

Appendix 2: Agriculture & Agri-Tourism Background Report

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Introduction

Appendix 2 – Agriculture and Agri-Tourism Background Report is the second of a series of topic-specific background documents that are intended to serve as the factual and analytical basis for the 2013-2015 update of the *Sauvie Island – Multnomah Channel Rural Area Plan and Transportation System Plan* (SIMC Plan). Appendix 2 resulted in large part from the work and recommendations of the SIMC Community Advisory Committee (CAC), the SIMC Technical Advisory Committee (TAC) and most particularly the Agriculture and Agri-Tourism Subcommittee, comprised of select CAC and TAC members who expressed an interest in and knowledge of the complex issues addressed in this report. Subcommittee members who actively participated in the preparation of this appendix include the following:

CAC Subcommittee Members

- Mike Hashem, Bella Organics Farm Stand
- Mark Greenfield, Hobby Farmer
- Diane Kunkel, Columbia Farms
- Cindy Reid, Island Resident

TAC Subcommittee Members

- Katherine Daniels, Oregon Department of Land Conservation & Development
- Jim Johnson, Oregon Department of Agriculture
- Erin Mick, Portland Bureau of Development Services

Relation of Appendix 2 to the SIMC Plan

The SIMC Plan will include a vision statement, plan policies, and maps. The SIMC Plan will also include basic explanatory text and tables, as well as composite inventory maps – but the detailed substantive and procedural information leading up to the adoption of the SIMC Plan is found in the series of appendices listed below. To become effective, the SIMC Plan must be “acknowledged” as complying with all applicable statewide planning goals; findings documenting compliance with these goals is found in Appendix 7.

The seven appendices listed below will provide the detailed inventory information and analysis, consideration of alternative policy choices, explanation of the reasons for ultimate policy choices, and documentation of the robust community engagement effort that culminated in plan adoption. Unlike the SIMC Plan, the appendices are not intended to serve as policy documents in themselves – but do provide the information required by Statewide Planning Goals 1 (Citizen Involvement) and 2 (Land Use Planning) necessary to support the County’s ultimate policy choices.

- Appendix 1: SIMC Scoping Report (CH2M Hill)
- Appendix 2: Agriculture and Agri-Tourism
- Appendix 3: Marinas and Floating Homes
- Appendix 4: Natural and Cultural Resources
- Appendix 5: Public and Semi-Public Facilities

- Appendix 6: Transportation
- Appendix 7: Consistency with Applicable Statewide Planning Goals

Focusing on topical areas is useful when identifying and resolving specific issues. Agriculture and agri-tourism issues (most particularly farm stands) have been foremost on the minds of Island residents for many years. However, focusing attention on any specific issue can lose sight of the big picture. For this reason, the CAC will hold a special meeting towards the end of the community involvement process to consider and integrate the results of each topical appendix. Moreover, the SIMC plan will fully integrate the series of topical issues and policies into a cohesive and internally consistent rural area planning document.

Maps & Figures

1. Zoning Map (EFU & MUA-20)
2. Soils Map (by Soil Classification)

Section 1: Key Agriculture and Agri-Tourism Issues

The following issues are quoted directly from the May 6, 2013 staff report to the Multnomah County Planning Commission related to PC-2013-2659 (Scoping Report in support of updating to the 1997 Sauvie Island – Multnomah Channel Rural Area Plan).

Land Use:

1. Concern regarding the types and degree of promotional activities at farm stands and related offsite impacts.
2. Desire to examine the pros and cons of agri-tourism and to form a consensus around the issue of what should or shouldn't be allowed on Sauvie Island farms with respect to farm stands and events.
3. Concern for maintaining the rural character and agricultural nature of Sauvie Island.

Transportation:

1. Need for strategies that reduce traffic conflicts between modes on Sauvie Island roads, particularly between bicycles and motorists, but also including farm equipment and pedestrians.

Agricultural/Rural lands:

1. Explore creation of design review standards for permitting of farm stands and farm stand related activities. Include consideration of cumulative traffic impacts, parking, sanitation, and noise, hours of operation, etc.
2. Consider policy addressing non-profit events and mass gatherings. Currently these are not treated as land uses under state law. However their impacts are land use and transportation related so there should be some requirements (Design Review) regarding parking, traffic impacts, sanitation, noise, and other offsite impacts for those who hold larger events and/or events with some regularity.
3. Consider a policy creating standards for annual reporting of farm stand retail sales and incidentals in order to insure adherence to the 75/25 rule, which limits sales of incidental items to no more than 25 percent of the total farm-stand retail sales.
4. Build consensus around and develop a policy regarding the question of whether limited agri-tourism activities should be allowed (via SB 960) or no additional agri-tourism outside what is currently allowed by way farm-stand related activity.
5. Explore possible zoning code amendments that would allow two tiers of review for farm stands to separate out basic farm stand from farm stand with promotional activities and events.
6. Consider policy acknowledging farm stand role as source of food and incidentals for local residents and tourists – partially fulfilling the role of 'Rural Center' uses that are lacking on the island. (Note that new 'Rural Center' zones are not possible under the Rural Reserve Designation).

Consider new RAP policy that promotes coordination with ODFW and Columbia County regarding managing impacts of beach users such as traffic, parking (and parking fees), and litter. Section 2: Inventory & Analysis

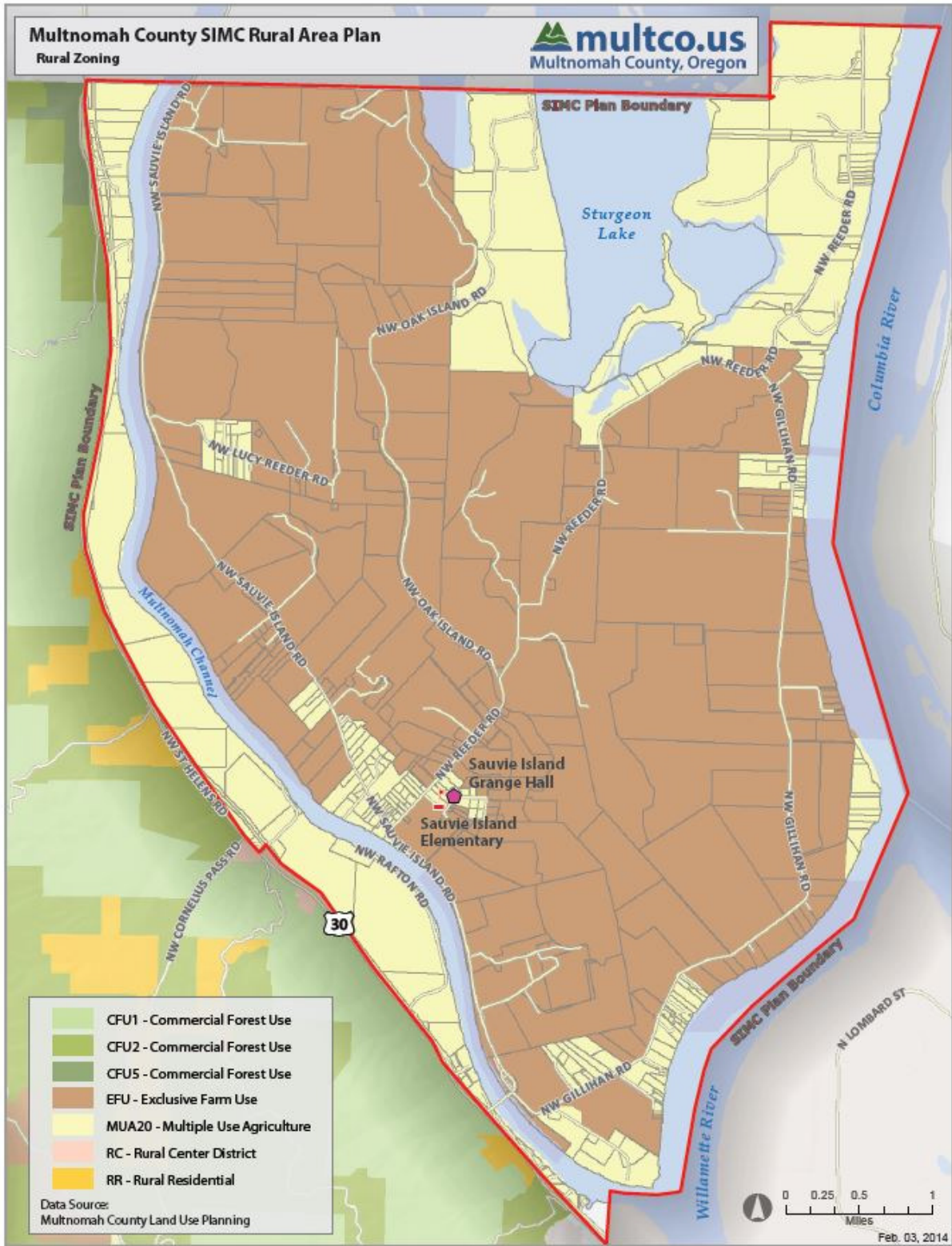
This report focuses on land uses in the County’s Exclusive Farm Use (EFU) and Mixed Use Agricultural (MUA-20) zones. See Multnomah County Comprehensive Plan policy discussion in Section 3 of this report.

Generally:

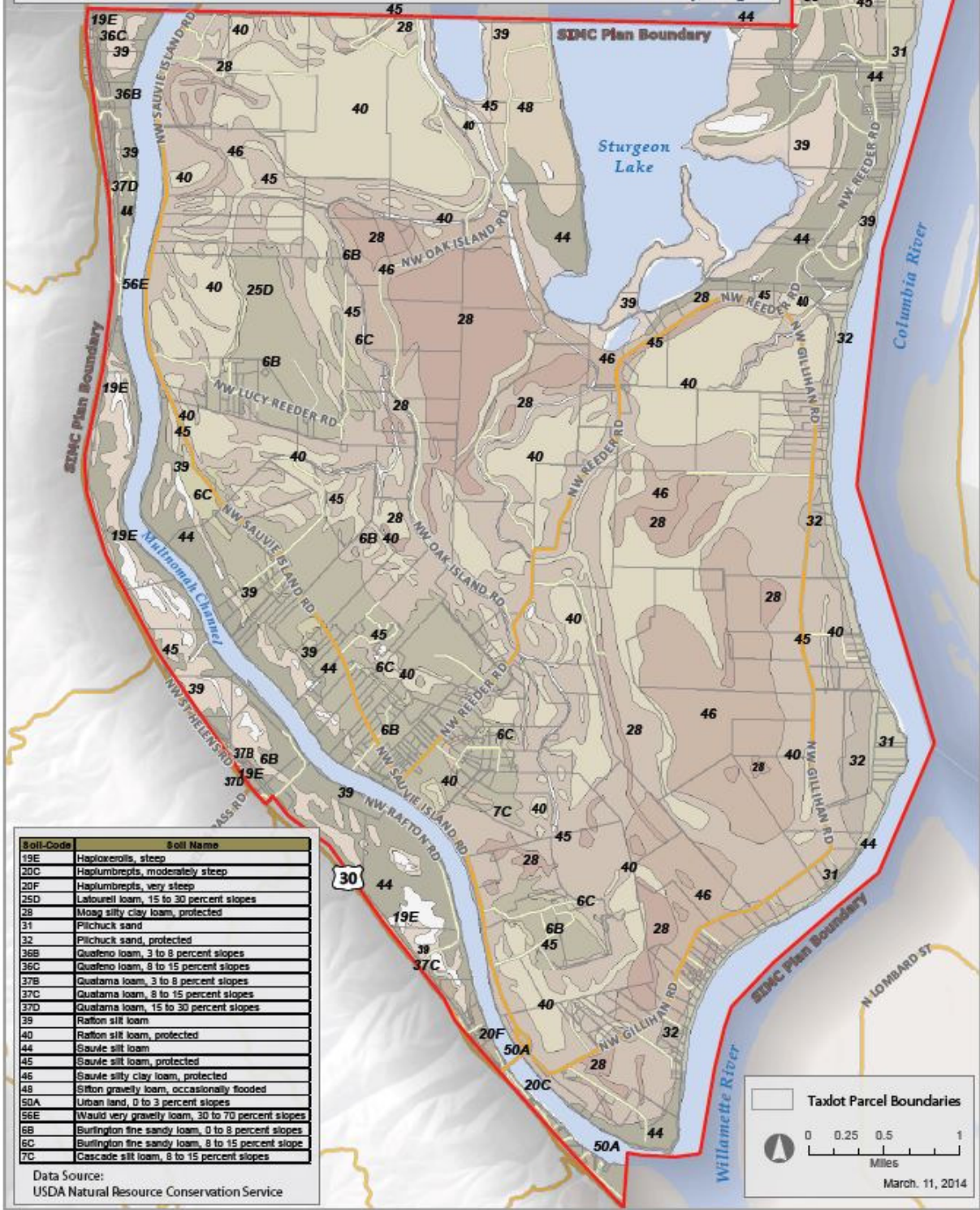
- The EFU zone encourages and protects large tracts of land (minimum 80 acres) for commercial agricultural – but allows a variety of other uses specified in state statutes and administrative rules – either as a review use (which the county must approve if specific standards are met) or as conditional uses (which the county may approve based on discretionary criteria). The EFU zone implements Statewide Planning Goal 3 – Agricultural Lands and its implementing rule – OAR Chapter 660, Division 033 Agricultural Lands.
- The MUA zone encourages smaller-scale agriculture (minimum 20 acres) while allowing very low density rural residential and related uses. When the county applied the MUA-20 zone to land on Sauvie Island, it took an “exception” to the Agricultural Lands Goal – which allowed (among other things) rural residences to be placed on lots of record...

The SIMC study area includes land under Multnomah County’s jurisdiction on Sauvie Island itself and on land between the Island and US Highway 30. Figure 1 shows zoning within the study area

Figure 1 SIMC Zoning Map



Multnomah County SIMC Rural Area Plan
 Natural Resource Conservation Service (NRCS) Soils Mapping



| Soil-Code | Soil Name |
|-----------|--|
| 19E | Haploxerolls, steep |
| 20C | Haplumbrepts, moderately steep |
| 20F | Haplumbrepts, very steep |
| 25D | Lataourell loam, 15 to 30 percent slopes |
| 28 | Moggy silty clay loam, protected |
| 31 | Pitchuck sand |
| 32 | Pitchuck sand, protected |
| 36B | Quateno loam, 3 to 8 percent slopes |
| 36C | Quateno loam, 8 to 15 percent slopes |
| 37B | Quatama loam, 3 to 8 percent slopes |
| 37C | Quatama loam, 8 to 15 percent slopes |
| 37D | Quatama loam, 15 to 30 percent slopes |
| 39 | Rafton silt loam |
| 40 | Rafton silt loam, protected |
| 44 | Sauvie silt loam |
| 45 | Sauvie silt loam, protected |
| 46 | Sauvie silty clay loam, protected |
| 48 | Sifton gravelly loam, occasionally flooded |
| 50A | Urban land, 0 to 3 percent slopes |
| 56E | Wauvid very gravelly loam, 30 to 70 percent slopes |
| 6B | Burlington fine sandy loam, 0 to 8 percent slopes |
| 6C | Burlington fine sandy loam, 8 to 15 percent slope |
| 7C | Cascade silt loam, 8 to 15 percent slopes |

Data Source:
 USDA Natural Resource Conservation Service

Taxlot Parcel Boundaries

 March 11, 2014

The following discussion focuses on the land use and population characteristics of land and water areas within the SIMC study area – which is located entirely within US Census Tract 71.

Population and Demographic Information

The study area encompasses approximately 15,400 acres of land and several thousand additional acres of water. About three-fourths of the land acreage (approximately 11,800 acres or 76.6%) is planned and zoned for Exclusive Farm Use (EFU) and about a quarter (3,600 acres or 23.4%) is zoned for Multiple Use Agriculture (MUA-20). About half (1,700 acres of the MUA-20 land is within the Sauvie Island Wildlife Refuge.

Figure 1: Census Tract 71, Multnomah County, Oregon

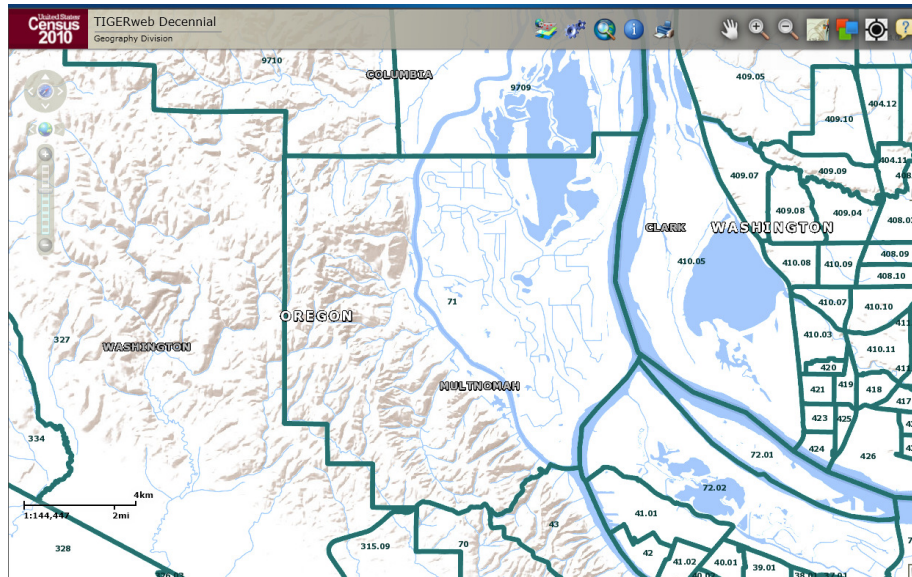


Table 1 shows the breakdown of dwelling units by type within Census Tract 71 – which includes the SIMC study area and the part of the Tualatin Mountains (West Hills) to the west. Within the study area, it is estimated that a population of about 2,700 is housed in approximately 1,200 dwelling units, 285 of which are houseboats or sailboats used as permanent residences. The average household size in Census Tract 71 is about 2.2 persons per household. Assuming that the average household size is constant by housing type, it’s likely that the land and water population on the Island is about equal.

Table 1: SIMC Study Area – Housing Type and Estimated Population by Zone

| Housing Type | Dwellings | Average Household Size | Estimated Population |
|-------------------------|-----------|------------------------|----------------------|
| Single Family Dwellings | 363 | 2.2 | |
| Floating Homes | 285 | | |
| Totals | 648 | | 2,700 |

Source: US Decennial Census and Multnomah County GIS; analysis by Winterbrook Planning

The convenience store located north of the Sauvie Island Bridge occupies approximately three acres and zoned Rural Center. This area received an “exception” to the Agricultural Lands Goal because it was “built and committed” to non-farm use prior to LCDC’s adoption of the Statewide Planning Goals in 1974-75.

Section 2: Statewide Regulatory Framework

Oregon’s statewide planning program consists of a combination of state statutes, “goals” adopted by the Land Conservation and Development Commission (LCDC), and administrative rules (also adopted by LCDC) to implement applicable goals and statutes. Generally, statewide planning goals read like comprehensive plan policies – whereas statutes and rules read are more like local zoning ordinances. The Agricultural Lands administrative rule (OAR Division 033) and Exclusive Farm Use statutes (ORS 215) are detailed and explicit regarding what local governments can, or cannot, allow on land on designated Agricultural (EFU) lands.

In Oregon, each county must adopt a comprehensive plan and land use regulations (zoning and subdivision ordinances) that comply with applicable statewide planning goals and administrative rules. The Multnomah County Comprehensive Plan (including the 1997 SIMC Plan) and implementing land use regulations have been “acknowledged” by the LCDC as complying with applicable statewide planning goals and rules. In most cases, Multnomah County’s land use regulations quote from or paraphrase state statutes and administrative rules.

As a result of LCDC acknowledgment, these goals and rules do not apply directly to land use decisions made by Multnomah County. However, they do apply to the *interpretation* of local land use regulations as applied to specific cases – when those interpretations involve a local interpretation of a state statute or administrative rule.

The recent Land Use Board of Appeals (LUBA) and Oregon Court of Appeals decisions in the Greenfield / Bella Organics case addresses the Multnomah County hearings officer’s decision to approve the Bella Organics most recent farm stand application, in the light of the County’s farm stand zoning regulations and applicable provisions of ORS 215 and OAR Division 033.

Thus, to understand and evaluate the range of options available to the County regarding farm stands (with and without related promotional activities) and agri-tourism requires an understanding of the structure of the statutory Exclusive Farm Use (EFU) zone under ORS Chapter 215 and LCDC administrative rules under OAR Division 33.

Agricultural Lands - EFU Zone Background and Context

As noted above, for the Subcommittee and CAC to understand and evaluate the range of options available to the County regarding allowed uses and activities in the County’s EFU zone, it is first

necessary to have basic understanding of the structure of the statutory Exclusive Farm Use (EFU) zone under ORS Chapter 215 and LCDC's Agricultural Lands administrative rule (OAR Division 33).¹

Exclusive Farm Use Zoning – ORS Chapter 215

The EFU zone under ORS Chapter 215 establishes two categories of authorized nonfarm uses. The first are those nonfarm uses “permitted as of right” under ORS 215.283(1) that a local government cannot prevent and which may not be subject to additional local legislative criteria that supplement those in ORS 215.283(1).² Second, are the nonfarm uses that are “conditional” under ORS 215.283(2) subject to the approval of a county under ORS 215.296.³

Further, ORS 215.203(1) states that:

“Zoning ordinances may be adopted to zone designated areas of land within the county as exclusive farm use zones. Land within such zones shall be used exclusively for farm use except as otherwise provided in ORS 215.213, 215.283 or 215.284.” (Emphasis added).

Although “farm use” is not specifically listed within the two category system under ORS 215.283 (1) and (2), it nonetheless remains a preferred mandatory or permitted use within an EFU zone.

Interpretation

It is well established that the EFU statutes under ORS Chapter 215 should be interpreted narrowly to protect farmland because the statutory EFU zone is “designed to preserve the limited amount of agricultural lands to the maximum extent possible. It constitutes a substantial limitation on other [non-farm] uses of rural land.”⁴

Accordingly, the Oregon Court of Appeals has determined that:

“...state and local provisions of that kind must be construed, to the extent possible, as being consistent with the overriding policy of preventing ‘agricultural land from being diverted to nonagricultural use. Therefore, when possible, the non-agricultural uses which the provisions allow should be construed as ones that are ‘related to and [promote] the agricultural use of farm land.’”⁵

In another case, the court indicated that: “...when none such direct supportive relationship can be discerned between agriculture and a use permitted by the provisions, the use should be

¹ Most of the information and analysis in this section was prepared by Ron Eber, Rural Land Specialist, and a land use consultant who served as the Agricultural Lands Specialist for the Oregon Department of Land Conservation and Development (DLCD) from 1975-2010. This section provides identifies applicable state statutes, administrative rules, and case law as they apply to agriculture and agri-tourism issues within Sauvie Island EFU zone.

² In Multnomah County, these are called “review uses”. For example, farm stands are a “review use” that the County must approve *if* state and local standards are met.

³ Brentmar v. Jackson County, 321 Or 481 (1995)

⁴ Cherry Lane v. Jackson County, 84 Or App 196, 199 n 3 (1987)

⁵ Hopper v. Clackamas County, 87 Or App 167, 172, rev den 304 Or 680 (1988).

understood as being as non-disruptive of farm uses as the language defining it allows.”⁶ And, the Oregon Supreme Court has declared that interpretations that would “subvert the preservation of productive agricultural land...” are not supported.⁷

Farm Use - ORS 215.203/308A.056:

The definition of “farm use” has always served a dual purpose. It identifies the uses allowed in a farm zone and the uses which receive special farm use property tax assessment. Between 1963 and 1999, this definition was only found at ORS 215.203. In 1999, the farm use assessment statutes were revised and updated and the definition was also moved to the revenue laws under ORS 308A.056 as well as remaining in the land use provisions found in ORS Chapter 215. For land use purposes, ORS Chapter 215.203(2) (a) basically permits all manner of activities commonly considered as farming, ranching or involving animal husbandry. Important to commercial type activities the definition includes:

“...the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use.”

This part of the definition is the language that historically was used to allow some value added and marketing activities in farm zones as a “farm use.” This provision allows initial preparation for sale, storage and the sale (wholesale or retail) of the farm products raised on a farm. It was used to permit the normal sale and marketing of farm products, farm stands and U-pick operations until the specific provision for farm stands was adopted in 1993. Space for some types of “farm uses” like “preparation” and “storage” can also be provided for as part of another use under ORS 215.283(1), (2) or 215.284. This is especially the case with respect to farm stands.

Preparation activities of farm products grown on the subject farm are those needed before their storage or sale off the farm or at a farm stand, Reter v. Oregon Tax Commission, 3 OTR 477 (1969), aff'd, 256 Or 294 (1970).

Because the distinction between “preparation” and “processing” was not clear and easy to determine, LCDC adopted a rule (OAR 660-033-0020(7(b))) to further define the term “preparation” as it is used in the definition of “farm use.” It reads:

"Preparation' of products or by-products includes but is not limited to the cleaning, treatment, sorting, or packaging of the products or by-products."

“Preparation” of a farm product is something less than “processing.” Making a new or different product from the naturally grown farm product is “processing” not “preparation” and treated as either a “processing facility” of “farm crops” in a building less than 10,000 sq. feet under ORS 215.283(1)(u) or a “commercial” activity in conjunction with farm use under 215.283(2)(a). All “processing” facilities, regardless of size, where more than 75% of the product comes from other farms, are treated as

⁶ McCaw Communications v. Clackamas County, 96 Or App 552, 555 (1989)

⁷ Craven v. Jackson County, 308 Or 281 (1989).

“commercial” activities in conjunction with farm use (See the description for these processing uses in the Memo entitled “Uses Allowed in Farm Zones Supportive of the Agricultural Industry and Rural Economies.”)

(OAR 660-033-0020(7(b))) also includes language to clarify the area from where the farm products may come that can be prepared, stored or sold. The rule reads:

“Products or by-products raised on such land’ means that those products or by-products are raised on the farm operation where the preparation occurs or on other farm land provided the preparation is occurring only on land being used for the primary purpose of obtaining a profit in money from the farm use of the land.”

This makes clear that a farm operation may prepare, store or sell products from the subject farm or from other farm operations as long as these activities takes place on a qualified farm operation. Further, the proposed rule does not limit the source of the farm products to only those from adjacent farms in the local area. Thus a farm may prepare, store or sell its own farm products or those from other farms. A stand-alone facility for preparation, storage or marketing would not be allowed by this rule but rather would need to be treated as a “commercial activity in conjunction with farm use.”

Farm Stands & Promotional Activities - ORS 215.283(1) (o):

Statutory Provisions

Farm stands were added to the EFU zone in 1993 with additions to allow some limited promotional activities in 2001. Prior to 1993, farm stands were considered an outright permitted “farm use” but when the scale of some stands began to get much larger with an increase in the range of products sold, the use was specifically listed in order to allow counties to review these operations, assure appropriate access, and to limit the sale of items incidental to the sale of farm products and other unrelated activities. Although a “permitted use,” an application is still a “land use decision” under ORS 197.015(10) (a) and reviewed as a “permit” under ORS 215.402.⁸ Nonetheless, a County cannot prevent a “permitted use” or apply any additional local legislative criteria that supplement those in ORS 215.283(1). The County is limited to just interpreting or defining the terms in the statute.

A farm stand may be approved if:

“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 activities 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 annual sales of the farm stand; and

⁸ *Keith v. Washington County*, (LUBA No. 2011-104, August 8, 2012).

“The farm stand does not include structures designed for occupancy as a residence or for activity other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.”

LCDC amended its farm zone rules in 2004 in order to clarify two things: (1) that “processed” crops and livestock grown on the farm operation or from other farm operations in the local agricultural area may be sold at farm stands along with fresh crops and livestock and are not a more limited “retail incidental item,” and (2) that farm products from throughout Oregon may be sold.

Greenfield/Bella Organics Case

In the recent *Greenfield/Bella Organics* case, both the Land Use Board of Appeals (LUBA) and Oregon Court of Appeals clarified the mix of statutes and rules applicable to a variety of activities at a farm stand on Sauvie Island. In their interpretation of the law, the Court agreed with LUBA’s summary of the subject statute as follows:⁹

“To summarize, there are four main parts to the above farm stand rule.

First, the farm stand rule authorizes structures that are ‘designed and used for the sale of farm crops and livestock’ that are grown on the farm where the farm stand is located.

Second, the rule then authorizes two incidental uses that may accompany the sale of farm crops and livestock at a farm stand ([1] sale of retail incidental items and [2] fee-based activity to promote the sale of farm crops or livestock sold at the farm stand’), and to make it clear that farm crops and livestock includes both ‘fresh and processed farm crops and livestock,’ but does not include ‘prepared food items.’

Third, the rule specifically provides that farm stand structures may not include structures that are designed for ‘activities other than the sale of farm crops and livestock,’ and further prohibits structures designed for ‘banquets, public gatherings or public entertainment.’

Finally, the rule limits annual sales from incidental retail sales and fees from promotional activity to no more than 25 percent of the total annual sales of the farm stand. This requirement apparently was imposed to ensure that the sale of farm crops and livestock is the main or primary purpose of farm stands, rather than the activities that may be carried out to promote the farm stand. In this opinion we refer to this requirement as the 25 percent rule.” (Underlining Added)

The *Greenfield/Bella Organics* decisions that interpreted and clarified the meaning of the farm stand statute and rules are summarized and paraphrased by Mr. Eber as follows:

1. A “farm stand” is a structure used for retail sales of farm products and incidental items but does not allow the design of the farm stand structure for residential use, activities other than the sale of farm crops and livestock, or the use of the structure for public eating, gathering and entertainment.
2. “Structures” in the statute means something built or constructed for temporary or permanent

⁹ *Greenfield/Bella Organics v. Multnomah County*, 259, Or App 687 (2013) and LUBA No. 2012 -102/103 (2013)

use or occupancy by members of the public and includes tents, canopies, portable viewing platforms, food carts and ticket kiosks whether or not roofed or enclosed by walls.

3. The statute’s allowance of the use of a farm stand structure for “the sale of farm crops and livestock” does not include the outright use of the structure for promotional activities, much less use of a structure *only* for those activities. By contrast, “the sale of farm crops and livestock” in ORS 215.283(1) (o) (A) is categorized as “including the sale of retail incidental items” and can be designed for both activities – but a farm stand structure cannot be used only to sell retail incidental items.
4. Food carts are structures and are permissible only if they are designed and used for the sale of farm crops and livestock grown on the farm operation or other farm operations in the local agricultural area – and not designed for activities other than the sale of such farm crops or livestock.
5. If food carts are designed as required, the sale of any nonfarm crops or livestock items including prepared food items must comply with the 25% rule. Further, the term “incidental” further limits the number of types of items or nonfarm food crops or livestock items sold at farm stands including food carts.
6. The Court agreed, without published discussion, with LUBA’s conclusions that the county’s decisions that (a) wholesale sales cannot be used in the calculation of the 25% rule limitation, (b) requirement for an annual accounting are reasonable, and (c) the county’s decision to close a road crossing is within its discretion.
7. The phrase “fee-based activity to promote the sale of farm crops and livestock” operates as a stand-alone use allowance and such promotional activities are uses other than the “sale of farm crops and livestock.” These activities are permitted outside of a farm stand structure and may include uses or activities prohibited within a farm stand structure such as public gatherings and banquets. The Court expressed no opinion on whether some promotional activity inside a farm structure could be an accessory use of that structure.
8. The Court and LUBA reiterated the types of outdoor activities discussed by legislators as within the scope of the promotions clause to include group activities or public gatherings, as well as activities that are entertaining or educational, such as farm animal exhibits, hayrides, pumpkin patch ride, cow-trains, farm product food contests and preparation demonstrations. The legislative concern was to avoid the placement of commercial structures on farmland that were not related to farm marketing, such as restaurants, supermarkets and stadiums.
9. Small-scale gatherings such as birthdays, picnics and similar activities can be conducted any time the farm stand is open if their primary function to promote the sale of products at the farm stand. Such promotion can be achieved by farm tours, educational presentations about farming or farming and harvesting activities as a significant part of the event. The types of small-scale uses permitted under this provision are to be distinguished from corporate retreats, family reunions, weddings, concerts and other activities that by their very nature have too tenuous a connection to the sale of farm crops and livestock because the primary focus of the gatherings is on the underlying cause for the gatherings rather than the farm operation.

County Implementation of the Farm Stands Statutes & Rules

Thus the County interprets, defines and applies the terms of the farm stand statute consistent with the Court and LUBA decisions, and LCDC rules. The County may choose to further clarify terms and add definitions to the Rural Area Plan. New policies could address the following:

- (1) Define “farm stand structure” so that it is not specifically designed or used solely for retail sales and fee-based promotional activities;

- (2) Define the type of promotional activities permitted;
- (3) Distinguish small-scale activities from those other activities that by their very nature have too tenuous a connection to the sale of farm crops and livestock;
- (4) Ensure compliance with the 25% rule; and
- (5) Distinguish promotional activities permitted by the County at a farm stand from those permitted as “agri-tourism events” and “outdoor mass gatherings” as explained in the next subsection.

Agri-Tourism and Outdoor Mass Gatherings

Since there are significant limitations to “promotional activities” at a farm stand, one might ask the question: “Are there opportunities for other types of activities and events under Oregon law on land zoned EFU with or without a farm stand?”

Except for wineries, there are two primary paths for permitting events and activities in EFU zones.

- First, these are the new provisions that permit “agri-tourism and other commercial events or activities that are related to and supportive of agriculture” under ORS 215.283(4) [SB 960 – 2011]; and
- Second, there are “outdoor mass” and other gatherings under ORS 433.735 to 433.770.

Agri-Tourism

The “agri-tourism” provisions provide several opportunities for the review and approval of from one to 18 events per year in EFU zones. The provisions require that these events be “incidental and subordinate to existing farm use on the tract” and can occur outdoors and within temporary or existing permanent structures. They permit a County to regulate transportation issues (access, egress, parking and traffic management), hours of operation, sanitation, solid waste and other related matters. Further, they authorize the County to adopt its own regulations in addition to those under ORS 215.283(4). These provisions are very specific and can provide a means for the County, landowners and neighbors to address concerns for events not permitted at farm stands.

Mass Gatherings

Oregon also has an “Outdoor Mass Gatherings” law that was adopted in 1971 to address issues arising from the Vortex I Concert held at McIver State Park in 1970 and later amended in 1985 to address its application to the gatherings and festivals held by the Rajneesh in Wasco County. It is a very complex law that has had some limited use in counties around the state. An explanation chart regarding it is attached.

How it applies or interrelates to promotional activities at farm stands or to other agri-tourism events under ORS 215.283(4) is not entirely clear as ORS 215.283(6) (c) states that:

“outdoor mass gathering’ and ‘other gathering,’ as those terms are used in ORS 197.015 (10) (d), do not include agri-tourism or other commercial events and activities.”

Thus it appears that the “outdoor mass gathering” law would only apply to events not authorized under ORS 215.283(4). What these might be is unclear in the abstract and can only be determined after further discussions.

How these provisions apply to fundraisers held by political, non-profit, religious or other types of groups is equally unclear and in need of further analysis and discussion.

Farm Worker Housing in EFU Zones

Background

Land use standards for the review and approval of dwellings for farm workers in EFU zones have been changed and subject to various approaches since the Legislature first authorized counties to plan and zone in 1947. Farm zoning began in Oregon in 1961 (Or Laws 1961, Ch. 695). No list of allowed uses, types of dwellings or other guidance was provided regarding what was allowed in or qualified as an exclusive farm use zone.

In 1963, the Legislature created the basic form of the exclusive farm use (EFU) zone that exists today in ORS Chapter 215 (Or Laws 1963, Ch. 527). This Act included as a "farm use" the "dwellings and other buildings customarily provided in conjunction with farm use." In 1967, these dwellings were deleted as a "farm use" (Or Laws 1967, Ch. 386) and in 1969, they were added to the list of nonfarm uses in ORS 215.213(6) (OR Laws 1969, Ch. 258). Nonfarm dwellings were authorized in 1973 (Or Laws 1973, Ch. 503).

Additional types of farm and nonfarm related dwellings have been allowed by the Legislature in subsequent sessions. Besides the primary dwelling for the farm family, these additional types of dwellings include accessory dwellings for farm help, those for relatives who work on the farm, temporary hardship assistance, replacement, and lot-of-record.

Housing for Farm Workers

The EFU zone has always included the basic authorization for "dwellings and other buildings customarily provided in conjunction with farm use" in ORS Chapter 215. Because this standard referred in the plural to “dwellings,” counties used this to approve dwellings for farmers as well as farm help and workers.

In 1989, the Legislature added a provision in the EFU zone to specifically permit “seasonal farmworker housing.” However, as the years passed, farm workers found work on a year-round and not seasonal basis and it became clear that this provision did not authorize the permanent year-round housing needed by farm community for farm workers.

In 2001, the Legislature passed HB 3171 to strengthen existing state land use policy regarding the provision of farmworker housing in urban and rural areas. This bill eliminated unnecessary distinctions between year-round and seasonal farmworker housing which had led to confusion and unneeded delays in the provision of adequate housing for farmworkers. At the same time, it repealed the existing provisions for “seasonal” farmworker housing and the restrictions on their occupancy under ORS

Chapter 215. These are no longer needed because the commission’s existing and to be revised rules were considered adequate to provide for both year-round and seasonal farmworker housing.

The intent of this legislation was to direct the general provision of farm worker housing to urban areas or rural centers by making it a needed housing type under ORS 197.312 and 197.685. Farm worker housing in EFU zones is permitted to provide housing for the farm workers required by a particular farm operator. Although such farm workers may work on other farms, they must work at least on a seasonal basis at a particular farm operation.

Specifically, the bill did the following to streamline the process for the review and approval of farmworker housing:

- In rural areas, the bill amended Oregon policy in ORS 197.685 to require the provision of farmworker housing in rural centers and other areas committed to non-resource uses and in EFU zones, clarified that both “primary” and “accessory” dwellings are permitted.¹⁰
- It also directed the Land Conservation and Development Commission to revise its existing rules regarding the establishment of accessory farm dwellings for farm hands to clearly provide opportunities for all farmworkers needed by a farmer on their farm. A copy of the adopted rule is attached.

In summary, the rule permits housing for farm workers needed by a farm operator and for any type of housing permitted under the applicable state building code. It also requires that the farm comply with the minimum gross income standards applicable to primary farm dwellings under OAR 660-033-0135.

Uses That Support the Agricultural Industry and Rural Economies

A Winery - ORS 215.283(1) (n)/215.452 & 215.453:

Wineries were specifically authorized in 1989 in order to clarify that they were allowed as a non-farm use in an EFU zone and were not a “farm use” under ORS 215.203. Prior to this time they were approved as “commercial activities” in conjunction with farm use [see Craven v. Jackson County, 308 Or 281 (1989)].

A major revision to the provisions of ORS 215.452 and 215.453 were adopted by the Legislature in 2012 that permit a wide range of marketing and private events as well as celebratory gatherings and larger wineries can have restaurants. Wineries not meeting the specific statutory provisions can also be reviewed as “processing facilities” or “commercial activities” (see ORS 215.283(1) (r) and ORS 215.283(2) (a) described below).

¹⁰ In urban areas, the bill amended Oregon policy regarding “needed housing” in ORS 197.312 to ensure that housing for farmworkers is not subject to any zoning requirements that are more restrictive than requirements that are applied to other single-family or multifamily housing developments.

Processing Facility for Farm Crops <10,000 square feet – ORS 215.283(1) (u):

Processing facilities for farm crops were allowed in 1997 in order to encourage small scale facilities on the farm. The incentive for these facilities was an exemption from the farm compatibility standards in ORS 215.296 and farm assessment for the land under these facilities [ORS 215.203(2) (b) (F)]. These facilities can accommodate small wineries and bio-fuel production. Such facilities are subject to three limitations: (1) they can only process farm crops (plants not livestock/animals or other); (2) at least one-quarter of farm crops processed must come from the farm operation on which the facility is located; and (3) the building for the processing facility cannot exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses.

Commercial Activities In Conjunction With Farm Use - ORS 215.283(2) (a):

A commercial activity in conjunction with farm use must be either exclusively or primarily a customer or supplier of farm uses. Such activities must either:

- (1) Enhance the farming enterprises in the local agricultural community; or
- (2) Occur together with agricultural activities in the local community.

Suppliers are limited to those providing products and services essential to the practice of agriculture.

This use was added to the EFU zone by SB 101 in 1973. The legislative intent was to let local government decide specifically what these uses may be. Uses discussed as falling within this category included hop, nut and fruit driers; feed mixing and storage facilities; mint distilleries; rendering plants; seed processing, packing, shipping and storage facilities; slaughter houses; agricultural produce storage facilities; feed lots; hullers; and any other similar processing and allied farm commercial activities. Wineries not meeting the standards in ORS 215.283(1) (q) or other new bio-fuel plants can be approved using these standards.¹¹

Home Occupations – ORS 215.283(2)(i)/215.448

“Home occupations” is a catch-all use that can accommodate all kinds of small businesses and activities in a farm zone. This use has been used to allow farm machinery repairs, bed and breakfast accommodations, small gatherings for weddings and family events as well as many other types of small local businesses.

To be approved, the business must (1) be operated by a resident or employee of a resident of the property where the business is located, (2) employ no more than five full or part-time employees on site, (3) be operated substantially in a dwelling or other building normally associated with uses permitted in the farm zone, and (4) not unreasonably interfere with other uses permitted in the farm

¹¹ The Court cases that have established these guidelines are Craven v. Jackson County, 308 Or 281 (1989), City of Sandy v. Clackamas County, 28 Or LUBA 316 (1994) and Earle v. McCarthy, 28 Or App 539, (1977).

zone. Home occupations cannot construct any structure that would not otherwise be allowed in a farm zone.

Landscaping Business – ORS 215.283(2) (z)

A landscaping business or one providing landscape architecture services is allowed if done in conjunction with the growing of nursery stock on land in farm use.

Other Supportive Uses to Rural Area – ORS 215.283

Some additional uses are permitted that support agricultural and rural areas in Oregon. Some of these include propagation or harvesting of forest products, primary and accessory dwellings for farmers, their families and seasonal and year round farm workers, rural fire protection services, irrigation canals and support facilities, rural community centers, aquaculture activities, water extraction and bottling plants and the expansion of existing county fairgrounds.

The MUA-20 Zone

The MUA zone encourages smaller-scale agriculture (minimum 20 acres) while allowing very low density rural residential and related uses. When the county applied the MUA-20 zone to land on Sauvie Island, it took an “exception” to the Agricultural Lands Goal – which allowed (among other things) rural residences to be placed on lots of record and lots of 20 acres or greater.

- Statewide Planning Goal 11 (Public Facilities and Services) and its implementing rule (OAR Division 011) prohibit the extension of sanitary sewer service outside of urban growth boundaries; the SIMC planning area is outside the Metro, St Helens and Scappoose UGBs.
- Statewide Planning Goal 14 and its implementing rule (OAR Division 024) prohibit urban densities outside UGBs.
- In 2010, Multnomah County designated the SIMC planning area as “Rural Reserve” pursuant to OAR Division 027.

Permitted and conditional uses in the MUA-20 zone are discussed further in Section 3, below.

Section 3: Relevant County and Agency Plans

Multnomah County Comprehensive Plan

The following comprehensive plan text, policies and strategies (shown in *italic font*) are quoted directly from the Multnomah County Comprehensive Plan.

RURAL

Rural centers: areas with concentrated rural residential development combined with limited rural commercial and industrial development and limited public services.

Rural residential: areas not primarily suited to agriculture or forestry and where limited large lot development is not detrimental to the resource base.

Agricultural: Lands with predominantly class i-iv soils and identified by the agricultural capability classification system of the U. S. Soil Conservation Service, and where existing uses, the parcelization pattern and service levels are supportive of full-time commercial agricultural activities.

Multiple use-farm: lands with predominantly class i, ii or iii soils as identified by the agricultural capability classification system of the U. S. Soil Conservation Service, but where the existing uses, topography and parcelization pattern are not supportive of full time commercial agriculture but where small commercial and hobby farming can take place on parcels of 20 acres or less.

POLICY 6A: URBAN AND RURAL RESERVES

The purpose of Urban and Rural Reserves is to facilitate planning for urbanization of the Portland metro region over the 50 year plan period from 2010 to 2060. Urban reserves provide greater certainty to the agricultural and forest industries, urban industries, and service providers about the future location of urban growth boundary expansion. Rural reserves are intended to provide long-term protection of agricultural and forest land and landscape features that enhance the unique sense of place of the region.

The reserves plan that designates land for urban and rural use is an alternative approach to manage urban growth through a coordinated regional process provided for in Oregon Laws 2007, chapter 723 and implementing Oregon Administrative Rule 660 Division 27(2008). The reserves plan supplements Policy 6 Urban Land Area with a specific map and implementing policies that define limits to urban growth for a time period much longer than the 20 -25 year UGB plan period.

The reserves plan relies on designation of urban reserves land which can only be designated by Metro, and on rural reserve areas that can only be designated by the County. Because of this division of authority in the reserves plan, the County has amended its plan and zoning map to adopt rural reserves, and also shows urban reserve designations on the map.

Policy 6A Rural Reserves

It is the County's policy to establish and maintain rural reserves in coordination with urban reserves adopted by Metro and in accord with the following additional policies:

- 1. Areas shown as Rural Reserve on the County plan and zone map shall be designated and maintained as Rural Reserves to protect agricultural land, forest land, and important landscape features.*
- 2. Rural Reserves designated on the plan map shall not be included within any UGB in the county for 50 years from the date of the ordinance adopting the reserves designations.*
- 3. Areas designated Rural Reserves in the county shall not be re-designated as Urban Reserves for 50 years from the date of the ordinance adopting the reserves designations.*
- 4. The County will participate together with an appropriate city in development of a concept plan for an area of Urban Reserve that is under consideration for addition to the UGB.*
- 5. The County will review the designations of Urban and Rural Reserves, in coordination with Metro and Clackamas and Washington Counties, 20 years from the date of the ordinance adopting the reserves designations, or earlier upon agreement of Metro and the other two counties.*
- 6. The County will not amend the zoning to allow new uses or increased density in rural and urban reserve areas except in compliance with applicable state rules.*

POLICY 9: AGRICULTURAL LAND AREA

The purpose of the Agricultural Land Area Classification is to preserve the best agricultural lands from inappropriate and incompatible development and to preserve the essential environmental characteristics and economic value of these areas.

The intent of this classification is to establish these areas for exclusive farm use with farm use and the growing and harvesting of timber as primary uses.

Policy 9

The County's policy is to designate and maintain as exclusive agricultural land areas which are:

- A. Predominantly Agricultural Soil Capability I, II, III, and IV, as defined by U.S. Soil Conservation Service;*
- B. Of parcel sizes suitable for commercial agriculture;*
- C. In predominantly commercial agriculture use; and*
- D. Not impacted by urban service; or*

E. Other areas, predominantly surrounded by commercial agriculture lands, which are necessary to permit farm practices to be undertaken on these adjacent lands.

The County's policy is to restrict the use of these lands to exclusive agriculture and other uses, consistent with state law, recognizing that the intent is to preserve the best agricultural lands from inappropriate and incompatible development.

Strategies

A. The following strategies should be addressed as a part of the Community Development Ordinance:

- 1. The Zoning Code shall include an Exclusive Farm Use Zone, consistent with ORS 215.283*, and with:
 - a. A base minimum lot size appropriate to commercial agriculture for the particular crops and geographic area of the County;*
 - b. Provisions for allowing farm uses as primary uses, not conditional uses.*
 - c. Provision for non-farm uses as conditional uses prescribed by ORS 215.283*;*
 - d. Provisions for retail sales of farm products;*
 - e. Provisions which allow for the reconstruction of structures destroyed by fire or other circumstances;*
 - f. Provisions for the aggregation of contiguous substandard lots under single ownership;*
 - g. Mortgage lot provisions;*
 - h. Homestead lot provisions;*
 - i. Approval criteria and siting standards for non-farm dwellings, designed to assure conservation of the natural resource base and protection from hazards.**
- 2. The County Street and Road Standards Code should include criteria related to street widths, construction standards and requirements appropriate to the function of the road in an exclusive agricultural area.*
- 3. The Capital Improvements should not program a public water system for exclusive agricultural areas or any service level not commensurate with agricultural uses.*

B. The conversion of land to another broad land use classification should be in accord with the standards set forth by the LCDC Goals, OAR's and in this Plan.

POLICY 10: MULTIPLE USE AGRICULTURAL LAND AREA

The purpose of the Multiple Use Agriculture Land Area Classification is to conserve those lands agricultural in character which have been heavily impacted by non-farm uses and are not predominantly Agricultural Land as defined in Statewide Planning Goal 3. This conservation is necessary to protect adjacent exclusive farm use areas and in some cases, the fragile nature of the lands themselves. These lands are conserved for diversified agricultural uses and other uses such as outdoor recreation, open space, residential development, and forestry when these uses are shown to be compatible with the natural resource base, character of the area, and other applicable plan policies.

The intent of this classification is to recognize the diminished nature of these areas for commercial resource production, but to limit the adverse impacts of future development of them on nearby agricultural areas and on other lands of a more fragile nature (e.g., areas subject to flooding, but used for agricultural related uses).

Policy 10

The County's policy is to designate and maintain as multiple use agriculture, land areas which are:

- A. Generally agricultural in nature, with soils, slope and other physical factors indicative of past or present small scale farm use;*
- B. Parcelized to a degree where the average lot size, separate ownerships, and non-farm uses are not conducive to commercial agricultural use;*
- C. Provided with a higher level of services than a commercial agricultural area has: or,*
- D. In agricultural or micro-climates which reduce the growing season or affect plant growth in a detrimental manner (flooding, frost etc.).*

The County's policy, in recognition of the necessity to protect adjacent exclusive farm use areas, is to restrict multiple use agricultural uses to those compatible with exclusive farm use areas.

Strategies

A. The following strategies should be addressed as part of the Community Development Ordinance:

1. The Zoning Code should include a Multiple Use Farm Zone with:

- a. A base minimum lot size; consistent with the character of the areas and the adjacent exclusive farm uses.*
- b. The following examples of uses:*
 - *Permitted as primary uses; agriculture and forestry practices and single family dwellings on legal lots;*
 - *The sale of agricultural products on the premises, dwellings for farm help, and mobile homes, should be allowed under prescribed conditions;*
 - *On lands which are not predominantly Agricultural Capability Class I, II, or III, planned developments, cottage industries, limited rural service commercial, and tourist commercial may be allowed as conditional uses; and*
 - *The following uses should be allowed as conditional uses anywhere in the zone upon the showing that the conditional use standards can be met: commercial processing of agriculture or forest products, commercial services, commercial dog kennels, and mineral extraction.*
- c. Lot size requirements for uses allowed as conditional uses should be based on such factors as:*
 - *Topographic and natural features;*
 - *Soil limitations and capabilities;*
 - *Geologic limitation;*
 - *Climatic conditions;*
 - *Surface water sources, watershed areas and ground water sources;*
 - *The existing land use and lotting pattern and character of the area;*
 - *Road access and capacity and condition;*
 - *Type of water supply;*
 - *Capacity and level of public services available; and*
 - *Soil capabilities related to a subsurface sewerage system.*

- d. Lots of Record Provisions.
 - e. Mortgage Lot Provisions.
 - f. Siting standards for dwellings proposed to be located adjacent to commercial agricultural or forestry use.
2. The County Streets and Road Standards Code should include criteria related to street width, road construction standards and required improvements appropriate to the function of the road and rural living environment.
 3. The Capital Improvements Program should not program public sewers to this area and the County should not support the formation or expansion of existing service district areas for the provision of water service.
- B. It is intended that industrial development which has a minimum impact be allowed on the south tip of Sauvie Island upon meeting all the applicable standards of the plan and conditional use procedures.
- C. The conversion of land to another broad land use classification should be in accord with the standards set forth by the LCDC Goals, OAR's and in this Plan.

Existing SIMC RAP TSP Policies and Implementation Strategies

The 1997 SIMC Plan had relatively few land use policies.

Exclusive Farm Use Policies and Strategies

POLICY 1: Support measures which will ensure that Sauvie Island maintains and enhances its agricultural diversity on Exclusive Farm Use lands.

STRATEGY: Multnomah County shall use this policy as a guideline in reviewing proposed changes in Exclusive Farm Use statutes and administrative rules, and will review the appropriateness of the \$80,000 gross income level as a threshold for farm dwellings if state law allows consideration of different income standards.

Comment: There have been no changes in ORS 215 or OAR Division 33 provisions related to the \$80,000 gross income threshold.

POLICY 2: Multnomah County shall promote the appropriate establishment of farm stands and u-pick facilities which will support the agricultural economy of Sauvie Island.

STRATEGY: Multnomah County shall implement this policy through review of the Multnomah County Zoning Ordinance Exclusive Farm Use and Multiple Use Agriculture zoning districts.

Comment: In 1997, the issue of promotional activities in the EFU zone had not yet become prominent. As noted in Section 3, the farm stands statute had just been adopted in 1993; the farm stands statute was amended in 2001 to provide direction to local governments on promotional activities associated with farm stands.

Following amendments to ORS 215 related to promotional activities associated with farm standards, the County amended Chapter 34 of the Multnomah County Code to read as follows:

“(G) 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 live-stock sold at the farm stand if the annual sale of incidental items and fees from pro-motional 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.

(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 agri-cultural 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.”

POLICY 3: Include deed restrictions protecting surrounding agricultural practices as a requirement for dwelling approval in the Multiple Use Agriculture zoning district.

STRATEGY: Multnomah County shall implement this policy through amendments to the Multnomah County Zoning Ordinance.

Comment: Deed restriction is now required for all new dwellings adjacent to farmland.

POLICY 4: Encourage property owners to protect their lands as wildlife habitat through the use of tax deferral programs, and allow switching of tax deferral status from agriculture to open space wildlife habitat without penalty.

STRATEGY: Multnomah County shall forward this policy as an informational item to the Oregon State Legislature and the Association of Oregon Counties.

Comment: The Sauvie Island Soil and Water Conservation District and other non-profit organizations have been successful in encouraging property owners to protect EFU and MUA land as wildlife habitat through easements and other means – as will be documented in Appendix 4: Natural and Cultural Resources. Many properties have habitat tax deferrals applied.

Rural Reserve Designation for the SIMC Planning Area

In 2007, SB 1011 authorized the Metro, in coordination with Multnomah, Clackamas and Washington Counties, to establish urban and rural reserves. The law (ORS 195.137-145) required that the Land Conservation and Development Commission (LCDC) adopt rules to guide Metro and participating local governments in the urban and rural reserves evaluation and adoption process.

Metro explains the regional urban and rural reserve process and outcomes as described in this link: <http://www.oregonmetro.gov/index.cfm/go/by.web/id=30155>

What are urban and rural reserves?

Urban reserves are lands currently outside the urban growth boundary that are suitable for accommodating urban development over the next 50 years. Rural reserves are lands outside the current urban growth boundary that are high value working farms and forests or have important natural features like rivers, wetlands, buttes and floodplains. These areas will be protected from urbanization for the next 50 years.

These land use designations do not change current zoning or restrict landowners' currently allowed use of their lands. They do provide greater clarity regarding the long term expected use of the land and allow both public and private landowners to make long term investments with greater assurance. (Emphasis added.)

Metro reached agreements with each county on which lands across the region will be designated as urban and rural reserves. The Oregon Land Conservation and Development Commission gave final approval to the urban and rural reserves designated in Clackamas, Multnomah and Washington counties in August 2011.

OAR Division 027 Urban and Rural Reserves in Portland Metropolitan Area

LCDC adopted OAR Chapter 660, Division 027 in early 2008. The purpose of this administrative rule is stated in OAR 660-02700005:

“(2) Urban reserves designated under this division are intended to facilitate long-term planning for urbanization in the Portland metropolitan area and to provide greater certainty to the agricultural and forest industries, to other industries and commerce, to private landowners and to public and private service providers, about the locations of future expansion of the Metro Urban Growth Boundary. Rural reserves under this division are intended to provide long-term protection for large blocks of agricultural land and forest land, and for important natural landscape features that limit urban development or define natural boundaries of urbanization. The objective of this division is a balance in the designation of urban and rural reserves that, in its entirety, best achieves livable communities, the viability and vitality of the agricultural and forest industries and protection of the important natural landscape features that define the region for its residents.”

Division 023 restricts Multnomah County’s ability to amend comprehensive plan and land use regulations to allow new land uses or to allow smaller lot sizes. However, the rule allows Multnomah County to amend its land use regulations to allow protection of Goal 5 resources, a park master plan, transportation facilities and other uses that could have been allowed under EFU statutes (ORS 215.213 and ORS 215.283). As a reminder, the County’s MUA-20 zone is technically not an agricultural zone and therefore is not subject to the EFU statutes.

OAR 660-027-0070 Planning of Urban and Rural Reserves

(3) Counties that designate rural reserves under this division shall not amend comprehensive plan provisions or land use regulations to allow uses that were not allowed, or smaller lots or parcels than were allowed, at the time of designation as rural reserves unless and until the reserves are re-designated, consistent with this division, as land other than rural reserves, except as specified in sections (4) through (6) of this rule. (Emphasis added.)

(4) Notwithstanding the prohibitions in sections (2) [Section 2 refers to Urban Reserves] and (3) of these rules, counties may adopt or amend comprehensive plan provisions or land use regulations as they apply to lands in urban reserves, rural reserves or both, unless an exception to Goals 3, 4, 11 or 14 is required, in order to allow:

(a) Uses that the county inventories as significant Goal 5 resources, including programs to protect inventoried resources as provided under OAR chapter 660, division 23, or inventoried cultural resources as provided under OAR chapter 660, division 16;

(b) Public park uses, subject to the adoption or amendment of a park master plan as provided in OAR chapter 660, division 34;

(c) Roads, highways and other transportation and public facilities and improvements, as provided in ORS 215.213 and 215.283, OAR 660-012-0065, and 660-033-0130 (agricultural land) or OAR chapter 660, division 6 (forest lands);

*(d) Other uses and land divisions that a county could have allowed under ORS 215.130(5)–(11) or as an outright permitted use or as a conditional use under 215.213 and 215.283 or Goal 4 if the county had amended its comprehensive plan to conform to the applicable state statute or administrative rule prior to its designation of rural reserves; * * **

Metro and Multnomah County Findings (Exhibit B to Metro Ordinance No. 11-1255)

The following is excerpted from Metro’s findings in support of Ordinance No. 11-1255, which adopted amendments to its Regional Framework Plan to implement the urban and rural reserves legislation and administrative rule. Multnomah County used the same findings to support its adoption of Ordinance No. 2010-1161 adopting rural reserves.

The ordinances refer to **Area 9E** (Sauvie Island) and **Area 9F (Multnomah Channel)** and explain why these areas were given a rural reserve designation.

The 2007 Oregon Legislature authorized Metro and Clackamas, Multnomah and Washington Counties (“partner governments”) to designate urban reserves and rural reserves following the process set forth in ORS 195.137 – 195.145 (Senate Bill 1011) and implementing rules adopted by the Land Conservation and Development Commission (LCDC) (OAR 660 Division 27). The Legislature enacted the new authority in response to a call by local governments in the region to improve the methods available to them for managing growth. After the experience of adding

over 20,000 acres to the regional urban growth boundary (UGB) following the soil-capability based priority of lands in ORS 197.298, cities and the partner governments wanted to place more emphasis on the suitability of lands for sustainable urban development, longer-term security for agriculture and forestry outside the UGB, and respect for the natural landscape features that define the region.

The new statute and rules make agreements among the partner governments a prerequisite for designation of urban and rural reserves. The remarkable cooperation among the local governments of the region that led to passage of Senate Bill 1011 and adoption of LCDC rules continued through the process of designation of urban reserves by Metro and rural reserves by Clackamas, Multnomah and Washington Counties. The partners' four ordinances are based upon the formal intergovernmental agreements between Metro and each county that are part of our record, developed simultaneously following long study of potential reserves and thorough involvement by the public.

Rural Reserves 9D and 9F: West Hills North and South, Multnomah Channel

General Description: This area extends from the power lines/Germantown Rd. area northward to the county line, with Sauvie Island and the west county line as the east/west boundaries. All of the area is proposed as rural reserve. Agricultural designations are Important Agricultural Land in 9D, and Foundation Agricultural Land in area 9F. All of area 9D is within three miles of the UGB, and the three mile line from Scappoose extends south to approximately Rocky Point Road in area 9F.

How Rural Reserve 9D and 9F Fare Under the Factors: All of the Multnomah Channel area is an important landscape feature, and the interior area from approximately Rocky Point Rd. south to Skyline Blvd. is a large contiguous block on the landscape features map. MultCo Rec. 1767. This interior area is steeply sloped and heavily forested, and is known for high value wildlife habitat and as a wildlife corridor between the coast range and Forest Park. It is also recognized as having high scenic value as viewed from both east Portland and Sauvie Island, and from the US Highway 26 corridor on the west. Landscape features mapping south of Skyline includes both Rock Creek and Abbey Creek headwaters areas that abut the city of Portland on the east and follow the county line on the west.

The potential for urbanization north of the Cornelius Pass Rd. and Skyline intersection in area 9D, and all of 9F, was ranked by the CAC as low. Limitations to development in the Tualatin Mountains include steep slope hazards, difficulty to provide urban transportation systems, and other key services of sewer and water. Areas along Multnomah Channel were generally ranked low due to physical constraints including the low lying land that is unprotected from flooding. Additional limitations are due to the narrow configuration of the land between US Highway 30 and the river coupled with extensive public ownership, and low efficiency for providing key urban services. MultCo Rec. 3022-3027. Subsequent information suggested some potential for urban development given the close proximity of US Highway 30 to the area.

Why This Area was Designated Rural Reserve: This area is proposed for rural reserve even though urbanization potential is low. Of greater importance is the high sense of place value of the area. The significant public response in favor of rural reserve affirms the CAC rankings on this factor. In addition, the high value wildlife habitat connections to Forest Park and along Multnomah Channel, the position of this part of the Tualatin Mountains as forming edges to the urban areas of both Scappoose and the Portland Metro region, further support the rural reserve designation.

Rural Reserve 9E: Sauvie Island

General Description: Sauvie Island is a large, low lying agricultural area at the confluence of the Willamette and Columbia Rivers. The interior of the island is protected by a perimeter dike that also serves as access to the extensive agricultural and recreational areas on the island. It is located adjacent to the City of Portland with access via Highway 30 along a narrow strip of land defined by the toe of the Tualatin Mountains and Multnomah Channel. This area was assessed as Area 8 by the County CAC. MultCo Rec. 3016-3020. The island is entirely Foundation Agricultural Land, and is mapped as an important landscape feature. Large areas at the north and south extents of the island are within 3 miles of the Scappoose and Portland UGBs.

How Rural Reserve 9E Fares Under the Factors: The island ranked high on the majority of the agricultural factors, indicating suitability for long-term agriculture. It ranked high on landscape features factors for sense of place, important wildlife habitat, and access to recreation. The low lying land presents difficulties for efficient urbanization including the need for improved infrastructure to protect it from flooding, and additional costly river crossings that would be needed for urban development. The CAC ranked the island low on all urban factors indicating low suitability for urbanization.

Why This Area was Designated Rural Reserve: The island is a key landscape feature in the region, ranking high for sense of place, wildlife habitat, and recreation access. The island defines the northern extent of the Portland-Metropolitan region at a broad landscape scale. These characteristics justify a rural reserve designation of the entire Multnomah County portion of the island even though potential for urbanization is low.

SIMC EFU and MUA Zoning

The Multnomah County Code (MCC) Chapter 34 specifies uses that are allowed or are potentially allowed in the EFU and MUA-20 zones. The general organization of the zoning sections begins by listing *Allowed Uses*, which are those uses that are allowed outright and do not require a land use review process (although technical reviews such as building permits, flood permits, grading permits and so on may apply to allowed uses).

The second tier of uses is *Review Uses*, which require approval via a land use application. Review uses are allowed in the underlying zone provided that certain criteria are met. How a specific proposal on a specific site can meet the criteria requires findings addressing the approval criteria. The findings taken

together inform the decision, which is made at the staff level unless appealed. Neighboring property owners and recognized community associations are required to receive notice and have the opportunity to comment on the application.

The third tier of uses listed are those that are potentially allowed are *conditional and community service uses*, which are special uses by reason of their public convenience, necessity, unusual character or effect on the neighborhood, may be appropriate as specified in each zone district. Conditional and community service uses are reviewed under discretionary criteria and may be conditioned or denied by the county if applicable criteria are not met.

Following is a truncated version of the uses listed in the EFU and MUA-20 zoning districts:

Exclusive Farm Use

Allowed Uses:

- Farm use, as defined in ORS 215.203
- Buildings other than dwellings customarily provided in conjunction with farm use
- The propagation or harvesting of forest products
- Creation of, restoration or enhancement of wetlands
- Alteration, restoration or replacement of a lawfully established habitable dwelling
- Churches (subject to conditions)
- Accessory structures (accessory to an existing allowed use)
- Agricultural structures

Review Uses:

- Farm Dwellings (for an existing farm subject to approval criteria)
- Farm Stands with promotional activities¹²

¹² Because the siting of farm stands in the EFU zone has been a major issue on Sauvie Island, the full text of the County's farm stand regulations are quoted below from MCC 34.2625 Review Uses. These provisions may be amended as a result of the Greenfield / Bella Organics cases discussed in Section 3 of this report.

“(G) 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 live-stock sold at the farm stand if the annual sale of incidental items and fees from pro-motional 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.

(3) As used in this section, “farm crops or livestock” includes both fresh and processed farm crops and livestock grown

- Wineries¹³
- Facilities for processing farm crops

Conditional Uses include:

- Commercial activities that are in conjunction with a farm use, except for facilities for processing crops
- Parks, playgrounds, hunting and fishing preserves, and campgrounds
- Community centers owned and operated by a governmental agency or a nonprofit organization.
- Dog kennels

MUA-20

Allowed Uses include:

- Farm Uses (with some limitations)
- Single family dwelling
- Accessory structures

Review Uses include:

- Wholesale or retail sales of farm or forest products raised or grown on the premises or in the immediate vicinity, subject conditions.
- Feed lots.
- Raising four or more swine for retail

Conditional Uses include:

- Community Service Uses including moorages,¹⁴ camp grounds, cemeteries, churches, hospital, library, private clubs, riding academies, and horse boarding.

on the farm operation, or grown on the farm operation and other farm operations in the local agri-cultural 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. 4-16 Multnomah County – Chapter 34 - Sauvie Island/Multnomah Channel Rural Plan Area. (S-1 - LU 2013) (4) As used in this section, "local agricultural area" includes Oregon or an adjacent county in Washington that borders Multnomah County."

¹³ Wineries and related promotional activities are also allowed by statute under fairly prescriptive standards. In contrast to farm stands, Multnomah County has chosen to simply reference ORS 215.452 rather than attempting to adopt these standards as part of the Multnomah County Code. MCC 34.2625 Review Uses:

"(H) A winery, as described in ORS 215.452."

¹⁴ County staff believes that it is unclear whether a new moorage can be approved in a Rural Reserve. See discussion in *Appendix 4: Marinas and Floating Homes Background Report*.

Agendas

Department of Community Services
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Sauvie Island/Multnomah Channel Rural Area Plan and Transportation System Plan Updates Agriculture and Agri-Tourism Subcommittee

Subcommittee Agenda
Tuesday, January 7, 2014
3:00 – 5:00 p.m.
Multnomah Building – 501 SE Hawthorne Blvd., Portland 97214
5th Floor - Copper Room

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|-------------------|--|
| 3:00-3:10 p.m. | Welcome - Adam <ul style="list-style-type: none">• Introductions –(subcommittee, TAC, project team, public) – All |
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|-------------------|---|
| 3:10-3:20 p.m. | Relationship of the subcommittee to the Full CAC and other decision makers and Subcommittee's Charge - Greg <ul style="list-style-type: none">• Problem-solving technical committee that identifies issues and suggest policy solutions to these issues• Identify points where consensus is not reached and why; assist in presentation of subcommittee recommendations to the full CAC |
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| 3:20-4:00 p.m. | Background Report & Key Issues <ul style="list-style-type: none">• Brief overview of packet materials - Greg• Review list of issues in Section 1 – Kevin• Identify new issues - Greg• Discuss and reach consensus on the Key Issues to be addressed by Subcommittee (Review Section 1 of the draft outline) – Adam |
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| 4:00-4:45 | Farm Stands Policy <ul style="list-style-type: none">• Review of Court Appeals Decision (Section 3 of Background Report) - Greg• Should results of this decision be included in the revised SIMC Plan? – Kevin |
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- | | |
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| 4:45-5:00 | Action Items - Adam <ul style="list-style-type: none">• Return to Subcommittee with draft Ag / Ag-Tourism Policies• Return to Subcommittee with complete set of GIS Maps• Next Meeting – February 25, 2014 |
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| 5:00 p.m. | Adjourn |
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Persons with a disability requiring special accommodations, please call the Office of Citizen Involvement at (503) 988-3450 during business hours. Persons requiring a sign language interpreter, please call at least 48 hours in advance of the meeting. Agendas and minutes available at <https://multco.us/simc-planning>

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Sauvie Island/Multnomah Channel Rural Area Plan and Transportation System Plan Updates Agriculture and Agri-Tourism Subcommittee

Subcommittee Agenda

Tuesday, February 25, 2014

3:00 – 5:00 p.m.

Multnomah Building – 501 SE Hawthorne Blvd., Portland 97214

Room 112

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- | | |
|----------------|--|
| 3:00-3:10 p.m. | Welcome - <ul style="list-style-type: none">• Introductions –(subcommittee, TAC, project team, public) – <i>All</i> |
| 3:10-4:45 p.m. | Agriculture and Farm Stands Draft Polices <ul style="list-style-type: none">• Discuss and reach consensus on potential new policy language• Firm up policy decisions |
| 4:45-5:00 | Action Items <ul style="list-style-type: none">• Finalize Policy Language• Next Meeting (CAC) – March 11, 2014 |
| 5:00 p.m. | Adjourn |
-

Persons with a disability requiring special accommodations, please call the Office of Citizen Involvement at (503) 988-3450 during business hours. Persons requiring a sign language interpreter, please call at least 48 hours in advance of the meeting. Agendas and minutes available at <https://multco.us/simc-planning>

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Sauvie Island/Multnomah Channel Rural Area Plan and Transportation System Plan Updates Agriculture and Agri-Tourism

Community Advisory Committee Agenda
Tuesday, March 11, 2014
6:00 – 8:30 p.m.
Sauvies Island Grange #840 (14443 NW Charlton Road)

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|----------------|---|
| 6:00-6:10 p.m. | Introduction (Welcome and Introductions) |
| 6:10-6:20 p.m. | Rural Character Survey Results/Visioning update |
| 6:20-6:30 p.m. | Overview of Packet Materials <ul style="list-style-type: none">• Background Report and supporting docs• Meeting Summaries• Policy Discussion Table |
| 6:30-8:10 p.m. | Policy Discussion (Memo to be provided) <ul style="list-style-type: none">• Overview of policy discussions to date• Is there anything missing• Goal is to reach consensus on overall policy direction |
| 8:10-8:20 p.m. | Public Comments |
| 8:20-8:30 p.m. | Wrap Up <ul style="list-style-type: none">• Next CAC meeting - April 8, 2014 (Natural and Cultural Resources)• Project schedule update (handout) |

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Minutes

Department of Community Services
Land Use and Transportation Planning Program
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MEETING SUMMARY: Agriculture & Agri-Tourism Subcommittee Meeting #1:

Project: Sauvie Island/Multnomah Channel Rural Area/Transportation System Plan Update

Date: 1/7/2014

Time: 3:00 p.m. - 5:00 p.m.

Location: Multnomah Building, 5th Floor Copper Room; 501 SE Hawthorne Blvd., Portland, Oregon

Present: Subcommittee members, Multnomah County staff, General Public

A meeting was held at the Multnomah Building at 3:00 PM on Tuesday, January 7th to discuss agriculture and agri-tourism. The following is a brief meeting summary that highlights the major items discussed and agreed upon action items that were identified during the meeting.

Introduction:

The meeting began with Adam Barber, Senior Planner introducing the meeting and its intention. The primary theme of the meeting was existing policies and potential new policies relating to agriculture and agri-tourism. Kevin discussed the background document and a brief synopsis of the existing policies and issues identified in the Scoping Report.

The following issues, topics, and concerns were discussed:

- Consider developing procedure for validating compliance with 25/75 rule based on farm stand sales and crops in production on site.
- Consider policy directing County Department of Assessment and Taxation to remove parking areas and other farm stand infrastructure from farm deferral program.
- Should agri-tourism Per SB 960 be allowed in EFU on Sauvie Island. General consensus of subcommittee is that agri-tourism is not appropriate on Sauvie Island due to fact that the Island is already burdened by high visitation. Policy should specifically state that agri-tourism as defined is not permitted on the Island – since statute states that ‘Counties may adopt...’ thus avoiding any confusion that silence on the issue may be somehow construed as approval...
- Consider issue that tents aren’t allowed at farm stands unless for the sale of crops. Could be allowed under mass gatherings...
- LCDC is considering rule making around additional definitions and/or rules for farm stands. County can identify needs with regard to clarity and/or issues that have arisen with respect to farm stands. Consider concept of working backwards (that is policies that encourage action at the state level).
- Policies may define ‘undefined terms’. For instance a farm stand could be limited to a percentage of the total acreage up to a certain size in order to protect the primary use (agricultural production).

- The Columbia River Gorge Commission defines 'agricultural landscape setting' among the various landscape settings in the gorge. County could consider similar approach on the Island.
- Consider Design Review type standards for managing farm stand impacts such as parking, noise, signs, hours of operation etc. Other counties may have similar concept. Goal is to accommodate these practical things but equally important is to protect the maximum amount of productive farmland.
- Consider separating type of review for farm stands into Type I for basic farm stand and Type II for farm stand with promotional activities. Other counties may have similar concept.
- Consider policy clarifying whether permanent restroom facilities are allowed in conjunction with food prep. (note that ODA requires restroom facilities as part of approved food prep facility).
- Consider the need for restroom facilities at farm stands (porta potties vs. stand alone building vs. restrooms under the same roof as place where farm goods are sold).
- Lane County had recent LUBA decision regarding temp structures that may be useful (White vs. Lane County)
- Consider policy that requires proof that food service approval has been obtained from the ODA and/or County Health Dept. Concern is that there is jurisdictional overlap and operators could fail to obtain the proper approvals. Require sanitation sign off as well.
- Policy and/or policies could point to court of appeals decision (Greenfield vs. Mult co) for guidance re: farm stands.
- Policy should define 'local agricultural area' if there is a need for clarity on this. There was some debate as to the definition. Note (OAR 660-033-0130(23)(d) defines local agricultural area: "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." County Code at MCC 34.2625(G)(4) uses the same definition.
- There was general agreement among those present that wine is a processed item and not a prepared item and can therefore count as part of the 75 percent category as opposed to the 25 percent incidental category. A policy indicating this may be helpful.
- Better code enforcement is needed.
- Specify how many food carts should be allowed (one or no more than two probably). Don't want food courts.
- LCDC rules can be more detailed than either statute or case law. The County may offer draft wording that could be a starting point for rulemaking, which is on the LCDC agenda for division 33 for summer 2014.
- Consider defining processed vs. prepared food.

**Next meeting: Feb. 25th, 2014 at 501 SE Hawthorne Blvd., Rm 112,
3 pm to 5 pm**

MEETING SUMMARY: Agriculture and Farm Stands — Subcommittee Meeting #2

Project: Sauvie Island/Multnomah Channel Rural Area/Transportation System Plan Update

Date: 2/25/2014

Time: 3:00 – 5:00 p.m.

Location: Multnomah Building, Room 112; 501 SE Hawthorne Blvd., Portland, Oregon

Present: Subcommittee members, Multnomah County staff, Winterbrook Planning, General Public

A Community Advisory Committee (CAC) subcommittee meeting was held at the Multnomah Building at 3:00 PM on Tuesday, February 25th to discuss Agriculture and Farm Stands issues. The following is a brief meeting summary that highlights the major items discussed and agreed upon action items.

Introduction:

The meeting began with Facilitator, Doug Zenn introducing the meeting and its intention. County Planner Kevin Cook described each of the draft policies (related primarily to farm stands) followed by subcommittee discussion. The goal of the meeting was to review the draft Background Document (Appendix 3) and to identify and reach consensus on draft policy recommendations prepared by County staff based on the results of the initial subcommittee meeting.

The following issues, topics, and concerns were raised:

- Adam Barber began by explaining the *Barker v. LCDC Court of Appeals* decision; generally Multnomah County will need to provide additional findings to justify the Board's and Metro's decision to assign urban and rural reserve designations.
- Kevin explained that the focus of the meeting would be on draft policies. He also introduced letters from Mike Hashem, Cindy Reid (regarding cumulative impacts), and Paul DeBoni. Katherine Daniels provided a brief memo summarizing her suggested policy comments.
- **Policy 1: Annual Audit.** The first policy to be discussed related to an annual audit for farm stands with promotional activities. The audit could be required by the county to verify conditions of approval. There was discussion regarding who (the farm stand operator or the county) should pay for the audit. There was a concern that the audit process would “open up a can of worms”. There was a suggestion to have a county audit form, so that operators would have a template to follow. Several questioned the underlying intent of the policy – which supports the statutory provision of a 75/25 split between agricultural sales and non-agricultural farm stand sales, as well as the intent to support farm operations. It was also suggested that there should be a minimum percentage of products grown on the farm where the farm is located – to avoid a “grocery store” situation. Others noted that the county cannot exceed state statutory requirements.
- **Policy 2: Farm Stand Taxation.** The idea is to consider removing farm tax deferral for the portion of the farm that is devoted to the farm stand. The first comment was that such a policy would be “mean spirited” and would not help the farms that the farm stand statute is intended to support. There was considerable discussion regarding which property to include in the “farm stand” area (Parking area? Structures? Corn Mazes?). It was pointed out that folks used to park along the road – so parking areas were provided for

safety and convenience. Finally, it was suggested that this policy be dropped – but instead we should focus on the area dedicated to the farm stand, because this area is lost to agricultural production.

- **Policy 3: SB 960 Agri-Tourism.** It seemed that there was consensus at the last subcommittee meeting to include a policy **not** to implement SB 960 – which allows additional promotional activities on farm land but (unlike the farm stand statute) is optional for each county in Oregon. It was pointed out that there's a lot of activity on the Island that is not permitted, such as non-profit gatherings, and that this presents a fairness issue. Adam explained that the purpose of this policy is to respond to the concern about cumulative impacts by limiting what can occur on farm land; the “mass gathering” statute is a different matter and technically is not a “land use decision”. It was pointed out that the county should be able to regulate non-farm activities to address public health and safety issues. There was discussion about what the county could do to address mass gatherings, home occupations and similar activities to reduce traffic and related impacts. It was noted that the mass gathering statute allows up to 3,000 people – and that has a big impact. It was also suggested that the county prepare a table showing each type of non-farm activity allowed by statute (e.g., farm stands, mass gatherings, home occupations, agri-tourism allow by SB 960, etc.). Finally, it was noted that a lot happens on the Island that is not regulated – and farm stands get blamed for it; therefore, there needs to be registration of activities and consistent enforcement of regulations.
- **Policy 4: Tents.** The Court of Appeals decision regarding farm stands determined that tents are “structures” and their use is limited to the sale of farm products. It was noted that we live in Oregon – and that folks like to get shelter from the rain. The role of tents in mass gatherings was also discussed. The size of tents may also matter – could look like a circus. Draft Policy 5 was redundant.
- **Policy 6: State Policy Direction.** LCDC may be adopting new rules in the coming years to address the farm stands issue and the recent Court of Appeals decision on that issue. The issue here is whether the county should participate in LCDC's rule-making – and if so, how. There was general consensus that the county should be involved in this effort based on issues raised in the SIMC planning process.
- **Policy 7: Farm Stand not more than 25% of Farm Acreage.** Kevin discussed the desire among some on the subcommittee to consider a policy limiting the size of the farm stand foot print – and the corresponding loss of productive agricultural land. There was also discussion (again) of the need to require that a substantial portion of the crops sold at the farm stand actually be grown on the farm. The notion of a “buffer” farm stands from nearby farm uses to minimize potential complaints about farming impacts (spraying, dust, odors, etc.) from farm stand visitors. Several subcommittee members commented that the 25% figure was way too large; for example, it should be 25% or 5-10 acres, whichever is less. There was also a call for a clear definition of what constitutes a “farm stand” so we know what we're limiting. There was a long conversation about corn mazes: since they are grown (even if the feed corn product is not sold to humans), isn't this a crop? There was concern about the loss of “foundation farm land” as defined by the Oregon Department of Agriculture; all of Sauvie Island is comprised of foundation farm land. Farmers on the committee commented that they were concerned about establishing a limit on farm stands; after all, farm stands are intended to support agricultural operations and keep them profitable over time.
- As the 5:00 hour approached, it became apparent that the subcommittee would not be able to get through the remaining 13 policy issues. Kevin suggested that each of the subcommittee members provide written comments to Maia Hardy regarding their views on the remaining policy issues. Staff would review comments and synthesize them for discussion at the upcoming Agriculture and Farm Stands CAC meeting on March 11.

Items:

- Each subcommittee member is invited to send comments regarding draft policy issues (especially 8-20 that were not discussed by the subcommittee) to Maia Hardy (maia.hardy@multco.us). The deadline for providing written comments was set for the end of day on Tuesday, March 4.
- Project team will then consolidate these policy comments for discussion at the full Agriculture and Farm Stands CAC meeting on March 11, 2014.

Next CAC meeting: March 11, 2014- Grange Hall # 840 6:00- 8:30 PM

Meeting audio available upon request

MEETING SUMMARY: Agriculture and Agri-Tourism CAC Meeting

Project: Sauvie Island/Multnomah Channel Rural Area/Transportation System Plan Update

Date: 3/11/2014

Time: 6:00-8:30

Location: The Grange Hall #840

Present: Community Advisory Members, Multnomah County staff, Winterbrook Planning, General Public

A Community Advisory Committee meeting was held at Sauvie Island Grange Hall at 6:00PM on Tuesday, March 11th to discuss Agriculture and Agri-Tourism Policies to be included in the RAP update. The following is a brief meeting summary that highlights the major items discussed at the meeting.

Introduction:

The meeting began with Doug Zenn, Zenn Associates, introducing the meeting and its intention. The goal of the meeting was to review the Agricultural policies that were discussed at the subcommittee level.

The following issues, topics, and concerns were raised:

- There was debate as to whether the County should adopt agri-tourism provisions (SB 960) for Sauvie Island or not. Most were opposed due to high visitation impacts existing. However some felt that agri-tourism provides another option and provides a more direct path for what people may want to do on ag land.
- Mass gatherings should be limited further (by providing different definitions) and better coordinated.
- SB 960 would allow up to 18 events per year per property vs. 4 Mass gatherings.
- MUA-20 limited to 4 gatherings per year per property.
- Farm deferral program is appropriate on farms with or without farm-stands.
- Discussed the state definition of local agricultural area.
- Things that cannot be solved at the local level should be forwarded to the State.
- Committee supports two tier farm stand reviews.
- Committee supports limits to extent of farm stands to preserve prime farm soils.

Next CAC meeting—April 8th - Sauvie Island Academy (14445 NW Charlton Road) 6-8:30 PM

Meeting audio available upon request

Documents & Materials Considered

Exhibit 1: Team Memo to CAC

Department of Community Services
Land Use and Transportation Planning Program
www.multco.us/landuse



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Memorandum

Date: 3/6/14
To: CAC on Agriculture and Agri-Tourism
From: Kevin Cook, Staff Planner
Subject: Policies Discussion

Introduction/Background

The agri-tourism and farm stands subcommittee met in December 2013 and again in February 2014. The primary subject matter of the first meeting revolved around ideas for needed policies and the second meeting focused on possible policy language. Exhibit 1 is a table that captures the policy areas and discussions to date. Please be familiar with this table in time for the CAC meeting on March 11. Since the last subcommittee meeting, subcommittee members have provided additional comments on the policy discussions – these comments are also captured in the table. Additionally, the project team has explored the general policy direction and proposed language with County legal staff and Oregon Dept. of Conservation and Development (DLCD) staff.

Since the last subcommittee meeting, the project team has discussed the policy direction and possible policy text in consultation with County legal counsel and DLCD staff. The project team now believes that there is a need to pull back a bit and make the policy language more general and there are a couple of good reasons for this.

Uses such as farm stands are allowed in the EFU zone and while counties are charged with reviewing proposed farm stands for compliance with state law counties must be careful not to be more restrictive than state law. So policies can express the general concern but must be broad enough to allow for the type of discretion that is applied when in a particular land use review or when code changes are contemplated. Secondly, the because the County does not have the ability to be more restrictive than state law for a number of uses, many of the concerns expressed by the subcommittee, CAC, and the community are best addressed at the state level. We are told that the Land Conservation and Development Commission (LCDC) may take up rule-making around agri-tourism and farm stands possibly as soon as next year (2015). It is appropriate to understand that some policy language may need to be limited to expressing the overarching concern without committing to code changes until such time LCDC decides to take up the issue and whether to enact new rules.

Exhibit 2: Ag Policy Discussion Table

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| <p>construed as approval.</p> <p><i>The general consensus among the subcommittee members is that agri-tourism is not desired due to high visitor impacts.</i></p> | | <p>have not had adequate time or information to formulate what those recommendations would be). We have many people on the island hosting events, and weddings on their properties without permits, the county either is going to adopt SB 960 as a way to regulate those events, and provide neighbors opportunities to comment on those application, or the county need to create a process to either regulate those events or actively stopped them from happening without having neighbors being the bad guys.</p> <ul style="list-style-type: none"> I ask that the county conduct a study based on science and facts to determine , the truth about the island having reached a carrying capacity before any policies change is proposed based on few people hear say. |
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Farm Deferral

| Issue | Possible Policy Text | Comments |
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| <p>Some on the committee expressed a desire to take areas out of farm deferral that are not directly producing. However a differing opinion has been expressed; that is, farm stands are a way for farmers to supplement income and therefore provide some economic stability. The project</p> | <p>Consider policy directing County Department of Assessment and Taxation to remove parking areas and other farm stand infrastructure from farm deferral program.</p> | <p>Note: The subcommittee consensus was to eliminate this option as a land-use policy.</p> <ul style="list-style-type: none"> I concur with the consensus. This option should be eliminated. I agree with the above consensus. To adopt this approach would be 180 degrees in opposition to the preservation of agricultural land and rural character. Should you choose to wade in here, I suggest you discuss with legal counsel. Tax deferral status is established in state law. |

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CAC on Agriculture and Agri-Tourism

3/11/2014

Agriculture and Agri-tourism Policy Discussion Table

Each Issue is accompanied by possible policy text if any has been proposed and post meeting comments are captured in the third column. These comments are compiled for presentation at the March 11th CAC meeting.

Agri-Tourism

| Issue | Possible Policy Text | Comments |
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| <p>Should agri-tourism Per SB 960 be allowed in EFU on Sauvie Island? General consensus of subcommittee is that agri-tourism is not appropriate on Sauvie Island due to fact that the Island is already burdened by high visitation. Policy should specifically state that agri-tourism as defined is not permitted on the Island – since statute states that ‘Counties may adopt...’ thus avoiding any confusion that silence on the issue may be somehow</p> | <p>Counties may adopt provisions for agri-tourism as provided for in ORS 215.284(4) and OAR 660-033-0120. Due to limited road infrastructure and high visitation the policy is to not adopt agri-tourism provisions in the Sauvie Island/Multnomah Channel Rural Plan Area.</p> | <ul style="list-style-type: none"> I fully agree with the policy as stated. No!! I suggest that line three of the first sentence be revised to read “...setting forth the percentage allowance of farm stand income from retail incidental items and promotional activity...” I believe with the exception of Mr. Hashem’s comment – the consensus was not to allow additional agri-tourism on the island. There is a need for further scrutiny and regulation re: events that fall (or may not fall) under “mass gathering” definitions – The County should do everything within its power to create guidelines under current law – and make recommendations to State (we |

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| <p>team recommends further discussion on this topic. If the subcommittee recommends pursuing this concept, the project team will explore with the County Department of Assessment, Recording and Taxation (DART).</p> | | <ul style="list-style-type: none"> Unless the county is changing the zoning to commercial I agree that this proposal should be eliminated. |
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Farm Stands- Defining “Local Agricultural Area”

| Issue | Possible Policy Text | Comments |
|--|----------------------|--|
| <p>Policy should define ‘local agricultural area’ if there is a need for clarity on this. There was some debate as to the definition.</p> <p>OAR 660-033-0130(23)(d) defines local agricultural area: “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.” County Code at MCC 34.2625(G) (4) uses the same</p> | | <ul style="list-style-type: none"> While the state has a broad definition of “local area”, it is important that much if not most of the crops sold at farm stands be from the island. Otherwise, the stands serve more as grocery stores, not farm stands. I would like to see a policy requiring that some minimum percentage (35%, 50%) of all crops and livestock sold at the farm stand be from the farm or farms on the island that are operated by the farm stand owner, and that a larger percentage of total crops sold (50%, 65%??) be from farms on the island. That way the farm stand truly serves the island and is not a grocery store. I believe that Multnomah County has the authority to provide a more narrow provision as long as it is providing opportunity for the farm stand to exist. I have attempted writing a policy to carry this out. |

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| <p>definition.</p> | | <ul style="list-style-type: none"> The underlying concern is that EFU farmland with farm stand can become a “grocery store”, with little, if any, crop from the farm being sold at farm stand - and creating unintended opportunity for farm stands to become more retail/event oriented, than agricultural crop oriented. The county should define this as narrowly as possible within state guidance. Emphasis should be on sale of products raised on the island; next areas immediately around the island. A mileage radius would be good. LCDC administrative rule, not statute, defines “local agricultural area.” Should check if a more restrictive definition runs contrary to Brentmar v. Jackson County. To me this is very clear. It includes all of the state of Oregon, and adjacent county to Multnomah County from an adjacent state (Washington) that is Clark County. I don't see the need to waste time redefining it. PROJECT TEAM COMMENTS: County legal staff does not believe the County has the authority to provide a more restrictive definition of local agricultural area than the state definition. |
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Farm Stands- Review Processes

| Issue | Possible Policy Text | Comments |
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| <p>Consider separating type of review</p> | <p>Multnomah County shall develop a two-tiered</p> | <ul style="list-style-type: none"> As defined, farm stands ARE structures, so they have |

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| <p>for farm stands into Type I for basic farm stand and Type II for farm stand with promotional activities. Other counties may have similar concept.</p> | <p>review process for farm stand operations on EFU land. Farm stands that do not include promotional activities, events, or large structures shall may be reviewed through the County's Type I application process, which involves clear and objective standards. Farm stands that include any combination of promotional activities, events, and large structures shall be reviewed under the County's Type II application process which involves a degree of discretionary review.</p> | <p>to include structures. This needs to be rewritten. But I support the concept. If no events or promotional activities are held, a streamlined process is appropriate. I strongly recommend you contact Jim Johnson (Oregon Dept. of Agriculture) for preferred wording.</p> <ul style="list-style-type: none"> • Discretionary review, re: Sauvie Island, should lean toward promoting actual local crops and agricultural, versus, non-site specific products and events. Traffic and parking issues need to be constrained due to island infrastructure – and to limit taking EFU land out of production. • I would be in favor of this type of permitting. My concern would be the cost to a non- promotional farmer. We should keep the cost low and affordable to encourage compliance. This would be ok if it were clear that it is NOT encouraging new farm stands and if the criteria were protective enough. Type I should have clear and objective standards including footprint and square footage of structure; total land area including driveway, parking, structure less than or equal to 1 acre. Type II should have clear and objective standards as to structure size; where produce comes from; acreage including event spaces 2 acres or less (but excluding corn mazes and u-pick actual fields. Including any parking by those fields). • This would be a great way to recognize the “true” traditional farm stands as opposed to facilities that include all the “extras.” • Instead of reinventing the wheel, we should stay with what we have. The proposed type one |
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| | | <p>application is being conducted under home occupancy at present time. Only when a farm wants to sell other farms products and incidentals, and or conduct fee based activities of any kind that a type II should or is required now. Creating more steps for a process already complicated does nothing but cause more complication for farmers, neighbors, and county staff.</p> <ul style="list-style-type: none"> • PROJECT TEAM COMMENTS: The intent is to provide options for applicants based on what is being proposed but not to create an additional step. County staff is unaware of any farm stands that are approved via a home occupation permit. |
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| Issue | Possible Policy Text | Comments |
| <p>LCDC is considering rule making around additional definitions and/or rules for farm stands. County can identify needs with regard to clarity and/or issues that have arisen with respect to farm stands. Consider concept of working backwards (that is policies that encourage action at the state level).</p> | | <ul style="list-style-type: none"> • The LCDC rulemaking process will be very important with respect to what constitutes processing and what is prepared food items. I anticipate the process may also set limits on the scale of farm stands to ensure that they achieve certain results, including (1) not being grocery stores; (2) serve the primary purpose of helping the farm owner enhance his/her farm operation, and (3) minimize land removed from the agricultural base. • We did not have any meaningful discussion around this – and no time has been made to do so. It sounds like the County is not interested in taking the time to make recommendations to the State – which was actually suggested during the sub-committee meetings. Very disappointing. I heard very loud and clear at our first subcommittee meeting that there |

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| | | <p>was a strong preference for farm stands to be producing actual product – with less emphasis on income from events, etc. This does not seem to be reflected anywhere in writing.</p> <ul style="list-style-type: none"> • Encourage greater clarity AND the goal of having farm stands focused on agricultural production from the farm and immediately surrounding farms, not on hauling products in or engaging in entertainment or events. • There is definite need for more definition and clarification. Recommendations from local government based on actual issues that have been and are being dealt with would be a tremendous help. • County staff should promote the idea of including farm stand owners in any LCDC rule making to be complete and comprehensive. • PROJECT TEAM COMMENTS: The project team is not in a position to promise anything with respect to how the county might participate in state rule making. Nevertheless, it is appropriate for the CAC to identify those areas that LCDC could take up in rule making. |
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Farm Stands- Percentages and acreages

| Issue | Possible Policy Text | Comments |
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| Consider developing procedure for validating compliance with 25/75 | Amend county regulations to clarify authority to require an annual report to be submitted to the | <ul style="list-style-type: none"> • This is not detailed enough. The policy should require each farm stand annual report to identify |

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| rule based on farm stand sales and crops in production on site. | county each year a farm stand is in business setting forth the percentage allowance of farm stand income and percentage allowance of income from promotional activity. Code amendments can provide county ability to audit the farm stand records at the county's expense. | <p>the gross income obtained (1) from the sale of farm crops or livestock; (2) the sale of retail incidental items, including any food sold at food carts (if allowed) and (3) fees from promotional activities, including but not limited to harvest festivals, farm to plate dinners, small gatherings, tours, cow trains, etc. (each separately listed). The report should be stamped and certified by a CPA.</p> <ul style="list-style-type: none"> • I would be in favor of this provision. I need assurances that any accounting I give the county does not become public record. However, a pie chart, without dollar amounts but a percentage, would be okay for public viewing. • Agree with requiring reports. But needs to be expressed much more clearly and precisely than this. Needs to be specific about what is included and excluded from each category. What should be measured is gross income from farm products, gross income from retail incidental <u>including gross</u> income from any food cart, gross income from events. • There should be a means of validating – however – it needs to go beyond accounting on paper – as numbers can easily be manipulated by creative accountants. If the real concern is that EFU farmland is being used for farming and promoting local diverse crops – accounting is only a portion of the answer. I would like to hear more from local and regional farmers who are successfully growing diverse crops profitably – as to what this sort of “audit” should look like – I’m guessing looking at the farm itself should be part of the audit process. |
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| <p>also used in separating the types of farm stand income for essentially the same reason. The subcommittee may want to consider a cap on the overall size of the farm stand operation out of the idea that there is a reasonable upper limit for farm stand operation that includes promotional activity and also out of strong desire amongst the community to maintain the rural character of the Island. Consideration of the overall farm stand area can include those areas (such as parking and structures) that are generally taken out of production when the farm stand is operating. Though some thought should be given to areas that are in production but may be part of a u-pick operation or similar. Consideration may be given to corn-mazes, which are obviously not producing corn during the operation of the farm stand. Related to the concept of limiting the size of the farm stand the Subcommittee may want to consider the extent and/or dimensions of the farm stand area. Generally the concept of maintaining a compact form close to the point of access is considered good practice</p> | | <p>feed this metropolitan region. The setback provision is fine. Consequently, change the policy to say that the farm stand shall not exceed 10 percent of the total area of the farm tract or 10 acres, whichever is smaller. For farm stands that have no corn maze, the farm stand shall not exceed 5 percent of the total area of the farm or 5 acres, whichever is smaller. Since this affects how the use goes in, and not whether it is allowed, I see no conflict with Brentmar.</p> <ul style="list-style-type: none"> I think you need to break down the components of a farm stand into: the farm stand structure itself, parking area, road access, promotional activity areas and any other defined area. I wouldn't limit the size of the farm stand structure itself, as it is clearly the intended sub (1) use, unless you want to limit promotional activities within the farm stand structure. Because the associated sales and activities are incidental they are more legitimately regulated. In my opinion, because allowable income from retail incidental items and promotional activity is 25% of FARM STAND sales, not total farm sales, any limit on percent or acreage of land these uses occupy should be related to the FARM STAND STRUCTURE and associated uses, not the entire farm tract. The logic here (think nexus and proportionality) is that lots of farm produce for sale justifies more promotional activities while relatively little farm produce for sale justifies less promotional activity. Farm stand sales may or may not directly reflect farm size. All that said, I don't think the 25% figure will work in this |
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| Issue | Possible Policy Text | Comments |
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| <p>Farm stands could be limited to a percentage of the total acreage up to a certain size in order to protect the primary use (agricultural production).</p> <p><i>The idea behind this concept is to preserve EFU land for its primary intended use: agricultural production. Limiting the footprint of farm stands is one way of insuring that farm stands, which are accessory to agriculture do not compete with agriculture as the dominate use of the tract upon which the farm stand is located. 25 percent of the farm tract is contemplated because the ratio is</i></p> | <p>In order to preserve the farmland for agricultural production the area dedicated to the farm stand shall not exceed 25 percent of the total area of the farm tract or X acres, whichever is smaller. The area dedicated to the farm stand are those areas that support the farm stand but are generally not cultivated during the operation of the farm stand. The overall extent of the farm stand shall remain as compact practicable and be located as close to the road providing access to the farm stand as practicable. A 200 foot setback from neighboring properties that are not part of the subject tract shall apply to the farm stand operation.</p> | <ul style="list-style-type: none"> Support In Bella Organic permit this language was incorporated into the permit, although the county already has the authority to verify compliance through reporting, and audits when needed. most farmers fear miss uses of such regulation as a way to harass, and discriminate against certain farmers , and maybe used by opponents of farm stands on the island as a way to harass and intimidate family farms. Any language needs to be reviewed by legal counsel, to make sure we have safe guard from abuse for such proposed regulation. Allowing a farm stand owner to remove 25 percent of farm land from production from land identified as foundation agricultural land is outrageous. The stand itself requires no more than a few hundred to perhaps 5000 (for the very largest) square feet of space, plus parking. Overflow parking for events in September and October should occur on lands that are used for growing crops earlier in the season. Very few extra acres are needed for events. A corn maze may require about 5 acres, but we aren't seeing them much larger than that so there is no need to allow larger ones. I think a maximum limit of 5 acres for all of the area associated with a farm stand that does not have a corn maze, and a maximum area of 10 acres for a farm stand with a corn maze, is more than enough, especially given the importance of farming this farm land for crops to |

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| <p>when the goal is to protect and minimize impact to a resource (in this case farm land). Another consideration that was brought up during the scoping process is the idea that farm stands operations can have an impact on neighboring farm operations and dwellings. A common agricultural setback is 200 feet.</p> <p>*Please note that the above concepts need to be explored by County Counsel with particular concern regarding the Brentmar vs. Jackson County case of 1995.</p> | | <p>instance, as farm stand structures are typically smaller than promotional activity areas. I suggest you do an informal survey of existing farm stands and promotional activity areas to determine an appropriate percent or acreage figure that will allow farms to capture 25% of farm stand revenues from promotional activities, yet not been so large that income from promotional activities will clearly be more than 25% of farm stand sales.</p> <ul style="list-style-type: none"> • Please refer to my comments in cover letter – Subcommittee did not come to consensus on this – and part of that is due to time and information. 25% was viewed as “too high”, those farming don’t want limits, those concerned with events & parking getting out of hand, do want limits – This whole area needs more information and further discussion. • Not in favor of this concept! • The 25% suggestion is a travesty. Its outcome would be to destroy agricultural activity on the island. Total area should not exceed 5% of total tract or 3 acres, whichever is less. If a corn maze is included, that must be 4 acres or less including parking and driveways within the total 7 acre. Likewise, u-pick fields are not included, although parking for them is part of the 5%/3 acres. • Concern with a percentage approach as larger acreages could have much larger facilities with no real primary nexus to farm use. Support the primary idea/concept. The discussion relates mitigation such as setbacks to the farm stand operation. It must be clear what “operation” is (define). “Operations” such |
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| | | <p>as parking, recreational activities and the like can greatly impact farming operations/ practices on adjacent lands. The idea of a cap is a good one and merits serious consideration. While I do not disagree with “checking” against Brentmar, be careful to distinguish between “legislative criteria” v. local, supplemental criteria. If I remember the discussion of this after the decision, the scope of the decision was against “local “legislative criteria” or criteria used to determine if a land is approved or not. Brentmar did not take away the ability of a county to adopt siting or design standards. Nor did it take away the ability to interpret/define the statutory criteria. I have attached a DOJ memo provided to DLCD for your information. I agree with the expressed concepts of “compact” farm stand development as a way to limit conversion of productive cropland and minimize impacts to surrounding farming operations.</p> <ul style="list-style-type: none"> • I don't see EFU land in danger of being anything else. Farm stands on the island are being farmed actively on all 3 farm stands. The legislation 25%-75% is a safe guard already, and we can't possibly think of every possibilities to put into a policy to preserve EFU land any better the legislators have done. It is as simple as economic. A farm stand which does not plant berries would not get any business during June, July, August, or September. Customers would not visit or spend money at a farm stand if it is not actively farmed. We don't need the CIA to verify if a farm stand is actively being farmed because |
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| | | <p>customers would not spend money, or visit it. Why come to a farm stand if you end up buying the same products you will find in your local grocery store? Instead of making it so complicated for farmers and county staff to figure this process which has been nothing but easy until now, why we don't proposed a ban on any new farm stands beyond what we already have and solve all of the problems? A 100 feet set back is sufficient to provide a buffer. What if you have neighbors on 4 sides 200 feet would make it impossible to figure out and maintain compliance. The problem we are having here is the interpretation change from the original policy #1-2 in the original 97 plan which talk about preserving the agriculture character of the island and promoting the agriculture economy of the island by promoting the establishment of farm stands, and U pick on the island, to preserving the rural character of the island. The problem the island is not rural it is an industrious agriculture community. Skyline is Rural because it is not farmable and does not have the soil or the irrigation to support similar farming operation on the island. I support keeping the original Policies in the 97 plan, as a way to avoid the minimizing of the agricultural economy of the island, and prevent residential sprawl which have crept up to the island in the past 20 years and now dominate the policy making in this planning process. Less than 10% of the island is small acreage residential but they make the majority of the planning committee, which is why the policy is being changed from</p> |
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| | | <p>preserving agriculture, to preserving rural residential sprawl.</p> <ul style="list-style-type: none"> PROJECT TEAM COMMENTS: County legal staff does not believe the County has the authority to put specific caps on the extent of farm stand uses. The question of indirect regulation (e.g., setbacks) is an open question but is probably too specific for policy level efforts. The team suggests something along the lines of a policy statement that "the county shall limit the footprint to the greatest extent allowed by law, while balancing the financial viability of the farm against the policy of conserving productive agricultural acreage." This is another topic that may appropriate for LCDC rulemaking discussion. |
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Farm Stands- Components/Structures/Design

| Issue | Possible Policy Text | Comments |
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| <p>There was general agreement among those present that wine is a processed item and not a prepared item and can therefore count as part of the 75 percent category as opposed to the 25 percent incidental category. A policy indicating this may be helpful.</p> | | <ul style="list-style-type: none"> I believe Washington County considers this a retail incidental item. The legislative history of the farm stand law shows that the kind of retail incidental items considered were T-shirts, mugs, etc. Selling wine is like making this a grocery store. I anticipate there is a good chance that LCDC will prevent this by rule. I would follow Washington County's lead here. For now, there is no need for a policy on this, so don't have one. See what LCDC does first. This is not accurate. We were told that wine was |

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| | | <p>included in the 75% "take", rather than 25% retail, etc. There was no consensus that this was a good idea – in fact I believe on the audio from the first subcommittee meeting, one of the guests said "we have to fix that" – Most of the sub-committee seems to favor policy that links farm stand sales to actual farm production – and LESS of a grocery store model.</p> <ul style="list-style-type: none"> • These definitions need clarity at the state and county level. As a policy matter, prepared food items are those that have been readied for sale and consumption without further manipulation. Hamburgers, wine, beer, sandwiches. All of these fall into the 25% along with other retail incidental items. I believe a great deal of the confusion comes from the use of "prepared" as a definition in the general EFU definitions and in a different way in the farm stand regs. Must be sorted out. • Wine is just like Cider, syrups or similar by products which processed farm products. The legislators discussed processed farm products extensively in the legislative history. The county council has researched wine sale as anything but processed farm products and was not able to find any authority to contradict the finding that Mr. Johnson of the department of agriculture provided to the subcommittee. I agree with the group's finding. • PROJECT TEAM COMMENTS: Clarification of prepared vs. processed and where wine and spirits may be considered is an appropriate question for |
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| Issue | Possible Policy Text | LCDC. Comments |
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| <p>Consider Design Review type standards for managing farm stand impacts such as parking, noise, signs, hours of operation etc. Other counties may have similar concept. Goal is to accommodate these practical things but equally important is to protect the maximum amount of productive farmland.</p> <p><i>Design Review typically focuses on location and design of a use. Ideas about location and extent are considered in item 7 above. Off street parking, safe and reasonable access, noise, and signage are currently addressed in code but nevertheless policy can specify that these codes are applicable to farm stands.</i></p> | | <ul style="list-style-type: none"> • Yes. • Design review, yes – but also having a means of enforcement re: ever-expanding overflow parking areas that may or may not have been part of the design review. • I think I need more information on this concept. • See previous comments. • Most of those items are already part of the current process, and new policy may be redundant. More is less. The process is complicated enough as is, that is why in the past 20 years we only had one new farm stand on the island (Bella Organic) Kruger's farm, and the Eggers farm stand have been around for that many years and only in the past 9 years when the county asked them to get farm stand permits. The fear that we will have an explosion of farm stand is greatly exaggerated and is not supported by facts. This process was an educational to everyone involved including to the county, since it was all new to them too. I believe the county staff when they worked with farm stand operators, have been able to accomplish more than when they did not. I believe that most farm stands operator are reasonable people who are trying to make living , and want to follow the code and live in peace if they are permitted to do so. Is Support more cooperation between the county staff and farm stands operator as a mean to achieve balance for everyone? The |

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| | | <p>county was being used in political and sometime personal feud and that should not be allowed to happen.</p> <ul style="list-style-type: none"> • PROJECT TEAM COMMENTS: The team suggests policy language that generally supports the concept of consideration of location and function of buildings, parking and circulation, signage, traffic impacts etc. to the extent allowed by law. |
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| Issue | Possible Policy Text | Comments |
| <p>Consider issue that tents aren't allowed at farm stands unless for the sale of crops. Could be allowed under mass gatherings...</p> | | <ul style="list-style-type: none"> • No need to address mass gatherings here. Tents are not allowed unless or until the law changes. The plan might want to state what the current status of the law is, and recognize that there may be changes to it through enactment of statutory amendments or administrative rules. • This is a good policy, but type I reviews of farm stands will involve farm stand structures, so this should be clarified to be OK. • Tent should be allowed. We live in Western Oregon and we do experience rain in the summer. It is nice to offer a dry place for customers to wait for friends, wait out a storm or even rest in the shade. • Tents become a problem when they become semi-permanent structures for events. The point made here: "could be allowed under mass gatherings" is why the County needs to do something about the mass gathering law at the State level - and do what they can at local level to regulate/define guidelines. Events occur at farm stands under mass gathering law that bring completely non-agricultural related |

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| | | <p>events, tents, vehicles and activities – appear to be wholly unregulated, and add to the unending confusion and issues that impact island residents, noise, crowds, etc.</p> <ul style="list-style-type: none"> • The finding of the court of appeal, that tents, food carts, and any structures can be used on the farm stands when they are used for the sale of farm products first, and then for other approved use like fee based activities, and or incidentals. We can't change that unless the legislators amend the law. <p>PROJECT TEAM COMMENTS: The issue of structures associated with farm stands is a good topic for LCDC to discuss in rule-making. The current state of affairs means the County evaluates proposals based what state statute and recent case law.</p> |
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| Issue | Possible Policy Text | Comments |
| <p>Consider policy clarifying whether permanent restroom facilities are allowed in conjunction with food prep. (Note that ODA requires restroom facilities as part of approved food prep facility).</p> <p><i>If the restroom is for personnel only then it shouldn't be a problem allowing the restroom if the food prep is allowed. If it is shared with the public then consideration of item 12</i></p> | | <ul style="list-style-type: none"> • I think that Type II food stands should be permitted to have seasonal portapotties. Remember that restaurants are not permitted at farm stands. Whether food carts are restaurants is an interesting question. • I don't believe that permanent restroom facilities are appropriate or that there should be food prep allowed on-site. • Permanent facilities include septic and drain field. Such facilities have shown a historic tendency to develop into larger operations than intended. Could also take productive farmland out of production. • Common sense and the law require having public restrooms if food of any kind is being sold. I don't |

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| <i>below is in order.</i> | | <p>see what is the problem with having restrooms on a farm stands. Employees and customers need them to maintain public health. I support have bathrooms on a farm stand, and porta potty as needed to support needs. I ask that porta potty be required on all farm stands which do not have farm stand permit as a way to avoid customers from using public roads or land or existing farm stands as public restrooms. in fact I demand that the county requires all park, and public facilities on the island be provided with restrooms as a way to reduce use islands public or private fields as public restrooms, and address sanitation concerns.</p> <ul style="list-style-type: none"> • PROJECT TEAM COMMENTS: This is a concern that LCDC could address in rule making. Currently it appears that restrooms are structures that are not allowed (unless – possibly – the restroom(s) are located inside a structure for the sale of farm crops). |
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| Issue | Possible Policy Text | Comments |
| <p>Consider the need for restroom facilities at farm stands (porta potties vs. stand alone building vs. restrooms under the same roof as place where farm goods are sold).</p> <p><i>The idea should be explored further but this is a tricky issue and it may be</i></p> | | <ul style="list-style-type: none"> • See above. Restrooms are a secondary issue to uses and numbers. Number and location come AFTER there is clarity about what should be going on and in what numbers, and what the public health impacts are. • I need more information on this. Is it being suggested that porta potties be located within a building? I don't think they can be serviced by the owner/ pumping truck if they are located inside. Porta potties are temporarily placed and used for |

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| <p><i>that restrooms and porta-pottys are not allowed as stand-alone structures and therefore must be located inside a structure that is used for the sale of farm products.</i></p> | | <p>the season. I would rather have waste material removed from my farm than having to put in a permanent septic system that is far too expensive for my small farm stand.</p> <ul style="list-style-type: none"> • I support having restrooms in all farms stand, and allow porta potty when or where are needed including at farm stands without permits, as a way to address sanitation needs of employees, and customers alike. It is just a common sense. Customers now visit farm stands which are not permitted but have no access to bathrooms because the current code prevent farms from using porta potty even for farm workers. That is wrong and needs to be modified to make sense. • PROJECT TEAM COMMENTS: This is a concern that LCDC could address in rule making. Currently it appears that restrooms are structures that are not allowed (unless – possibly – the restroom(s) are located inside a structure for the sale of farm crops). |
| <p>Consider policy that requires proof that food service approval has been obtained from the ODA and/or County Health Dept. Concern is that there is jurisdictional overlap and operators could fail to obtain the proper approvals. Require sanitation sign off as well.</p> | | <ul style="list-style-type: none"> • Good idea. • See above. More regulation is needed on all levels re: food, sanitation, etc, but again, after there is some sane way of dealing with numbers of humans that accrue – based on legally allowed uses – with adequate enforcement, which is viewed by many as “non-existent” on Sauvie Island. • Okay • ODA already license permitted farm stands. I am not sure if they license non permitted farm stands which |

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| | | <p>some of them sell processed farm products, and in some cases prepared food. Those farms need to be looked at for licensing.</p> <ul style="list-style-type: none"> • PROJECT TEAM COMMENTS: This is very straight forward for staff to implement. Policy can simply direct the department to implement procedures to ensure the appropriate agencies have reviewed and commented on the proposal. |
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| Issue | Possible Policy Text | Comments |
| Specify how many food carts should be allowed (one or no more than two probably). Don't want food courts. | | <ul style="list-style-type: none"> • Under the Court of Appeals decision, if food carts are allowed at all, they likely must be located within the primary food stand structure. To avoid the farm stand from becoming a food court, which is more like a restaurant, a policy limiting food carts to just one or two per farm stand would be good. A policy also is needed stating that all gross income from sales of food at food carts or through other food service must be included as part of the 25% reported in the annual report. • This issue is a sub-issue of everything discussed above – no – there should not be food carts – and food courts, and farm stand grocery stores selling everything but produce and produce-related items – The intention of widening allowed activities was to help farmers make a living, not exchange farming crops, for food courts, events, and ever-expanding and specious definitions of what is agriculture-related. • Food carts! Really, I don't think they should be allowed at all. Restaurants are not allowed on EFU, |

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| | | <p>and I see food carts as small restaurants. \</p> <ul style="list-style-type: none"> • Food carts are a way to serve prepared food without dust, or flies. It is simply more sanitary, because you have hands, and utensil washing facility on board. The court of appeal already ruled that food carts are a farm stand structure to be used for the sale of farm products and than for incidental, and fee based activities. Placing a limit on food carts may violate the court's ruling, and does not provide us with the guarantees we are asking for which is avoiding having food carts courts. Food carts have to be used in conjunction with a harvest festival. I don't believe they can be used as a standalone event. So I don't see the need for additional policy change. • PROJECT TEAM COMMENTS: This is a concern that LCDC could address in rule making. Currently the County must evaluate food carts in the context of state law (i.e. 75/25 rule, structures, etc., prepared vs. processed, etc.) and recent case law. It is likely that given these factors that a food court scenario is not very probable. |
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| Issue | Possible Policy Text | Comments |
| Consider defining processed vs. prepared food. <i>The team recommends exploring this concept further. There is concern that creating a specific list of items in</i> | | <ul style="list-style-type: none"> • This is very difficult. I am almost certain LCDC will need to address this in rulemaking. However, all cooked foods should be identified as prepared food, as should items like sandwiches and drinks prepared for sale to the public. • Has the state defined processed vs. prepared? I don't think this committee or the county should be defining these terms. |

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| <p><i>the Rural Area Plan could create further confusion, whereas general definitions will always leave room for some interpretation.</i></p> | | <ul style="list-style-type: none"> • (Comment applies to entire table not processed versus prepared exclusively)The fundamental confusion is that products and activities at farm stands were to create venues for farmers to sell their produce and other “local” produce to the benefit of their livelihood, and good use of EFU farmland – NOT to create urban events for urban visitors that have little or specious relationship to agricultural education or promoting local farm crops. All of these issues are sub-issues to that larger problem that morphs each year into whatever a creative entrepreneur can come up with and get away with on Sauvie Island. I have not heard one comment by any island resident that they want to stop farmers from making a good living, in fact, the opposite. There is frustration over pushing the limits, constantly, by a handful of folks, resulting in massive crowds that could be doing exactly what they are doing anywhere in downtown Portland or some other venue - because there is next to no relationship between the activity and the farm. The meaning of “rural” and “farm related” drops off – and it’s just another place to consume or do (whatever) – but with a more rural sky and surrounding landscape. Not addressing this fundamental issue, in my view, is the crux of the matter. • These definitions need clarity at the state and county level. As a policy matter, prepared food items are those that have been readied for sale and consumption without further manipulation. |
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| | | <p>Hamburgers, wine, beer, sandwiches. All of these fall into the 25% along with other retail incidental items. I believe a great deal of the confusion comes from the use of "prepared" as a definition in the general EFU definitions and in a different way in the farm stand regs. Must be sorted out.</p> <ul style="list-style-type: none"> • This has and continues to be an issue around the state. Definitions would be good either at the state and/or the local level. • I believe a prepared food items using farm products like corn on the cob or caramel apple, apple cider, or similar products should be considered part of the 75%, and products like coke, Pepsi, hamburgers, or hotdogs could be counted as part of the 25%, as it is now all food prepared to be consumed on the farm by customers is counted as part of the 25%. We can leave this alone and let the county staff and farm stand operators work on a definition independent from this vision plan. • PROJECT TEAM COMMENTS: Clarification of prepared vs. processed is an appropriate question for LCDC. |
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Farm Stand-Other

| Issue | Possible Policy Text | Comments |
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| LCDC is considering rule making around additional definitions and/or rules for farm stands. County can identify needs | | <ul style="list-style-type: none"> • See above. Beyond this Rural Plan, more work should be done with the County and concerned Sauvie Island related players – to find ways of |

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| <p>with regard to clarity and/or issues that have arisen with respect to farm stands. Consider concept of working backwards (that is policies that encourage action at the state level).</p> | | <p>addressing the impacts of entrepreneurial activities that are loosely and/or not related to farming, local farm product, etc – Something specific, and not vague, should come out of this process – to begin a specific dialogue with LCDC – around these issues.</p> <ul style="list-style-type: none"> • Maybe proof that produce is actually grown on the land. The 75/25 definition is a little broad. I fear that many farm stands have turned into grocery/produce stores and not authentic farmers selling their own produce. If a customer can get an apple, a funnel cake, prepared salad dressing and an African basket from a farm stand located on EFU, how much of the land this farm stand is located on was actually farmed for these products? I think we need to bring farming back to the farm stand and EFU land. • Needed. • See previous comments. • The county staff should advocate for clarity from the legislators especially for the use of structures for approved use. It is confusing if not contradictory to authorize a use like promotional activities but deny use of the tools to conduct such activity. there are a movement among farm stands owners and Agri-Tourism groups around the state to ask the legislators to modify the law to authorize temporary structures for uses already authorized , and it would be advantageous for the county to be part of that process as to clarify those issues for all of us. |
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Others:

| Issue | Possible Policy Text | Comments |
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| <p>Better code enforcement is needed.</p> | | <ul style="list-style-type: none"> • Policy needs to be stronger than mere voluntary compliance. When that does not work, then what? The policy should give county the authority to fine or shut down a farm stand that fails to comply with requirements. The fine must be sufficiently high to make it not worth the farm stand operator’s while to merely ignore the requirement. • YES! • Yes. I would suggest that the County find a way of providing immediate – on the spot – enforcement in coordination with Sheriff’s office - There was talk (I think K. Schilling) about the possibility of having some sort of ombudsman position for dealing with issues of enforcement and determining permitted uses. The current voluntary compliance protocol requires a neighbor to formally lodge a “complaint” to even get something investigated by the County. There needs to be a more straightforward way for anyone to report a concern, and have the County respond, with more “immediacy”. • Absolutely • Consistent even handed enforcement. Avoid being used for settling personal feuds. You need to deal with not for profit events, or unauthorized events • PROJECT TEAM COMMENTS: The project team is not in a position to promise anything with respect to how the county might participate in state rule |

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| | | making. Nevertheless, it is appropriate for the CAC to identify those areas that LCDC could take up in rule making. |
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| Issue | Possible Policy Text | Comments |
| <p>The Columbia River Gorge Commission defines 'agricultural landscape setting' among the various landscape settings in the gorge. County could consider similar approach on the Island.</p> | | <ul style="list-style-type: none"> • Do we need this? • I would need more information before commenting • Without having a clear sense of traffic on roads, destination parking area thresholds (what it looks like and where rural becomes urban except for the sky and surrounding landscape) we will not have done our job. We will have demonstrated, instead, how to preserve rural landscape, except for cars parked everywhere, multi-modal road congestion, massacring of wildlife on roadways, etc. I had hoped to see planning tools that have been used here and elsewhere – to actually get at these issues. Except for the photograph exercise, which was great – we haven't addressed the preservation of rural character in a way that will translate on the ground. • Adopting the definition would not achieve anything. There are many policies within the plan that are applicable here. It is not possible to sort through 35 pages of the Management Plan within the short time you have provided for comment. • Could be useful in defining what "rural character" is. • I don't see the point of that, unless we are trying to change the island to a rural residential instead of agricultural. More rules do not serve farmers, and does not create but more reasons to divide a community. I don't see that happening especially |

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| | | <p>since the island is a 1/3 in Multnomah County and the rest sits in Colombia and most of it owned by the state and federal government. We can't make decision for others, nor can we?</p> <ul style="list-style-type: none"> • PROJECT TEAM COMMENTS: It is not clear what this is attempting to accomplish. The idea surfaced in subcommittee number 1 because of a concern around the overall size of buildings and the extent of the farm stand uses. Implementing standards that specify the design and extent of farm stands is appropriate at the state level, whereas county policy probably cannot implement a Gorge style landscape setting against which farm stands and buildings are reviewed. |
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Existing Policies That Could be Deleted or Modified:

The 1997 SIMC Plan had relatively few land use policies related to agriculture and agri-tourism.

Exclusive Farm Use Policies and Strategies

***POLICY 1:** Support measures which will ensure that Sauvie Island maintains and enhances its agricultural diversity on Exclusive Farm Use lands.*

***STRATEGY:** Multnomah County shall use this policy as a guideline in reviewing proposed changes in Exclusive Farm Use statutes and administrative rules, and will review the appropriateness of the \$80,000 gross income level as a threshold for farm dwellings if state law allows consideration of different income standards.*

Project Team: There have been no changes in ORS 215 or OAR Division 33 provisions related to the \$80,000 gross income threshold.

Comments:

- Maintaining agricultural diversity is important, but maintaining and enhancing the agricultural land base is even more important, especially given that these lands are Foundation agricultural lands. A new policy is needed such as: Multnomah County shall prepare and adopt regulations to maintain the agricultural land base on Sauvie Island for agricultural production to the maximum extent feasible.
- There are three other potential tests for farm dwelling approvals in division 33.
- I have no information on the 80K level, or what makes sense – someone should have info on that – are there not economic farm studies that suggest what that income threshold should be? Isn't that the type of information we should have at hand when trying to have a meaningful discussion about this?
- Although this is a tough test to pass, the \$80,000, I would not remove this wording or restrict it any further.
- My suggestions above should be self explanatory.
- I am assuming that this policy will continue to be the focal point of any new plan? , how do you serve exclusive farm use without the most important policy in the original plan. The island is an agricultural community, it was found on agriculture. The minute you change the focus of policy 1 you will open the door for the demise of the island farming community, and you better let the rest of the island farmers know about this policy change. I am absolutely against changing the focus of the original plan, and support keeping policy #1 as the base of the new plan.

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***POLICY 2:** Multnomah County shall promote the appropriate establishment of farm stands and u-pick facilities which will support the agricultural economy of Sauvie Island.*

***STRATEGY:** Multnomah County shall implement this policy through review of the Multnomah County Zoning Ordinance Exclusive Farm Use and Multiple Use Agriculture zoning districts.*

Project Team: In 1997, the issue of promotional activities in the EFU zone had not yet become prominent. As noted in Section 3 of the Appendix 3 background document, the farm stands statute had just been adopted in 1993; the farm stands statute was amended in 2001 to provide direction to local governments on promotional activities associated with farm stands.

Following amendments to ORS 215 related to promotional activities associated with farm standards, the County amended Chapter 34 of the Multnomah County Code to read as follows:

“(G) 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 live-stock sold at the farm stand if the annual sale of incidental items and fees from pro-motional 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.

(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.

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

As we see above, Policy 2 is very general and simply promotes the appropriate establishment of farm stands and u-pick facilities which support the agricultural economy. Interestingly, the Policy 2 strategy directs county staff to review the Exclusive Farm Use and Multiple Use Agriculture zoning districts in the context of promoting appropriate establishment of farm stands. Farm stands are currently only listed as a review use option in the Exclusive Farm Use Zone and the project team would like to assess the subcommittees' thoughts on updating this strategy to remove reference to the Multiple Use Agriculture zone.

Comments:

- Does the county really want to "promote" farm stands, especially given the large numbers of visitors coming to the island? Would "permit" be a better word? Also, change "which will support" to "which support". It also should adopt a regulation that states that a farm stand that removes more than 10% of the property on which it is located or 10 acres, whichever is less, from active farming is not considered to support the agricultural economy of the island.
- I am refraining from comment at this time – These are the sorts of things that should be discussed in a broader framework – like what was the underlying reason for including MUA – could this policy be more clear about why we want farm stands (for example, to promote farming and agriculture on EFU farmland, versus events and product that have nothing to do with the farm or farm stand?)
- I need more information on this policy. What is the thought for removing MUA land?
- Let sleeping dogs lie.
- I believe I need additional explanation on this policy change before I can provide an opinion.

POLICY 3: *Include deed restrictions protecting surrounding agricultural practices as a requirement for dwelling approval in the Multiple Use Agriculture zoning district.*

STRATEGY: *Multnomah County shall implement this policy through amendments to the Multnomah County Zoning Ordinance.*

Project Team: Deed restriction is now required for all new dwellings adjacent to farmland.

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Comments:

- While it is required, retain the policy.
- Vague – I'm guessing this gets at setbacks – need more info.
- Keep this policy as is.
- Keep it.

POLICY 4: *Encourage property owners to protect their lands as wildlife habitat through the use of tax deferral programs, and allow switching of tax deferral status from agriculture to open space wildlife habitat without penalty.*

STRATEGY: *Multnomah County shall forward this policy as an informational item to the Oregon State Legislature and the Association of Oregon Counties.*

Project Team: The Sauvie Island Soil and Water Conservation District and other non-profit organizations have been successful in encouraging property owners to protect EFU and MUA land as wildlife habitat through easements and other means – as will be documented in Appendix 5: Natural and Cultural Resources. Many properties have habitat tax deferrals applied.

Comments:

- Extend the tax deferral to MUA lands.
- How does this square with wanting to preserve EFU farmland for farming? I am in total support of habitat restoration and tax deferral – just questioning how this dovetails with wanting to preserve EFU farmland for farming.
- Keep this policy as is.
- OK

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Exhibit 3- LCDC Ag Issues

LAND CONSERVATION AND DEVELOPMENT
DEPARTMENT OREGON ADMINISTRATIVE RULES
CHAPTER 660, DIVISION 033, RULE 0120, TABLE

January
2014

Uses Authorized on Agricultural Lands

OAR 660-033-0120 The specific development and uses listed in the following table are allowed in the areas that qualify for the designation pursuant to this division. All uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this division. The abbreviations used within the schedule shall have the following meanings:

A Use is allowed. Authorization of some uses may require notice and the opportunity for a hearing because the authorization qualifies as a land use decision pursuant to ORS chapter 197. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns only to the extent authorized by law.

R Use may be allowed, after required review. The use requires notice and the opportunity for a hearing. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns.

* Use not allowed.

Numerical references for specific uses shown on the chart refer to the corresponding section of OAR 660-033-0130. Where no numerical reference is noted for a use on the chart, this rule does not establish criteria for the use.

HV All
Farmland Other USES

Farm/Forest Resource

| | | |
|-----|-----|--|
| A | A | Farm use as defined in ORS 215.203. |
| A | A | Other buildings customarily provided in conjunction with farm use. |
| A | A | Propagation or harvesting of a forest product. |
| R6 | R6 | A facility for the primary processing of forest products. |
| R28 | R28 | A facility for the processing of farm crops or the production of biofuel as defined in ORS 315.141 or an establishment for the slaughter or processing of poultry pursuant to ORS 603.038. |

Natural Resource

| | | |
|-------|-------|--|
| A | A | Creation of, restoration of, or enhancement of wetlands. |
| R5,27 | R5,27 | The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species. |

Residential

| | | |
|-------|-------|--|
| A1,30 | A1,30 | Dwelling customarily provided in conjunction with farm use. |
| R9,30 | R9,30 | A dwelling on property used for farm use located on the same lot or parcel as the dwelling of the farm operator, and occupied by a relative of the farm operator or farm operator's spouse, which means grandparent, step-grandparent, grandchild, parent, step-parent, child, brother, sister, sibling, step-sibling, niece, nephew, or first cousin of either, if the farm operator does, or will, require the assistance of the relative in the management of the farm use. |

| | | |
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| A24,30 | A24,30 | Accessory Farm Dwellings for year-round and seasonal farm workers. |
| A3,30 | A3,30 | One single-family dwelling on a lawfully created lot or parcel. |
| R5,10 30 | R5,10, | One manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building 30 in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. |
| R4,30 | R4,30 | Single-family residential dwelling, not provided in conjunction with farm use. |
| R5,30 | R5,30 | Residential home or facility as defined in ORS 197.660, in existing dwellings. |
| R5, 30 | R5,30 | Room and board arrangements for a maximum of five unrelated persons in existing residences. |
| R12,30 | R12,30 | Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property as defined in ORS 358.480. |
| A8,30 | A8,30 | Alteration, restoration, or replacement of a lawfully established dwelling. |
| | | Commercial Uses |
| R5 | R5 | Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under ORS 215.203(2)(b)(L) or ORS 215.213(1)(u) and 215.283(1)(r). |
| R5,14 | R5,14 | Home occupations as provided in ORS 215.448. |
| A39 | A39 | Dog training classes or testing trials. |
| R5 | R5 | Commercial dog boarding kennels or dog training classes or testing trials that cannot be established under ORS 215.213(1)(z) or 215.283(1)(x). |
| R5,35 | R5,35 | An aerial fireworks display business that has been in continuous operation at its current location within an exclusive farm use zone since December 31, 1986, and possess a wholesaler's permit to sell or provide fireworks. |
| *18(a) | R5 | Destination resort which is approved consistent with the requirements of Goal 8. |
| A | A | A winery as described in ORS 215.452 or 215.453, and 215.237. |
| R5 | R5 | A restaurant in conjunction with a winery as described in ORS 215.453 that is open to the public for more than 25 days in a calendar year or the provision of private events in conjunction with a winery as described in ORS 215.453 that occur on more than 25 days in a calendar year. |
| R or R5 | R or R5 | Agri-tourism and other commercial events or activities that are related to and supportive of agriculture, as described in ORS 215.213(11) or 215.283(4). |
| A23 | A23 | Farm stands. |
| R5 | R5 | A landscape contracting business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use. |
| R | R | Guest ranch in eastern Oregon as provided in Chapter 84 Oregon Laws 2010. |
| A | A | Log truck parking as provided in ORS 215.311. |
| | | Mineral, Aggregate, Oil, and Gas Uses |
| A | A | Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. |
| A | A | Operations for the exploration for minerals as defined by ORS 517.750. |

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| R5 | R5 | Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298. |
| R5,15 | R5,15 | Processing as defined by ORS 517.750 of aggregate into asphalt or portland cement. |
| R5 | R5 | Processing of other mineral resources and other subsurface resources. |
| Transportation | | |
| R5,7 | R5,7 | Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. |
| A | A | Climbing and passing lanes within the right of way existing as of July 1, 1987. |
| R5 | R5 | Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels. |
| A | A | Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result. |
| R5 | R5 | Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels. |
| A | A | Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed. |
| A | A | Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways. |
| R5 | R5 | Improvement of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right of way is required but not resulting in the creation of new land parcels. |
| R13 | R13 | Roads, highways and other transportation facilities, and improvements not otherwise allowed under this rule. |
| R | R | Transportation improvements on rural lands allowed by OAR 660-012-0065. |
| Utility/Solid Waste Disposal Facilities | | |
| R _{16(a)} or (b) | R _{16(a)} or (b) | Utility facilities necessary for public service, including associated transmission lines as defined in ORS 469.300 and wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. |
| R5 | R5 | Transmission towers over 200 feet in height. |
| A | A | Irrigation reservoirs, canals, delivery lines and those structures and accessory operational facilities, not including parks or other recreational structures and facilities, associated with a district as defined in ORS 540.505. |
| A32 | A32 | Utility facility service lines. |
| R5, 17 | R5,22 | Commercial utility facilities for the purpose of generating power for public use by sale, not including wind power generation facilities or photovoltaic solar power generation facilities. |
| R5, 37 | R5,37 | Wind power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale. |
| R5, 38 | R5,38 | Photovoltaic solar power generation facilities as commercial utility facilities for the purpose of generating power for public use by sale. |

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| *18(a) | R5 | A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation. |
| 18(a), 29(a) | A or R5,29(b) | Composting facilities on farms or for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-093-0050 and 340-096-0060. |
| Parks/Public/Quasi-Public | | |
| 2,*18(a) or R2, 18(b-c) | R2,5, 18(b-c) | Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for residents of the rural area in which the school is located. |
| 2,*18(a) | R2 | Churches and cemeteries in conjunction with churches consistent with ORS 215.441. |
| 2,*18(a) | R2,5,19 | Private parks, playgrounds, hunting and fishing preserves, and campgrounds. |
| R2,5,31 | R2,5,31 | Public parks and playgrounds. A public park may be established consistent with the provisions of ORS 195.120. |
| A | A | Fire service facilities providing rural fire protection services. |
| R2,5,36 | R2,5,36 | Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community. |
| R2, *18(a) | R2,5, 20 | Golf courses on land determined not to be high-value farmland as defined in ORS 195.300. |
| R2,5,21 | R2,5,21 | Living history museum |
| R2 | R2 | Firearms training facility as provided in ORS 197.770. |
| R2, 25 | R2, 25 | Armed forces reserve center as provided for in ORS 215.213(1)(s). |
| A | A | Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in ORS 215.306. |
| R5 | R5 | Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306. |
| A26 | A26 | A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. |
| R5 | R5 | Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210. |
| R5 | R5 | Operations for the extraction and bottling of water. |
| A11 | A11 | Land application of reclaimed water, agricultural or industrial process water or biosolids. |
| R5 | R5 | A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135 as provided for in ORS 215.283(1). |
| Outdoor Gatherings | | |
| A33 | A33 | An outdoor mass gathering or other gathering described in ORS 197.015(10)(d). |
| R34 | R34 | Any outdoor gathering subject to review of a county planning commission under ORS 433.763. |
| (The numbers in the table above refer to the section numbers in OAR 660-033-0130) | | |