

DEPARTMENT OF COMMUNITY SERVICES

Land Use Planning Division



www.multco.us/landuse ✦ Email: land.use.planning@multco.us ✦ Phone: (503) 988-3043

Notice of Hearings Officer Decision

This document provides notice of the Hearings Officer's decision in the matter of **T2-2021-14981, COA-2025-0004**. The decision is effective on being mailed, and the mailing date is **July 15, 2025**. This notice is being mailed to those persons entitled to receive notice under MCC 39.1170(D).

This notice includes the signed Hearings Officer's decision which contains the following information: the name of the applicant or owner; the appellant's name; and the street address or location of the subject property along with a brief summary of the decision and the proposed use. For additional information, please visit our Land Use Planning website at <https://multco.us/departments/land-use-planning-division>.

The Planning Director has not appealed the Hearings Officer's decision. Therefore, the Hearings Officer's Decision is the County's final decision and may be appealed to the State of Oregon Land Use Board of Appeals (LUBA) within 21 days of the date the decision is mailed by any person or organization that appeared and testified at the hearing, or by those who submitted written testimony into the record.

Appeal instructions and forms are available from:

Land Use Board of Appeals
201 High St SE, Suite 600
Salem, Oregon 97301-3398

503-373-1265
LUBA.Support@luba.oregon.gov
www.oregon.gov/LUBA

For further information, call or email the Multnomah County Land Use Planning Division at: 503-988-3043 or LUP-Hearings@multco.us.

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DECISION OF THE HEARINGS OFFICER

A Review of a Condition of Approval for Scott Reed.

Case File: Request for a Condition of Approval review for land use case no. T2-2021-14981.

Applicant: Scott Reed

Property Owner(s): Scott and Nancy Reed

Address: 12424 NW Springville Road, Portland Map, Tax Lot: 1N1W16D -02800, 1N1W16D -03100, 1N1W15C -00600 Alternate Account #: R961160130, R961160590, R961150770 Property ID #: R324300, R324339, R501639

Base Zone: Exclusive Farm Use (EFU)

Overlay Significant Environmental Concern for wildlife habitat (SEC-h); Significant Environmental Concern for streams (SEC-s); Geologic Hazards (GH)

Site Size: 84.43 acres

Public Hearing: The hearing was opened at 1:30 p.m. on June 13, 2025. The hearing was held virtually. The hearing concluded at 2:00 p.m..

Testified at the Hearing: Izzie Liu, Staff, Andrew Mulkey Asst. County Counsel, Scott Reed, applicant, Carol Chesarek

Post Hearing procedures: The record was kept open until June 20, 2025 solely for the receipt of Schedule F tax returns from the applicant and any rebuttal of those tax schedules. The schedules were submitted, Ms. Chesarek responded to those schedules and Mr. Reed responded to Ms. Chesarek.

Summary: The Applicant sought a review of condition of approval 1a.

“Prior to the Planning Director’s signoff for any building permit for the dwelling use, the Owner shall submit evidence to the Planning Director demonstrating that 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 by OAR 660-033-00135(2) (B);

- a. To satisfy section 1., Owner shall submit an IRS Schedule F for the year(s) associated with the sales figures noted in the narrative in order to demonstrate that the farm activity on the property met or exceeded the median level of annual gross farm sales required by OAR 660-033-00135(2) (B). The income required by this condition is set at the time of the filing of this application which was August 18, 2021.

Site Description



DECISION: The Hearings Officer finds that the Application has complied with the condition of approval by submitting the Schedule F from his tax returns demonstrating the required farm income.

The hearings officer's decision is supported by the following findings.

Dated this 10th day of July 2025

Alan A. Rappleyea

Alan A. Rappleyea
Multnomah County Land Use Hearings Officer

This Decision is final when mailed. Appeals may be filed with the Oregon Land Use Board of Appeals within the time frames allowed by State law.

FINDINGS

A. HEARING AND RECORD HIGHLIGHTS

1. Multnomah County Land Use Hearings Officer Alan Rappleyea received testimony at the duly noticed public hearing about review of condition 1a. on June 13, 2025.

2. Izzie Liu, Planning Services summarized the Staff Report and the applicable approval criteria. Mr. Siegel found that the applicants did not meet their burden of proof regarding farm income. Assistant County Counsel Andrew Mulkey testified that any existing code violations on the subject property are not relevant for a review of conditions.

3. Applicant Reed testified that the farm operation met the farm income test. He replied to questions about amended schedule F and that the 2020 schedule was the most recent one submitted. Due to Federal Court litigation he has not submitted any future tax returns beyond 2020 because they all need to be amended to comply with court rulings.

4. Ms. Chesack submitted written testimony and testified that the applicant did not comply with the condition and that there were existing code violations that prohibited the approval in this matter. No other parties testified in favor, against or neutral.

5. I then gave Staff a chance for comments. Staff had no specific recommendation on whether the condition was complied with but was seeking guidance from the Hearings Officer on the interpretation of the condition.

6. I then gave Mr. Reed an opportunity to respond to Ms. Chesarek and my comments. He summarized his arguments and responded to my questions regarding his Schedule F. He agreed to submit ones that had been already filed. I left the record open as described above.

7. Ms. Chesarek submitted a response to the tax filings and Mr. Reed filed a rebuttal to that response.

B. HEARINGS OFFICER FINDINGS

1.00 Condition of Approval 1a:

1. Prior to the Planning Director's signoff for any building permit for the dwelling use, the Owner shall submit evidence to the Planning Director demonstrating that the subject tract is currently employed for farm use, as defined in ORS 215.203, at a level capable of producing the annual gross sales required in by OAR 660-033-00135(2) (B);

- a. To satisfy section 1., Owner shall submit an IRS Schedule F for the year(s) associated with the sales figures noted in the narrative in order to demonstrate that the farm activity on the property met or exceeded the median level of annual gross farm sales required by OAR 660-033-00135(2) (B).
2. The Staff report raised a number of questions on the interpretation of this condition. First, staff interprets this condition to require providing a 2021 Schedule F. The income required by this condition is set at the time of the filing of this application, which was August 18, 2021. I agree with Applicant that the most current filing would be the taxes filed in the Spring of 2021 for the 2020 tax return and so a 2021 filing is not required although it would have been useful.

Second, staff questions whether an amended return filed in 2025 for 2020 meets the requirements of the condition. I shared a similar concern but the Applicant testified that the amended return was necessary because of tax litigation with the federal government. The Applicant testified that this was his most recent filing and that it would be another 3 months until he would have an updated 2021 filing and additional delays for the subsequent years. If a Schedule F was used for a filing that was no longer accurate, that could create its own problems. I accept that as a credible reason why an amended Schedule F was used and why a 2021 Schedule F was not submitted and find the 2020 Schedule F adequate to determine that income requirements.

Third, staff sought guidance on what I meant when I requested a “finalized” Schedule F and whether it needed to be verified or certified. To clarify, I meant a Schedule F that had been filed with the IRS. I accept as credible the statement from Mr. Reed and the accountant Taylor Bethell, CPA and the Schedule F both in the record at AA.14 has been filed and therefore I accept it as “finalized”. Thus, I find that the Applicant has complied with the condition 1.a.

3. Ms Chesarek submitted both written and oral testimony. Ms. Chesarek shares much of the same concerns about the farm income proof that staff raised. I responded to those concerns above and will not re-address them here. I will note that this gross income required (\$14,942.91) is relatively low for this area so it seems feasible that Ms. Reed can earn this income as he describes. In addition to the Schedule F submitted by applicant, he submitted other documentation of this income and testified to his farm work and income. I find it credible that he can meet this relatively low bar for income requirements

Ms. Chesarek raised concern about code violations on the property and code requirements that permits shall not be approved where there are existing code violations. I am familiar with this common local government code provision which prohibits granting permits where there are code violations. Assistant County Counsel Mulkey testified that this code provision would not apply here as this hearing is a review of conditions and not the granting of a permit. I concur.

4. Mr. Andrews supplied written comments in the record at CC.1. Mr. Andrews shares many of the concerns Ms. Chesarek raises and raises issues outside of the scope of this hearing on condition 1.a.. As I found above, the condition was met with the submittal of the Schedule F and that the applicant met the income requirements.

5. Ms. Chesarek filed a letter with three addendums, in the records at II.1, II.2, II.3, II.4., in response to Mr. Reeds tax filings. Mr. Reed rebutted those arguments in the record at JJ.2. Ms. Chesarek raises valid concerns but I find that Mr. Reed's testimony credible and adequately rebutted those arguments and adopt the response at JJ.2 as my findings.
6. I find that the Applicant complied with the condition of approval by submitting his Schedule F to demonstrate that the farm operation meets the \$14,942.91 farm income requirements. This Schedule F is supported by Mr. Reeds post hearing filings of previous years Schedule F's which showed that Mr. Reed could meet the farm income requirements (except for 2017). HH.6. This finding is also supported by Mr. Reeds oral testimony as well as evidence he submitted into the record regarding his farm income. Reed Memorandum and attachments. AA.13

7.00 Exhibits

All exhibits are available for review in Case File T2-2021-14981

<https://multco.us/info/12424-nw-springville-road-hearing-1>

Or by contacting case planner, Lisa Estrin at 503-988-0167 or via email at lisa.m.estrin@multco.us. The prior exhibits are incorporated by reference herein. The new exhibits for the conditional use hearing are listed below.

Case Number:

Document

[T2-2021-14981 Hearing Notice 05232025](#) (213.37 KB)

Hearing Date: June 13, 2025 at 10:30 a.m.

Proposal:

Document

[BB.2 - Staff Report](#) (278.58 KB)

Document

[AA.1 - Application Form 02.18.2025](#) (577.02 KB)

Document

[AA.2 - 2020 Schedule F 02.13.2025](#) (1.83 MB)

Document

[AA.3 - Recorded Hearing Officer Decision 02.13.2025](#) (2.44 MB)

Document

[AA.4 - Stormwater Drainage Control Certificate 02.13.2025](#) (3.63 MB)

Document

[AA.5 - Septic Review Certification 02.13.2025](#) (3.94 MB)

Document

[AA.6 - Building Height Letter 02.13.2025](#) (134.11 KB)

Document

[AA.7 - Driveway Permit 02.13.2025](#) (1.98 MB)

Document

[AA.8 - Exterior Light Details 02.13.2025](#) (2.72 MB)

Document

[AA.9 - Wildlife Conservation Plan 02.13.2025](#) (2.51 MB)

Document

[AA.10 - Fire Service Agency Review 02.13.2025](#) (307.87 KB)

Document

[AA.11 - Site Development Plans 02.13.2025](#) (23.7 MB)

Document

[AA.12 - Recorded Waiver 02.13.2025](#) (396.82 KB)

Document

[AA.13 - Reed Memo 05.02.2025](#) (121.88 KB)

Document

[AA.14 - Attachment 1 - 2020 Schedule F & Letter from CPA 05.02.2025](#) (1.98 MB)

Document

[AA.15 - Attachment 2 - IRS Form 4506 & USPS Certified Mail Receipt 05.02.2025](#) (3.14 MB)

Document

[AA.16 - Attachment 3 - 2020 IRS Account Transcript 05.02.2025](#) (1.37 MB)

Document

[AA.17 - Goat Listings 05.02.2025](#) (1.56 MB)

Document

[AA.18 - Order Confirmations for Chickens 05.02.2025](#) (2.5 MB)

Document

[AA.19 - Affidavit of Farm Work 05.11.2025](#) (290.11 KB)

Document

[AA.20 - Letters of Support 05.11.2025](#) (1.63 MB)

Document

[BB.1 - Hearing Notice](#) (249.75 KB)

Document

[BB.2 - Staff Report](#) (278.58 KB)

Document

[CC.1 - Andrews Comments 06.12.2025](#) (132.11 KB)

Document

[HH.1 - CLC letter to Mult Co HO re Conditions of Approval Review for T2-2021-14981 061225](#) (1.67 MB)

Document

[HH.2 - LUT Code Compliance email re 12424 NW Springville Road 060625](#) (768.11 KB)

Document

[HH.3 - CLC letter to Mult Co HO re LUBA No 2022-097 remand for T2-2021-14981 12424 NW Springville Road 062323](#) (556.75 KB)

Document

[HH.4 - CLC letter #3 to Mult Co HO re LUBA No 2022-097 remand for T2-2021-14981 12424 NW Springville Road 070723](#) (547.16 KB)

Document

[HH.5 - Reed Statement at Hearing June 13 2025](#) (1.26 MB)

Document

[HH.6 - Reed Schedule F 2014-2019 - Jun 13 2025 - 12-03 PM](#) (2.84 MB)

[Exhibit R.7 - Remand T2-2021-14981 Staff Memo](#) (253.69 KB)

[II.1 - CLC letter to Mult Co HO re Conditions of Approval Review for T2-2021-14981 12424 NW Springville Road 062725](#) (725.16 KB)

Document

[II.2 - Addendum 1 to CLC letter to Mult Co HO re Conditions of Approval Review for T2-2021-14981 062725](#) (1.42 MB)

Document

[II.3 - Addendum 2 to CLC letter to Mult Co HO re Conditions of Approval Review for T2-2021-14981 062725](#) (575.91 KB)

Document

[II.4 - Addendum 3 to CLC letter to Mult Co HO re Conditions of Approval Review for T2-2021-14981 062725](#) (1.22 MB)

Document

[Exhibit JJ.1 - Reed Response to Andrews Letter 07.07.2025](#) (112.79 KB)

Document

[Exhibit JJ.2 - Reed Response to Chesarek Letter 07.07.2025](#) (1.27 MB)