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July 7, 2023

Multnomah County Land Use Planning
1600 SE 190th Avenue
Portland, OR. 97231

Submitted by e-mail:
lup-hearings@multco.us

Re: LUBA No 2022-097 (Remand Proceeding)
Case File T2-2021-14981
12424 NW Springville Road

>> Please enter this letter into the record for the remand hearing June 23, 2023.

Dear Hearings Officer,

I am attaching a blank copy of IRS form 1040 Schedule F so you can see that it includes almost no personal information – just a simple calculation of gross farm income.

As of this morning, there is no new information on the county web site from the applicant to prove gross farm income – it appears that applicant has still not provided Schedule F (or equivalent) support for his claim of commercial farm income. These proofs are commonly provided by dwelling permit applicants and should not be a burden.

The county is asking the applicant for the same documentation that other farm dwelling applicants are asked for – the applicant is asking for special treatment by refusing to provide Schedule F or the other documentation options offered by the county.

Multnomah County Code 39.4265 requires that all the standards in (B) (3) are met. The language in (B) says “the following standards are met:” – standards is plural, not singular, and the letter section (a) through (g) are joined by the word “and.”

Multnomah County Code 39.4265 (B) (3) says:

(B) Customary Farm Dwelling: A dwelling, including a mobile or modular home customarily provided in conjunction with a farm use as provided in MCC 39.4225(C) is not allowed unless the following standards are met:

(3) Not high-value farmland soils, capable of producing the median level of annual gross sales. On land not identified as high-value farmland a dwelling may be considered customarily provided in conjunction with farm use if:

(a) The subject tract is at least as large as the median size of those commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are located within a study area which includes all tracts wholly or partially within one mile from the perimeter of the subject tract [the median size of commercial farm and ranch tracts shall be determined pursuant to OAR 66-33-135 (3)]; and

(b) The subject tract is capable of producing at least the median level of annual gross sales of county indicator crops as the same commercial farm or ranch tracts used to calculate the tract size in subsection (a) of this section; and

(c) The subject tract is currently employed for a farm use, as defined in ORS 215.203, at a level capable of producing the annual gross sales required in subsection (b) of this section; and

(d) The subject lot or parcel on which the dwelling is proposed is not less than ten acres; and

(e) Except as permitted in ORS 215.283(1)(p) (1999 Edition) (i.e. seasonal farmworker housing) there is no other dwelling on the subject tract; and

(f) The dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land, such as planting, harvesting, marketing or caring for livestock, at a commercial scale; and

(g) If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use required by subsection (c) of this section.

If the applicant cannot prove farm income to meet (c), then they necessarily fail at (f) because they have not demonstrated commercial scale farming, just a hobby farm.

The applicant has not provided the required proof of commercial farm income, despite being given many opportunities over the years to do so. This permit should be denied.

Thank you for your consideration.

Carol Chesarek

**SCHEDULE F
(Form 1040)**

Department of the Treasury
Internal Revenue Service

Profit or Loss From Farming

Attach to Form 1040, Form 1040-SR, Form 1040-NR, Form 1041, or Form 1065.
Go to www.irs.gov/ScheduleF for instructions and the latest information.

OMB No. 1545-0074

2022
Attachment
Sequence No. **14**

Name of proprietor _____ Social security number (SSN) _____

A Principal crop or activity _____ **B** Enter code from Part IV _____ **C** Accounting method: Cash Accrual _____ **D** Employer ID number (EIN) (see instr.) _____

E Did you "materially participate" in the operation of this business during 2022? If "No," see instructions for limit on passive losses Yes No

F Did you make any payments in 2022 that would require you to file Form(s) 1099? See instructions Yes No

G If "Yes," did you or will you file required Form(s) 1099? Yes No

Part I Farm Income—Cash Method. Complete Parts I and II. (Accrual method. Complete Parts II and III, and Part I, line 9.)

1a Sales of purchased livestock and other resale items (see instructions)	1a		
b Cost or other basis of purchased livestock or other items reported on line 1a	1b		
c Subtract line 1b from line 1a			1c
2 Sales of livestock, produce, grains, and other products you raised			2
3a Cooperative distributions (Form(s) 1099-PATR)	3a	3b Taxable amount	3b
4a Agricultural program payments (see instructions)	4a	4b Taxable amount	4b
5a Commodity Credit Corporation (CCC) loans reported under election			5a
b CCC loans forfeited	5b	5c Taxable amount	5c
6 Crop insurance proceeds and federal crop disaster payments (see instructions):			
a Amount received in 2022	6a	6b Taxable amount	6b
c If election to defer to 2023 is attached, check here <input type="checkbox"/>		6d Amount deferred from 2021	6d
7 Custom hire (machine work) income			7
8 Other income, including federal and state gasoline or fuel tax credit or refund (see instructions)			8
9 Gross income. Add amounts in the right column (lines 1c, 2, 3b, 4b, 5a, 5c, 6b, 6d, 7, and 8). If you use the accrual method, enter the amount from Part III, line 50. See instructions			9

Part II Farm Expenses—Cash and Accrual Method. Do not include personal or living expenses. See instructions.

10 Car and truck expenses (see instructions). Also attach Form 4562	10	23 Pension and profit-sharing plans	23
11 Chemicals	11	24 Rent or lease (see instructions):	
12 Conservation expenses (see instructions)	12	a Vehicles, machinery, equipment	24a
13 Custom hire (machine work)	13	b Other (land, animals, etc.)	24b
14 Depreciation and section 179 expense (see instructions)	14	25 Repairs and maintenance	25
15 Employee benefit programs other than on line 23	15	26 Seeds and plants	26
16 Feed	16	27 Storage and warehousing	27
17 Fertilizers and lime	17	28 Supplies	28
18 Freight and trucking	18	29 Taxes	29
19 Gasoline, fuel, and oil	19	30 Utilities	30
20 Insurance (other than health)	20	31 Veterinary, breeding, and medicine	31
21 Interest (see instructions):		32 Other expenses (specify):	
a Mortgage (paid to banks, etc.)	21a	a _____	32a
b Other	21b	b _____	32b
22 Labor hired (less employment credits)	22	c _____	32c
		d _____	32d
		e _____	32e
		f _____	32f

33 **Total expenses.** Add lines 10 through 32f. If line 32f is negative, see instructions

34 **Net farm profit or (loss).** Subtract line 33 from line 9

If a profit, stop here and see instructions for where to report. If a loss, complete line 36.

35 Reserved for future use.

36 Check the box that describes your investment in this activity and see instructions for where to report your loss:

a All investment is at risk. **b** Some investment is not at risk.

Part III Farm Income—Accrual Method (see instructions)

37	Sales of livestock, produce, grains, and other products (see instructions)		37
38a	Cooperative distributions (Form(s) 1099-PATR)	38a <input type="text"/>	38b Taxable amount
39a	Agricultural program payments	39a <input type="text"/>	39b Taxable amount
40	Commodity Credit Corporation (CCC) loans:		
a	CCC loans reported under election		40a
b	CCC loans forfeited	40b <input type="text"/>	40c Taxable amount
41	Crop insurance proceeds		41
42	Custom hire (machine work) income		42
43	Other income (see instructions)		43
44	Add amounts in the right column for lines 37 through 43 (lines 37, 38b, 39b, 40a, 40c, 41, 42, and 43)		44
45	Inventory of livestock, produce, grains, and other products at beginning of the year. Do not include sales reported on Form 4797	45	
46		46	
47		47	
48		48	
49	Cost of livestock, produce, grains, and other products sold. Subtract line 48 from line 47*		49
50	Gross income. Subtract line 49 from line 44. Enter the result here and on Part I, line 9		50

*If you use the unit-livestock-price method or the farm-price method of valuing inventory and the amount on line 48 is larger than the amount on line 47, subtract line 47 from line 48. Enter the result on line 49. Add lines 44 and 49. Enter the total on line 50 and on Part I, line 9.

Part IV Principal Agricultural Activity Codes



Do not file Schedule F (Form 1040) to report the following.

- Income from providing agricultural services such as soil preparation, veterinary, farm labor, horticultural services if your principal source of income is from providing such services. Instead, see instructions for Schedule C (Form 1040).
- Income from breeding, raising, or caring for dogs, cats, or other pet animals. Instead, see instructions for Schedule C (Form 1040).
- Income from managing a farm for a fee or on a contract basis. Instead, see instructions for Schedule C (Form 1040).
- Sales of livestock held for draft, breeding, sport, or dairy purposes. Instead, see instructions for Form 4797.

These codes for the Principal Agricultural Activity classify farms by their primary activity to facilitate the administration of the Internal Revenue Code. These six-digit codes are based on the North American Industry Classification System (NAICS).

Select the code that best identifies your primary farming activity and enter the six-digit number on line B.

Crop Production

- 111100 Oilseed and grain farming
- 111210 Vegetable and melon farming

- 111300 Fruit and tree nut farming
- 111400 Greenhouse, nursery, and floriculture production
- 111900 Other crop farming

Animal Production

- 112111 Beef cattle ranching and farming
- 112112 Cattle feedlots
- 112120 Dairy cattle and milk production
- 112210 Hog and pig farming
- 112300 Poultry and egg production
- 112400 Sheep and goat farming
- 112510 Aquaculture
- 112900 Other animal production

Forestry and Logging

- 113000 Forestry and logging (including forest nurseries and timber tracts)
- 113110 Timber tract operations
- 113210 Forest nurseries and gathering of forest products
- 113310 Logging