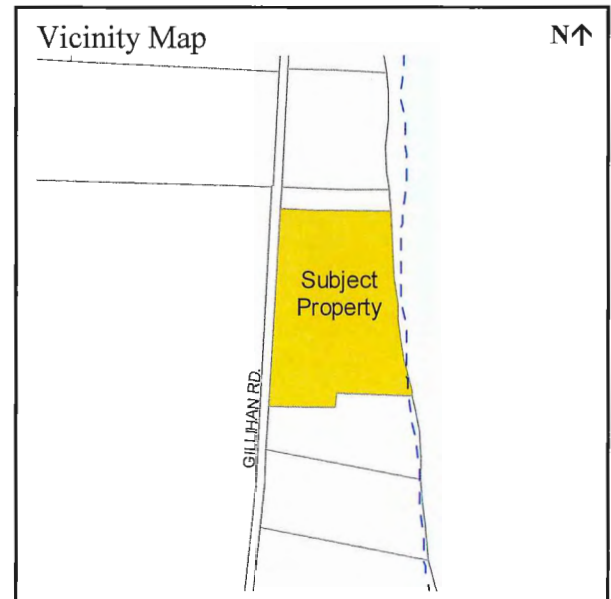


1600 SE 190th Avenue, Portland Oregon 97233-5910 • PH. (503) 988-3043 • Fax (503) 988-3389

NOTICE OF DECISION

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

Case File: T2-2014-3528
Permit: Farm Dwelling on Non-High Value Farmland
Location: 21700 NW Gillihan Road
Tax Lot 501, Section 2N,
Township 1 W, Range 02C, W.M.
#R649890770
Applicants: Julie Cleveland
Owners: Chris and Christeen Egger
Base Zone: Exclusive Farm Use
Overlays: Flood Hazard




Summary: Applicant is requesting approval for a farm dwelling on low-value farm land on a 11.71-Acre parcel pursuant to MCC 34.2625(D)(4). An existing agricultural building on the property will be converted to house the dwelling unit.

Decision: Approved with Conditions

Unless appealed, this decision is effective Thursday, December 4, 2014, at 4:00 PM.

Issued by:

By: 
Don Kienholz, Planner

For: Karen Schilling- Planning Director

Date: Thursday, November 20, 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 Don Kienholz, Staff Planner at 503-988-3043, ext. 29270 or don.d.kienholz@multco.us.

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 Thursday, December 4, 2014 at 4:00 pm.

Applicable Approval Criteria: Multnomah County Code (MCC) and Multnomah County Road Rules (MCRR): 37.0560 Code Compliance; 34.0005 Lot of Record; 34.2625(D)(4) Primary Farm Dwelling on Low Value Farmland; 34.2655 CCR's; 34.2660 Dimensional Requirements; 34.2675 Lot of Record; 34.2690 Access. Multnomah County Road Rules (MCRR): 4.000 Access to County Roads.

Copies of the referenced Multnomah County Code (MCC) and Multnomah County Road Rules (MCRR) 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.

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.

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, Don Kienholz, at (503) 988-3043 ext. 29270 or don.d.kienholz, 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 and an extra site plan with displaying erosion control

methods. At the time of building permit review, a fee of \$70.00 will be collected. In addition, an erosion control inspection fee of \$82.00 may be required.

- 1. This land use permit expires four years from the date the decision is final pursuant to ORS 215.417. The property owner may request to extend the timeframe of the permit one time up to an additional 24-months pursuant to ORS 215.417(2). The request for a permit extension must be submitted prior to the expiration of the four-year approval period.**
- 2. Prior to construction or conversion activities, the owner shall obtain zoning sign-off from Land Use Planning to convert the upper floor of the existing agricultural building to a dwelling unit. The owners shall then apply for a building permit from the City of Portland and complete construction/conversion of the dwelling consistent with all applicable building codes within 4 years of the zoning sign-off [ORS 215.417].**
- 3. Prior to land use sign-off for building permits, the covenant and restrictions listed in "Exhibit A"(Exhibit B.5 in this staff report) in OAR 660-033-0135(9) shall be recorded on the title with the County Recorder on the title of the property [MCC 34.2526(D)(4)(3)].**
- 4. Prior to land use sign-off for building permits, the owner shall record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937 [MCC 34.2655].**
- 5. If the applicant decides to construct a new dwelling outside the foot print of the existing barn proposed to be converted, the property owner shall apply for, and receive approval of, a Grading and Erosion Control Permit. The location of the new dwelling shall meet all applicable development requirements of the underlying zone and overlays [MCC 29.336].**
- 6. The property shall continue to be farmed to be in conjunction with the farm dwelling [MCC 34.2625(D)].**
- 7. Dedicate 10 feet of right-of-way along the site's Gillihan Road frontage to Multnomah County for road purposes. Contact Pat Hinds at (503) 988-5050 Ext. 83712 to complete the easement dedication [MCRR 6.100A].**
- 8. Furnish deed restrictions committing the property owner to participate in future right-of-way improvements for Gillihan Road. Contact Pat Hinds at (503) 988-5050 Ext. 83712 to complete the easement dedication [MCRR 6.100B].**
- 9. Obtain an encroachment for any structures or encroachments within the right-of-way. Please contact Alan Young at (503) 988-3582 to obtain access, encroachment or a right-of-way permit [MCRR 18.250].**

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*.

1.00 Project Description:

Staff: The applicant is seeking to establish a single family dwelling in conjunction with a farm use on the subject parcel through the low-value farm land provision under MCC 34.2625(D)(4). The applicant is proposing to locate the dwelling unit in the upper floor of the existing agricultural structure. However, because this approval is for qualifying the property for a dwelling and a specific location is not required, the dwelling could be located elsewhere.

2.00 Property Description & History:

Staff: The subject property is located off of NW Gillihan Road along the Columbia River. The Sauvie Island levee runs along the eastern boundary of the property leaving roughly $\frac{3}{4}$ of the property available for farm use. The property was once part of a much larger farm but was divided out unlawfully due to minimum lot size requirements. In 2008, the owners underwent a retroactive land division, case T2-08-044, to correct the unlawful land division and create the current Lot of Record. An exempt agricultural structure was constructed on the property and involved with numerous code compliance complaints that were ultimately resolved. Currently, the property is in farm use as discussed in the applicant’s narrative.

3.00 Lot of Record:

MCC 34.0005 Definitions

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 described in MCC 34.7785. 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” shall mean the parcel or lot was created:

- 1. By a subdivision plat under the applicable subdivision requirements in effect at the time; or**
- 2. By a deed, or a sales contract dated and signed by the parties to the transaction, that was recorded with the Recording Section of the public office responsible for public records prior to October 19, 1978; or**

3. By a deed, or a sales contract dated and signed by the parties to the transaction, that was in recordable form prior to October 19, 1978; or

4. By partitioning land under the applicable land partitioning requirements in effect on or after October 19, 1978; and

5. "Satisfied all applicable land division laws" shall also mean that any subsequent boundary reconfiguration completed on or after December 28, 1993 was approved under the property line adjustment provisions of the land division code. (See Date of Creation and Existence for the effect of property line adjustments on qualifying a Lot of Record for the siting of a dwelling in the EFU district.)

(c) Separate Lots of Record shall be recognized and may be partitioned congruent with an "acknowledged unincorporated community" boundary which intersects a Lot of Record.

1. Partitioning of the Lot of Record along the boundary shall require review and approval under the provisions of the land division part of this Chapter, but not be subject to the minimum area and access requirements of this district.

2. An "acknowledged unincorporated community boundary" is one that has been established pursuant to OAR Chapter 660, Division 22.

* * *

MCC 34.2675 LOT OF RECORD

(A) In addition to the Lot of Record definition standards in MCC 34.0005, for the purposes of this district a Lot of Record is either:

(1) A parcel or lot which was not contiguous to any other parcel or lot under the same ownership on February 20, 1990, or

(2) A group of contiguous parcels or lots:

(a) Which were held under the same ownership on February 20, 1990; and

(b) Which, individually or when considered in combination, shall be aggregated to comply with a minimum lot size of 19 acres, without creating any new lot line.

1. Each Lot of Record proposed to be segregated from the contiguous group of parcels or lots shall be a minimum of 19 acres in area using existing legally created lot lines and shall not result in any remainder individual parcel or lot, or remainder of contiguous combination of parcels or lots, with less than 19 acres in area. See Examples 1 and 2 in this subsection.

2. There shall be an exception to the 19 acre minimum lot size requirement when the entire same ownership grouping of parcels or lots was less than 19 acres in area on February 20, 1990, and then the

entire grouping shall be one Lot of Record. See Example 3 in this subsection.

4. The requirement to aggregate contiguous parcels or lots shall not apply to lots or parcels within exception or urban zones (e.g. MUA-20, RR, RC, R-10), but shall apply to contiguous parcels and lots within all farm and forest resource zones (i.e. EFU and CFU), or

(3) A parcel or lot lawfully created by a partition or a subdivision plat after February 20, 1990.

(4) Exception to the standards of (A)(2) above:

(a) Where approval for a "Lot of Exception" or a parcel smaller than 19 acres under the "Lot size for Conditional Uses" provisions has been given by the Hearing Authority and the parcel was subsequently lawfully created, then the parcel shall be a Lot of Record that remains separately transferable, even if the parcel was contiguous to another parcel held in the same ownership on February 20, 1990.

Staff: The property was created in 2008 through a County approved retroactive one lot partition that corrected an unlawful land division. The property has not had its configuration altered since the 2008 partition and therefore continues to be a Lot of Record.

Criterion met.

4.00 Farm Dwelling on Low-Value Farm Land Approval Criteria:

(D) A dwelling, including a mobile or modular home, customarily provided in conjunction with a farm use:

(4) Not high-value farmland soils, \$40,000 income or mid-point of median income range. On land not identified as high-value farmland a dwelling may be considered customarily provided in conjunction with farm use if:

4.01 (a) The subject tract is currently employed for the farm use, as defined in ORS 215.203, that produced in the last two years, three of the last five years, or the average farm income earned on the tract in the best three of the last five years, or the lower of the following:

1. At least \$40,000 in gross annual income from the sale of farm products; or

Staff: The property is owned by Chris and Christeen Egger. The property is currently enrolled in the Farm Deferral Program with Multnomah County Assessment and Taxation (Exhibit B.1). This application was submitted on June 17, 2014 so the applicant must demonstrate the income for the years 2012 and 2013.

The applicant provided receipts for sales in 2013 for tomatoes, green zucchini, green beans, peas, carrots, and beets (Exhibit A.10) totaling \$44,256 and 2012 for heirloom tomatoes, zucchini, green beans and peas totaling \$42,250. The applicant included pricing information for farm crops compiled by the United States Department of Agriculture (Exhibit A.11 and 19) which demonstrates the productivity of the plants and prices charged for the products to generate the gross income is normal.

The farm owners grossed at least \$40,000 in each of the last two years and satisfy the income requirement.

Criterion met.

- 4.02 **(b) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (i.e. seasonal farmworker housing), there is no other dwelling on lands designated for exclusive farm use pursuant to ORS 215 owned by the farm or ranch operator or on the farm or ranch operation. "Farm or ranch operation" shall mean all lots or parcels of land owned by the farm or ranch operator that are used by the farm or ranch operator for farm use as defined in ORS 215.203; and**

Staff: The property owners did own a property in Clackamas County that was zoned for Exclusive Farm Use and included a dwelling. The property owners have sold that property and no longer own a parcel zoned Exclusive Farm Use that contains a dwelling (Exhibit A.13 and 22).

Criterion met.

- 4.03 **(c) The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in subsection (a) of this subsection; and**

Staff: Chris and Christeen Egger, who produced the farm products on the subject property, will occupy the dwelling.

Criterion met.

- 4.04 **(d) In determining the gross income required by subsection (a) of this subsection:**

1. The cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation; and

Staff: The applicant provided the farmers' IRS Schedule F detailing revenue generated from the farm (Confidential Exhibit). Livestock were not included in the farm operation and were not taken into account for the gross income test.

Criterion met.

- 4.05 **2. Only costs and sale prices of livestock that are within a reasonable range of prevailing costs and sale prices in the Oregon and Washington region shall be counted in the determination of gross income. This may be done by comparing actual sales documents to such published livestock value sources as made available by the Oregon Agricultural Statistics Services or the Oregon State Extension Service; and**

Staff: The applicant provided the farmers' IRS Schedule F detailing revenue generated from the farm (Confidential Exhibit). Livestock were not included in the farm operation and were not taken into account for the gross income test.

Criterion met.

- 4.06 **3. Only gross income from land owned, not leased or rented, shall be counted; and**

Staff: All income was generated from the subject parcel, owned by the farm operators.

Criterion met.

- 4.07 **4. Gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used; and**

Staff: Income generated from the subject parcel has not been used to qualify any other parcel in Multnomah County for a farm dwelling. The parcel is the only known parcel zoned for exclusive farm use owned by the farmers.

Criterion met.

- 4.08 **5. For the purposes of this subsection, lots or parcels zoned for farm use in Multnomah County or contiguous counties may be used to meet the gross income requirements; and**

Staff: No other lots or parcels in Multnomah County have been used to qualify the subject property for a dwelling.

Criterion met.

- 4.09 **(e) Prior to the final approval for a dwelling, the applicant shall provide evidence that the covenants, conditions and restrictions form referred to as "Exhibit A" in OAR 660-033-0135(9) has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling.**

1. The covenants, conditions and restrictions shall preclude all future rights to construct a dwelling except for accessory farm dwellings, relative farm help dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215.
2. The covenants, conditions and restrictions shall preclude the use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.
3. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.
4. Enforcement of the covenants, conditions and restrictions may be undertaken by the Oregon Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located.
5. The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section.
6. The County Planning Director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.

Staff: A condition of approval will require the listed covenants to be recorded prior to land use sign-off for building permit review.

Criterion met with condition of approval.

5.00 Exclusive Farm Use Development Requirement and Standards:

5.01 MCC 34.2655 SINGLE FAMILY DWELLINGS CONDITION OF APPROVAL - PROHIBITION ON CLAIMS ALLEGING INJURY FROM FARM OR FOREST PRACTICES

As a condition of approval of a single family dwelling, the landowner for the dwelling shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

Staff: A condition of approval will require recording a covenant to satisfy this standard.

Criterion met with condition of approval.

5.02 **MCC 34.2660 DIMENSIONAL REQUIREMENTS**

(A) Except as provided in MCC 34.2675, the minimum lot size for new parcels shall be 80 acres in the EFU district.

Staff: No new parcels are proposed.

Criterion met.

5.03 **(B) That portion of a street which would accrue to an adjacent lot if the street were vacated shall be included in calculating the size of such lot.**

Staff: Since no new parcel is proposed, lot size is not applicable.

Criterion met.

5.04 **(C) Minimum Yard Dimensions - Feet**

Front	Side	Street Side	Rear
30	10	30	30

Maximum Structure Height – 35 feet

Minimum Front Lot Line Length – 50 feet.

Staff: The proposed dwelling will be located on the second story of an existing agricultural building. The existing building satisfies the setback requirements, including the front yard setback which is 40-feet since NW Gillihan does not have the required 60-feet of Right-of-Way. The structure is less than 35-feet in height. Since no new parcel is being proposed, the minimum front lot line length is not applicable.

Criteria met.

5.05 **(D) The minimum yard requirement shall be increased where the yard abuts a street having insufficient 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: NW Gillihan Road only has 40-feet of right-of-way, less than the minimum 60-feet required as a Rural Collector. The location of the existing structure proposed for conversion to the dwelling is over 250-feet from the front property line, providing more than enough of a setback for right-of-way dedication while also ensuring the 30-foot setback requirement.

Criterion met.

- 5.06 (E) Structures such as barns, silos, windmills, antennae, chimneys or similar structures may exceed the height requirement if located at least 30 feet from any property line.

Staff: The existing agricultural building the dwelling unit is proposed to be located in is under 35-feet in height.

Criterion met.

6.00 Access and Transportation Standards:

MCC 34.2690 ACCESS

All lots and parcels in this district shall abut a public street or shall have other access determined by the approval authority to be safe and convenient for pedestrians and for passenger and emergency vehicles. This access requirement does not apply to a pre-existing lot and parcel that constitutes a Lot of Record described in MCC 34.2675(C).

MCRR 4.000 Access to County Roads

MCRR 4.100 Required Information: Applicants for a new or reconfigured access onto a road under County Jurisdiction may be required to provide all of the following:

- A. Site Plan;
- B. Traffic Study-completed by a registered traffic engineer;
- C. Access Analysis-completed by a registered traffic engineer;
- D. Sight Distance Certification from a registered traffic engineer; and
- E. Other site-specific information requested by the County Engineer

Staff: An existing driveway serves the property and is permitted under access permit number 62458 issued on September 8, 2004 for previous development of the site.

All required information has been submitted.

MCRR 4.200 Number: Reducing the number of existing and proposed access points on Arterials and Collectors and improving traffic flow and safety on all County roads will be the primary consideration when reviewing access proposals for approval. One driveway access per property will be the standard for approval. Double frontage lots will be limited to access from the lower classification street. Shared access may be required in situations where spacing standards cannot be met or where there is a benefit to the transportation system.

Staff: The subject property is served by one approved driveway.

This standard is met

MCRR 4.300 Location: All new access points shall be located so as to meet the access spacing standards laid out in the Design and Construction Manual.

Staff: An existing driveway serves the property and is permitted under access permit number 62458 that meets these standards.

MCRR 4.400 Width: Driveway and Accessway widths shall conform to the dimensions laid out in the Design and Construction Manual.

Staff: For a Single Family Residential use, a driveway must be 12-25 feet wide. The approved driveway is approved and meets these standards.

MCRR 4.500 Sight Distance: All new access points to roads under the County's jurisdiction must have a minimum sight distance equal to the standards in the Design and Construction Manual and AASHTO's A Policy on Geometric Design of Highways and Streets.

Staff: Multnomah County Road Rules Section 4.500 states that access points to roads under the County's jurisdiction must have a minimum sight distance equal to the standards in the County Design and Construction Manual or AASHTO's A Policy on Geometric Design of Highway and Streets. The approved driveway meets these standards.

MCRR 5.000 Transportation Impact

MCRR 5.100 To determine if a Transportation Impact is caused by a proposed development, the County Engineer will determine the number of new trips generated by a site by one of the following methods:

A. Calculations from the most recent edition of the Institute of Transportation Engineers' Trip Generation (ITE); or

B. A site development transportation impact study conducted by a professional engineer registered in the State of Oregon and accepted by the County.

MCRR 5.200 The County Engineer will use the information obtained pursuant to subsection 5.100 and/or the frontage length of the subject property to determine the pro-rata share of the requirements set forth in Section 6.000.

MCRR 5.300 Except where special circumstances require the County Engineer to make an alternate determination, any new construction or alteration which will 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 shall be found to have a *Transportation Impact*. A minimum increase of 10 new trips per day is required to find a transportation impact.

Staff: The Multnomah County Road Rules defines a Transportation Impact as the affect of any new construction or alteration which will 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 [MCRR 3.000]. A minimum increase of 10 new trips per day is required to find a transportation impact.

According to the ITE Manual, 8th Edition, a Single Family Residential generates 10 trips trips per day. The property is currently used for agricultural use only; therefore a transportation impact will be caused by the proposed development since trips generated by the site will be increased with the single family residential use.

MCRR 6.000 Improvement Requirements

MCRR 6.100 Site Development: The owner of the site or the applicant for a proposed development, which is found to cause a Transportation Impact will be responsible for improvements to the right-of-way as follows:

A. Dedication Requirement***

Staff: The County standard right of way width for a Rural Collector facility (Gillihan Road) as identified in Functional Classification Map facility is 60 feet. Currently, the right-of-way width is 40 feet. The applicant is required to dedicate 10 feet in order to achieve a proportional share of this standard. This right of way will be used to improve the roadway to serve growing travel demand, which in part will be generated by this proposed action. A condition of approval has been included for the dedication. Staff will note that there is currently a fence that may or may not end up being located within the right-of-way once the 10 foot dedication is made. If the fence is within the right-of-way, an encroachment permit will need to be obtained for the fence to remain within the right-of-way.

As conditioned, this condition is met.

B. Frontage Improvement Requirements***

Staff: Frontage improvements are not required to be constructed at this time by the applicant. A non-remonstrance agreement, or “deed restriction” will require that the property participate in standard Rural Collector road improvements along the site’s frontage that are not completed as a part of the site’s required interim improvements. A condition has been included for the deed restriction.

As conditioned this standard is met.

7.00 Timeline for Completion:

Staff: Generally speaking, the construction of a single family dwelling follows the timelines established in state law and MCC 37.0690. ORS 215.417 states:

ORS 215.417 Time to act under certain approved permits; extension.

(1) If a permit is approved under ORS 215.416 for a proposed residential development on agricultural or forest land outside of an urban growth boundary under ORS 215.010 to 215.293 or 215.317 to 215.438 or under county legislation or regulation, the permit shall be valid for four years.

(2) An extension of a permit described in subsection (1) of this section shall be valid for two years.

(3) For the purposes of this section, “residential development” only includes the dwellings provided for under ORS 215.213 (3) and (4), 215.284, 215.317, 215.705 (1) to (3), 215.720, 215.740, 215.750 and 215.755 (1) and (3)

The property owner has established a two story agricultural building on site and is proposing to establish the farm dwelling on the upper floor of the structure. This will require conversion of the structure from an agricultural building exempt from building permits to a residential structure subject to the building code. Because the structure is already built, the expiration language of MCC 37.0690(B)(2) and (C)(2) does not fit the project. The Planning Director is providing an alternative timeline consistent with statute and the concepts in MCC 37.0690 on the time to act and final this land use permit. The following does not impose a more stringent timeline, but allows for the same amount of time to complete the conversion of the existing agricultural building into a residential structure.

ORS 215.417 provides four years for dwellings on farm land to be established with the possibility of one two-year extension. Under statute, the property owner has four years from the date this decision becomes final to obtain zoning-sign off for building permits and complete the conversion of the agricultural building to the proposed single family dwelling consistent with all applicable building codes.

These timelines are adopted as Conditions of Approval #1 and 2.

8.00 Conclusion

Based on the findings and other information provided above, the applicant has carried the burden necessary for the establishment of a dwelling on non-high value farm land in the Exclusive Farm Use zone. This approval is subject to the conditions of approval established in this report.

9.00 Exhibits

‘A’ Applicant’s Exhibits

‘B’ Staff Exhibits

Exhibits with a “*” after the exhibit # have been included as part of the mailed decision. All other exhibits are available for review in Case File T2-2014-3528 at the Land Use Planning office.

Exhibit #	# of Pages	Applicant Exhibits
A.1	1	General Application Form
A.2	2	Request for Waiver of Pre-Filing Conference
A.3	4	June 17, 2014 Narrative
A.4	1	June 17, 2014 Site Plan
A.5	2	Septic Certification Form and Stamped Site Plan
A.6	2	Fire Agency Review Form
A.7	1	Storm Water Certification Form
A.8	1	Copy of Driveway Permit #62458
A.9	4	Farm Income Information [Confidential]
A.10	4	Receipts of Sales of Farm Products Grown on Site

A.11	30	USDA Commodity Price Index
A.12	6	Oregon State University Crop Yield Information
A.13	1	Clackamas County Property Account Summary Showing New Owner of Previously Owned Property in Clackamas County
A.14	2	Copy of Partition Plat 2009-20 Creating Lot of Record for Subject Property
A.15	4	Photos of Crop Production During 2012 and 2013
A.16	1	Interior Photos of Existing Exempt Agriculture Building to be Converted to Dwelling Unit
A.17	2	July 1, 2014 Septic Certification Form and Stamped Site Plan
A.18	4	July 1, 2014 Updated Narrative
A.19	30	Copy of USDA Produce Prices
A.20	1	Applicant Response Submitted August 12, 2014
A.21	1	Summary of Additional Materials Submitted August 12, 2014
A.22	3	Bargain and Sale Deed of Farmers' Clackamas County Property Zoned EFU with Dwelling
A.23	4	IRS Schedule 'F' for Farm Income [Confidential]
'B'	#	Staff Exhibits
B.1	2	A&T Property Information
B.2	3	July 17, 2014 Incomplete Letter
B.3	1	August 13, 2014 Complete Letter
B.4	6	September 2, 2014 Opportunity to Comment and Mailing List
B.5	1	Covenant and Restrictions for Tolerance of Farming Practices



MULTNOMAH COUNTY

CONDITIONS AND RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS THAT I _____
the Owner of the following described real property located in Multnomah County, Oregon to wit;

Recorded in Book _____, Page _____, on _____ in the
Multnomah County Book of Records, does hereby acknowledge on behalf of himself, his/her heirs,
legal representatives, assigns and lessees by the placement of this covenant or the acceptance and
recording of this instrument that the property herein described is situated in or adjacent to an
agricultural/forest zone in Multnomah County, Oregon and as such may be subjected to common and
accepted farming practices (as defined by ORS 215.203) or accepted forest practices (as defined by
ORS 527.610 to 527.730) such as pesticide and herbicide spraying, weed cutting, slash burning,
irrigating, field plowing, harvesting, and any other accepted farming or forest practice. Said practices
above enumerated ordinarily and necessarily produce noise, dust, spray residue, smoke, vapor, and
other types of visual, odor, or noise pollution, which grantee accepts as a normal and necessary
farming or forest practice and as part of the risk of purchasing a residential dwelling in a farm or forest
area.

Dated this _____ day of _____, 20____

Signature

State of OREGON

County of _____

This instrument was acknowledged before me on _____, 20____ by _____

Notary Public - State of Oregon

