

STAFF REPORT to the PLANNING COMMISSION

For the May 1, 2017 Public Hearing

FARM STAND PROVISIONS

(CASE FILE: PC -2017-7340)

Staff contact: Rich Faith

1.0 BACKGROUND

State law has included farm stands as an allowed use in the EFU zone since 1993. The EFU statute was amended in 2001 to allow farm stands to also sell incidental items not related to the farm operation and to have limited agricultural promotional activities (ie. agri-tourism). In order to ensure that sale of incidental products and having promotional activity is secondary to the sale of farm crops or livestock grown on the farm operation, a key provision of the farm land statute limits the annual sale of incidental items and fees from promotional activities to no more than 25 percent of the total annual sales of the farm stand.

A County cannot prohibit a farm stand, but it can adopt local siting and design standards regulating the use, particularly with respect to permissible promotional activities. Generally speaking, state law allows a farm stand to hold a broader range of promotional activities than the stand alone agri-tourism statute allows.

Farm stands were a major topic of discussion in the Sauvie Island/Multnomah Channel (SIMC) Rural Area Plan meetings primarily due to the number, scale and type of commercial agritainment events that farm stands on the Island are already having and the impacts of these events on those who live there. In an attempt to rein in these agritainment events, the SIMC Plan included detailed policies that established standards for farm stand operations. These standards include a tiered review process depending on farm stand size and whether or not promotional activities are held. The standards also clarify what types of farm related promotional activities a farm stand can hold.

Farm stand policies from the SIMC Rural Area Plan were carried over to the County Comprehensive Plan and modified slightly to apply countywide. These policies are shown in Attachment A. The proposed zoning code amendments are consistent with these policies, which are quite prescriptive in the standards that would be applied to farm stands.

2.0 PROPOSED CODE AMENDMENTS

The Planning Commission held two work sessions on the draft code amendments – December 5, 2016 and January 27, 2017. The Planning Commission requested some revisions to the draft amendments at those work sessions, most of which were in response to written comments submitted by Mr. Mark Greenfield.

At the January work session, the Planning Commission discussed at length whether farm stands should continue to be allowed by conditional use permit in the MUA-20, RR and SRC zones within the East of Sandy River Planning Area (MCC Chapter 35). This is the only area where farm stands are allowed outside of the EFU zone. The proposed amendments carry out the Planning Commission's direction that farm stands only be allowed in EFU zones, thus eliminating them as a conditional use in the three other zones of MCC Chapter 35 that currently allow them. However, it is important to note that the review use of "wholesale or retail sales of farm products raised or grown on the premises" will continue to permit "produce stands" in these three zones.

At the last work session, the Planning Commission also devoted much discussion to the 1,000 square feet maximum size standard for farm stand structures. The Commission was curious about where this figure came from and whether it is based on sound data. The response to that question is that the number is based upon measurements taken from aerial photos that staff made of several high profile farm stands in and around the Portland Metro area. These farm stand structures averaged roughly 800 s.f. in size; staff adjusted the number up by another 25% to provide an additional cushion in the proposed standard.

Similar questions were raised about the proposed two acre maximum land area that farm stand structures and associated permanent parking can occupy. The figure was taken directly from the farm land policy in the Comprehensive Plan, which in turn had been carried over from the Sauvie Island Multnomah Channel Rural Area Plan. The two acre number is based on a cursory review of Sauvie Island farm stands conducted by staff and members of the SIMC Plan agriculture subcommittee.

Summary of Amendments

The major elements of the proposed code amendments relating to farm stands are summarized as follows:

- ❖ Removes farm stands as a conditional use in those zones East of Sandy River where it is currently listed -- Chapter 35 MUA-20, RR, and SRC
- ❖ Repeals Sections 35.6750, Definitions, and 35.6760, Criteria for Approval, pertaining to farm stands as conditional uses.
- ❖ Adds a definition of "promotional activity" to clarify what qualifies and what does not.
- ❖ Establishes tiered permit requirements based on the size of the farm stand operation or the inclusion of promotional activity as part of the farm stand operation.
- ❖ Sets a maximum area of 1,000 s.f. for all farm stand structures.
- ❖ Sets two acres as the maximum land area that can be occupied by farm stand structures and associated permanent parking.

- ❖ Limits the area that can be used for promotional activity, including temporary parking area, to five acres or five percent of the farm stand property, whichever is less.
- ❖ Prohibits gravel surfacing of temporary parking areas or to be otherwise rendered unusable for agriculture.
- ❖ Limits amplified sound at promotional events to the hours of 9:00 AM to 8:00 PM.
- ❖ Requires farm stand operators to submit an annual financial report that certifies compliance with the 25% sales limitation for incidental items and promotional activity.
- ❖ Amends the Off-Street Parking section of the code to remove “farm stands” as a specific use or activity where temporary field parking may be surfaced with gravel.

Proposed Zoning Code Amendments

Staff Note:

Existing text to be deleted is shown with ~~strikeout~~.

New text being added is shown with **bold underline**.

EFU Review Uses in Chapters 33, 34, 35, and 36

§ 33.2625 REVIEW USES

§ 34.2625 REVIEW USES

§ 35.2625 REVIEW USES

§ 36.2625 REVIEW USES

.....

(G) ~~A farm S~~stands ~~when found that~~ **subject to 33(34,35,36).6750 through .6765**

~~(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 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.~~

~~(3) 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.~~

(4) ~~As used in this section, “local agricultural area” includes Oregon or an adjacent county in Washington that borders Multnomah County.~~

Chapter 35 –East of Sandy -- Conditional Uses in MUA-20, RR and SRC.

Staff Note: The following stricken text occurs only in Chapter 35 and is specific to farm stands listed as a conditional use in the MUA-20, RR and SRC zones.

§ 35.2830 *CONDITIONAL USES IN MUA-20*

.....

~~(F) A farm stand subject to MCC 35.6750 and MCC 35.6760.~~

§ 35.3130 *CONDITIONAL USES IN RR*

.....

~~(E) A farm stand subject to MCC 35.6750 and MCC 35.6760.~~

§ 35.3330 *CONDITIONAL USES in SRC*

.....

~~(E) A farm stand subject to MCC 35.6750 and MCC 35.6760.~~

FARM STANDS

~~§ 35.6750 — DEFINITIONS~~

~~(A) *Local agricultural area* — Oregon or an adjacent county in Washington that borders Multnomah County.~~

~~(B) *Farm crops or livestock* — 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.~~

~~§ 35.6760 — CRITERIA FOR APPROVAL~~

~~(1) The parcel where the farm stand is located is adjacent to the Historic Columbia River Highway (Highway) or has road frontage on a County maintained road that intersects with the Highway. A portion of the parcel’s road frontage shall be within 500 feet, as driven, from the Historic Columbia River Highway.~~

~~(2) The farm stand is 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 more than 25 percent of the total sales of the farm stand.~~

~~(3) A farm stand operation that includes fee-based activities shall be located on a lot of with a minimum lot size of five acres and 75 percent of the lot must be used in the farm operation. The farm stand shall be open for retail sales of farm crops and livestock during all hours that fee-based activities are offered.~~

~~(4) 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.~~

~~(5) The proposed farm stand shall meet the criteria in MCC 35.6315.
(Ord. 1198, Added, 03/14/2013)~~

FARM STANDS

33 (34, 35, 36).6750 PURPOSES

The purposes of these regulations are to limit the area, location, design, and function of farm stand promotional activities, events and farm gatherings to the extent allowed by law in order to retain a maximum supply of land in production for farm crops or livestock, to ensure public health and safety, to minimize impacts on nearby farming operations, residents, roads, traffic circulation, wildlife and other natural resources, and to maintain the rural character.

33 (34, 35, 36).6755 DEFINITIONS

As used in MCC 33(34, 35, 36).6750 through 33(34, 35, 36).6765, the following words shall have the following meaning:

~~(3) As used in this section, “fFarm crops or livestock” includes - b~~**F**~~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, “p~~**P**~~rocessed farm 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.~~

~~(4) As used in this section, “lLocal agricultural area - includes Oregon or an adjacent county in Washington that borders Multnomah County.~~

Prepared Food Items -- Food that has been prepared and is sold for immediate consumption.

Promotional Activity – A fee-based activity, gathering or event in conjunction with a farm stand that promotes the contemporaneous sale of farm crops or livestock from the farm stand and whose primary purpose is significantly and directly related to the farming operation. Permissible farm stand promotional activities include harvest festivals, corn mazes, hayrides, farm animal exhibits, small farm-themed gatherings such as birthday parties and picnics, school tours, musical entertainment (but not concerts), farm product food contests and food preparation demonstrations, and similar activities. Fee-based activities, such as weddings, corporate retreats, family reunions, anniversary gatherings, concerts, amusement park rides, sporting events and other activities for which the primary focus is the underlying cause for the gathering or activity rather than the farm operation and the sale of farm crops, are prohibited. Farm-to-plate meals can also be a promotional activity if more than 50 percent of the food making up the farm-to-plate meal comes from farm crops or livestock grown on the farm.

33 (34, 35, 36).6760 FARM STAND PERMITS

(A) A farm stand that occupies one acre or less, inclusive of parking area, ingress and egress driveways, product display area outside the farm stand structure, and has no promotional activities, shall be reviewed as a Type I permit.

(B) A farm stand that occupies more than one acre, inclusive of parking area, ingress and egress driveways, product display area outside the farm stand structure, or has one or more promotional activities, shall be reviewed as a Type II permit.

33 (34, 35, 36).6765 STANDARDS FOR FARM STANDS

(A) The farm stand is associated with and located on the same lot, parcel or tract as an active farm operation.

(1) Not more than one farm stand permit, whether Type I or Type II, shall be granted per farm tract.

(2) Not more than one Type II farm stand permit shall be granted where any Person has a financial or operational interest in more than one farm operation or in an farm operation occurring on more than one lot, parcel or tract. The prohibition in this paragraph applies, but is not limited, to those instances in which more than one legal entity has a financial or operational interest in the active farm stands described in this paragraph and one or more individuals has a financial or operational interest in such entities.

(B) One or more structures may be approved as part of the farm stand provided that such 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. Whether permanent or temporary, structures for banquets, public gatherings or public entertainment and structures designed or used for occupancy as a residence or for activity other than the sale of farm crops and livestock are prohibited.

(C) The sale of retail incidental items may occur in farm stand structures. Promotional activity shall occur outside of farm stand structures. The farm stand shall be open for retail sales 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, during the hours that promotional activity is offered.

(D) The annual gross revenue derived from the sale of retail incidental items and from fees collected for promotional activity, including sales made and fees collected by third parties, shall not make up more than 25 percent of the total gross annual revenue of the farm stand. When taken together, the nature and extent of the farm stand promotional activity shall be reasonable in light of the 25 percent limitation set forth in this subsection in relation to the total gross annual revenue of the farm stand. On an annual, calendar-year basis, and prior to July 1 of each year, the farm stand operator shall submit a written statement prepared by a certified public accountant that certifies compliance with the 25 percent limitation set forth in this subsection for the previous tax year. The compliance statement required in this subsection shall be submitted on the form and in the manner directed by the County.

(E) The square footage of all farm stand structures shall not exceed 1,000 square feet.

(F) The maximum land area occupied by farm stand structures and associated permanent parking shall be two acres.

(G) As compared to other alternatives, the siting of the farm stand, together with all associated structures, promotional activity areas, parking areas, and vehicular and pedestrian traffic circulation routes, or any part thereof, minimizes the amount of land area removed from the agricultural land base and, secondarily, minimizes interference with agricultural operations on adjacent lands.

(H) The amount of land used for promotional activity, including temporary parking, shall not exceed five percent or five acres of the property on which the farm stand is located, whichever is less, and is the minimum amount necessary to serve the promotional activity.

(I) Temporary parking for promotional activity may occur on high-value soils only if non-high-value soils are unavailable and the final harvest of the area to be used for temporary parking occurs prior to commencement of the temporary parking use or the area to be used for temporary parking was not farmed during the current growing season. The temporary parking area shall not be graveled or otherwise rendered unusable for agriculture in the following growing season and may not be permanently taken out of agricultural production in order to serve as a temporary parking area.

(1) No mud, dirt, rock or other debris from the temporary parking area shall be deposited upon a public road. If these materials are tracked onto a public road, the event operator shall be responsible for its immediate removal.

(J) There shall be no charge or fee collected for the parking of vehicles in either permanent or temporary parking areas. Permanent parking areas are to remain available for public parking during all hours that the farm stand is open to the public and may not be used for promotional activity or occupied by picnic tables, sales displays, or other structures that obstruct the parking use.

(K) No artificial amplification of sound shall occur before 9:00 AM or after 8:00 PM. At no time shall a promotional event generate noise above 60 dB(A) (decibels adjusted) at the property lines. (Note: The sound intensity of 60 decibels is comparable to conversations in a public place like a restaurant.)

(L) Farm stand signage shall comply with the applicable provisions of MCC 33(34,35,36).7400 through 33(34,35,36).7505.

(M) Exterior lighting shall be in compliance with the dark sky lighting standards of MCC 33(34, 35, 36).0570)

OFF-STREET PARKING AND LOADING

§ 33 (34, 35, 36).4180 IMPROVEMENTS

(A) Surfacing

(1) Except as otherwise provided in this section, all areas used for parking, loading or maneuvering of vehicles, including the driveway, shall be surfaced with at least two inches of blacktop on a four inch crushed rock base or at least six inches of Portland cement, unless a design providing additional load capacity is required by the fire service provider, building official or County Engineer, as applicable.

...

(3) Notwithstanding paragraph (A)(1) of this section, parking fields for intermittent uses such as special events associated with ~~farm stands and~~ public parks, sporting events, and the like may be surfaced with gravel, grass or both and spaces may be unmarked if the parking of vehicles is supervised. Grass fields used for parking shall be maintained so that grass is kept short and watered to minimize fire risk and reduce dust.

3.0 ATTACHMENTS

Attachment A -- Comprehensive Plan policies pertaining to farm stands