lup-hearings@multco.us
Multnomah County Land Use
Re: T2-2021-14981
12424 NW Springville Rd.
Please enter the following into the record for the hearing on June 23, 2023.

Dear Hearings Officer,

Having participated in the first hearing of the Reed case, I am in support of maintaining the first denial of this application unless convincing hard evidence of commercial farm use comes in at the hearing. Apparently, the voluntary remand was conditioned on coming forward with such, but we have yet to see it. The egg production tallies entered as new evidence is just more assertion. Farm use as defined by statute is for the purpose of obtaining profit in money. While there is photo proof of considerable spending commonly attributed to farming, we need to get beyond the possibility of hobby farm spending for the purpose of obtaining a rural home with amenities to a real commercial enterprise designed to make money rather than lose it. Only a Schedule F or similar is likely show if this is a real commercial enterprise with an underlying business plan and a real prospect of obtaining a profit in money. The county has been incredibly patient here in extending multiple opportunities to offer hard evidence in a case where the allowing provisions have been repealed. The so-called farming has been going on for nearly a decade. This voluntary remand hearing is one more very tolerant opportunity.

Falling back, the applicant's LUBA brief argues that the statue provides two paths to approval; (1) proving up “principally engaged” and “farm use” at the time of application or (2) postponing that decision to a later date prior to the issuance of a building permit. Primarily, the applicant having failed the time of application proof, believes we can now revert to option (2) in part. If we look at the option (1) – at the time of application, the hearings officer correctly determined the the applicant's farm use amounted to assertions without hard evidence. The ordinance conditions are all joined by “and” where all conditions are simultaneous. While I did not not agree, it was determined that the applicant was “principally engaged in the farm use of the land” at MCC39.4265 (B)(3)(f), but did not prove the “farm use” at (c) . The language is such that you can't have one without the other. Should the county now allow the applicant to delay “farm use” until a building permit is ready for issuance, both determinations will need to be made again. That is; The language suggests “principally engaged” would necessarily be temporal and joined with farm use. The hearings officer would need to retract the previous finding. There may be other elements that need determination again too. In postponement, a discretionary land use decision will still need to made (including another hearing, see the Forster decisions the applicant cites). Under county procedures, nothing changes. There is nothing authorizing changing the evaluative, discretionary terms of meeting those standards. What then, possibly another postponement of that decision too? Setting aside MCC 39.4265(B)(3)(g) here as either not applicable (as in the first decision) or impractical going forward is perfectly reasonable.

As the real evidence to establish farm use has yet to come forward and given the possibility that new information may come at the hearing, I ask that the record be left open for a reasonable period to respond as necessary.

Sincerely,

Christopher H. Foster
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Portland, OR 97231