt Farm Agricultural Building. Additionally, a condition can require that the building not be used for horse boarding unless a Community Service Conditional Use approval is obtained for that use. *The building will meet the standard as an Exempt Farm Agricultural Building as a Farm Use if the Conditions are met.*

3.2. Lot of Record

MCC 35.3170(A) In addition to the Lot of Record definition standards in MCC 35.0005, for the purposes of this district the significant dates and ordinances for verifying zoning compliance may include, but are not limited to, the following:

- (1) July 10, 1958, SR zone applied;**
- (2) July 10, 1958, F-2 zone applied;**
- (3) December 9, 1975, F-2 minimum lot size increased, Ord. 115 & 116;**

Lot of Record – Subject to additional provisions within each Zoning District, a Lot of Record is a parcel, lot, or a group thereof that, when created or reconfigured, (a) satisfied all applicable zoning laws and (b) satisfied all applicable land division laws, or (c) complies with the criteria for the creation of new lots or parcels de-scribed in MCC 35.7785. Those laws shall include all required zoning and land division review procedures, decisions, and conditions of approval.

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

Staff: A copy of a Warranty Deed recorded in Book 755, on Page 821 on October 8, 1970 (Exhibit A.4) shows the property existed in 1970 when the property was zoned F-2 (Exhibit B.4). The F-2 Zone had a minimum lot size requirement of two acres (Exhibit B.5). The subject property is 5.6 acres, thus it met the minimum. There were no land division laws for the creation of up to three parcels in 1970. *The property is a Lot-of-Record.*

4. CONCLUSION

Based on the findings and other information provided above, the applicant has carried the burden necessary for the Accessory Use Determination Permit to establish that the addition to the existing building as an Exempt Farm Agricultural Building for raising, breeding and training of horses in the MUA-20 zone. This approval is subject to the conditions of approval established in this report.

5. Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

Exhibit #	# of Pages	Description of Exhibit	Date Received/ Submitted
A.1	1	General Application Form and Letter of Administration for the Estate of James A Tarpley Sr.	10/2/13
A.2	1	Site Plan	10/2/13
A.3	7	Narrative	10/2/13
A.4	1	Warranty Deed recorded in Book 755, on Page 821 on October 8, 1970	10/2/13
A.5	1	2012 aerial photo of the property with the Significant Environmental Concern for Streams Overlay shown	10/2/13
A.6	4	East Multnomah County Soil & Water Conservation District Horse & Livestock management brochure	10/2/13
A.7	5	Gresham Online Permit Tracking System Permit Information for Placement of the Manufactured Home dated 9/16/2013	10/2/13

		a. Stamped Site Plan b. Building Information from RMLS presented by Dale Burkholder c. Title Company Map with Property Identified	
A.8	3	Fire Service Agency Review by Mult. County Fire District #14	10/2/13
A.9	4	Certification of On-Site Sewage Disposal	10/2/13
A.10	1	Storm Water Certificate Signed by Scott Bowman PE	10/2/13
A.11	5	Horse Training & Breeding Stewardship Plan	11/22/13
A.12	1	Email dated 11/12/13 from Sarah Judson to Dale Burkholder discussing Ms. Judson's experience with training and breeding horses	11/22/13
A.13	1	Narrative presenting compatible types of buildings located in Multnomah County	11/22/13
'B'	#	Staff Exhibits	Date
B.1	2	A&T Property Information	NA
B.2	1	A&T Tax Map with Property Highlighted	NA
B.3	1	Current Zoning Map	NA
B.4	1	1962 Zoning Map	NA
B.5	1	1968 F-2 Minimum Lot Area	NA