



Department of Community Services
MULTNOMAH COUNTY OREGON

Land Use and Transportation Program
1600 SE 190th Avenue
Portland, Oregon 97233-5910
(503) 988-3043

October 29, 2009

Don and Sandra Kruger
17100 NW Sauvie Island Road
Portland, OR 97231

RE: Application for an Administrative Modification of Conditions Established in a Prior Case #T2-09-002 (Case #T2-09-056)

Dear Mr. and Mrs. Kruger:

Thank you for submitting the land use application on property located at 13741 NW Charlton Road. Your application has been reviewed by Land Use & Transportation Planning to determine if all required materials have been provided. We appreciate the effort you have put into your project.

As is common with applications subject to multiple approval criteria, I have identified additional information needed so that your application can move forward towards a decision. For your convenience, I have identified the missing information below or made suggestions to assist you in your project to meet the application's criteria. I would be happy to schedule a meeting to work through these details in person and will be calling you in a few weeks to discuss this letter.

1. Land Use Permit Review. In reviewing your submitted narrative, staff finds that elements of your submittal are more appropriately addressed as a new farm stand permit and not as a request for an Administrative Modification of Conditions Established in a Prior Case. Condition #14 of the decision states that no other fee based activities other than the weekly harvest festivals and the corn maze are allowed without the modification of this permit (T2-09-002) through a new land use application. Elements of your current submittal can be appropriately addressed through a modification of conditions as requested, however certain elements of your permit requests require review under a farm stand permit land use application submittal with the proposed modification or revision to allow for new fee based activities.

Elements you are proposing that can be reviewed include proposed modifications to the time restrictions (i.e. hours of the day, day of the week, and length of the season) use of portable toilets, and deletion of conditions that reiterate code criteria. The other elements you have submitted are requesting new fee based activities (i.e. farm to plate dinners, education activities- school tours and farm camp). These new activities will need to go through a full review and will need to be reviewed for consistency with the farm stand code. MCC 37.0660(E) identifies a process for requests to modify conditions of an already approved case. This process reviews minor modifications to conditions of a permit. The items you are proposing that qualify under a modification have been previously reviewed and were conditioned as part of the T2-09-002 decision. The new promotional activities need to be reviewed under a farm stand permit request to address consistency with the code and to review possible cumulative impacts with the addition of the proposed new fee based activities, beyond what is currently approved.

There are two options that you can pursue in moving forward with review of your project as submitted, the first option is two separate views, where one review is for the request for the modification of conditions and the other review for a farm stand permit. These review processes are further addressed below.

- A) Two separate reviews. Two separate reviews are conducted, one for an Administrative Modification of Conditions Established in a Prior Case for proposed modifications to the time restrictions (i.e. hours of the day, day of the week, length of the season) use of portable toilets, and redundant code, and one for an Administrative Decision by the Planning Director for a Farm Stand Permit requesting fee based activities (i.e. farm to plate dinners, education activities- school tours and farm camp).

A separate application, supporting materials, and fee (\$833.00) will need to be submitted for the farm stand permit. Please contact me if you have any questions regarding submittal requirements.

The permits will be processed separately as Type II cases, with separate public comment periods, decision and appeal periods.

- B) One review. Submit one application for a farm stand permit addressing all the elements proposed. The project will be reviewed as one permit request for a farm stand, and will review the requested time, portable toilet service, and new promotional activities.

The submittal will need to be revised to a farm stand permit request. A fee of \$589.00 was collected for the current submittal for the Administrative Modification of Conditions Established in a Prior Case request. If you choose to submit for one review, this fee will be credited towards the \$833.00 fee for the farm stand permit, and the remaining \$244.00 will need to be submitted with the farm stand permit request.

The farm stand permit will be reviewed as a Type II case.

2. Birthday Parties and Picnics. The decision issued for the previous land use case (Case No. T2-09-002) denied promotional fee based activities that included birthday parties and picnics. Multnomah County Code (MCC) 37.0650 limits the reapplication for the same or substantially similar proposal for one year following the date of final decision, therefore these activities cannot be part of the review.
3. Income farm stand sales. Define and clarify event fees, non-farm goods, and non-local produce. Are there other prepared goods and concessions? Break down the event fees and specify fees collected from which events. We need to understand how the events specifically are assessed and affect the numbers you've submitted to demonstrate meeting the 25% limitation. If new events are proposed, how will numbers fluctuate or be impacted? Do the 2008 numbers include fees from weddings that were held? Weddings were denied as part of T2-09-002, how will this affect the 2009 numbers, with consideration of the proposed new events (i.e. additional festivals, farm-to-plate dinners, school tours, farm camp)? Please address similarly the other denied promotional activities, including birthday parties, picnics and bike races. You need to demonstrate that your submittal meets the Multnomah County Code (MCC) 34.2625(H)(1). It is my understanding that the 2008 numbers included in the narrative reflect income from activities that are no longer permitted. The application needs to demonstrate that the approved promotional activities and the proposed activities in combination with incidental sales do not exceed the 25% limitation. See also item #4 and #6 below.
4. Clarify fees. Provide a detailed breakdown of the event fees and income generated (current and projected) from fees for each event. Clarify how the fees collected meet MCC 34.2625(H)(1), and demonstrate that the annual fees collected from promotional activities do not make up more than 25% of the total sales of the farm stand in combination with the annual sale of incidental items. Please include projections for the new proposed promotional activities as well. The current farm stand is approved for weekly harvest festivals during the months of July and August, and a corn maze. How will the new promotional activities impact the income generated from 'fees.' See also #6 below. For each promotional activity address:

- A) How fee is assessed (per person, car load, group(number per group and additional fee per person over that number), contractual agreement details, etc)
- B) Fee amount collected
- C) Demonstration of how this affects the 25% limitation. Provide information on specific income generated from fees collected from such events. (i.e. fees from admission to weekly harvest festivals, fees from corn maze admissions, fees from school tours, etc.)

5. Proposed modifications to the conditions of Case No. T2-09-002. You are proposing modifications of conditions of the approved farm stand permit. You will need to address and provide information regarding each modification as identified below. In addition you will need to address the criteria as listed in MCC 34.2625(H), specifically how lengthening the season, hours of operation and changing the days of the week may or may not impact the 25% limitation and farm stand sales.

A) Time Restrictions

A) Time of Day

- Address on-site lighting, especially for hours open in the evening.
- Noise
- Address night time traffic management and safe entry and exit from and to the site. Address nighttime lighting of parking and site.

B) Length of Season

- Please submit information clarifying year round farm operation and promotion of farm crops.
- Provide information regarding the availability of farm crops, and operation of the farm stand and farm sales.

C) Day of Week for Weekly Harvest Festivals during July and August.

- Will harvest festival be held on Weekdays (Monday-Friday) or Weekends (Saturday and Sunday)?
- Number of events annually (i.e. one per week during the months of July and August).
- Duration

6. Proposed new promotional events. The submitted application is proposing new uses that need to be addressed through a farm stand permit as indicated in item #1 above. For each promotional event, please clarify and provide information as listed below. The additional events have a potential of impacting farm stand sales and numbers. You will need to demonstrate how each of the events will impact the 25% limitation.

A) Farm-to-Plate Dinner Event Details. Provide the following details regarding this proposed promotional activity.

How are fees collected? (contract sale, site fee, per person and/or event)

Number held annually.

Time of year.

Time of day. Length of each event. Lighting(if applicable).

Will structures be used?

Who is cooking?

Where are food preparations occurring?

Where is food service occurring?

Will only farm products be used and served?

Provide specific details of the referenced contractual link. Provide a copy of contract if available.

Is farm stand also open to the public?

Details of other activity occurring during the dinner (i.e. music, farm presentations, etc.)

How will the dinner event not conflict with the residential dwelling on-site?

How is this marketed?

B) Educational Activities: School Tours. Provide the following details regarding this proposed promotional activity.

How are fees collected? (site fee, per person and/or event)

Number held annually.

Time of year.

Time of day. Length of each event. Lighting(if applicable).

Will structures be used?

Picnic (concessions). How will this be prepared? Where will it be prepared? Fee?

Where will food preservation demonstrations be occurring- kitchen? Structure?

Is Animal husbandry on-site? Where is livestock kept?

C) Educational Activities: Farm Camp. Provide the following details regarding this proposed promotional activity.

How are fees collected? (site fee, per person and/or event)

Number held annually.

Time of year.

Time of day. Length of each event. Lighting(if applicable).

Will structures be used?

Picnic (concessions). How will this be prepared? Where will it be prepared? Fee?

Where will food preservation demonstrations be occurring- kitchen? Structure?

Is Animal husbandry on-site? Where is livestock kept?

D) Other Festivals beyond Weekly Harvest Festivals held weekly during the months of July and August. Provide the following details regarding this proposed promotional activity.

How are fees collected? (site fee, per person and/or event)

Number held annually.

Time of year.

Time of day. Length of each event. Lighting.

7. Provide updated numbers for the 2009 farm season. See also item #3 above.
8. Page 6 indicates that the events proposed in the application do not take any land out of active production or interfere with the work of Kruger Farm as an active farm. Clarify how much land is used for the promotional activities (i.e. corn maze, grassy lawn, overflow parking), the farm stand and permanent parking.
9. Page 36 references bike races. Please remove references to bike races, which were denied as part of case T2-09-002.

10. MCC 34.4185 Lighting. Address lighting to be used for the site for hours of operation beyond sunset, and nighttime promotional activities. Address the use of other lighting for other events (i.e. bonfires, oil based torches, string lighting, and other electrical and non-electrical lighting).
11. Site Plan: Identify areas where new promotional activities will be located. Identify the location of the on-site septic system and drainfields.
12. Transportation Information. Please contact Brian Vincent if you have any questions regarding this required transportation information at 503-988-5090 extension 29642 or via email at brian.s.vincent@co.multnomah.or.us . Please provide the following information in a narrative (1-2 pages max).
 - A) Trip generation estimates for each activity (i.e. for each use (including a statement for which existing uses they intend to retain) state what the traffic demand is. This can be a simple projection (10 trips per event or one trips per event, etc))
 - B) Time, duration and frequency of occurrence of each activity. This should be delineated to when and how often the events occur, so that review can ascertain if the chosen analysis hour is correct.
 - C) Decide what worst impact use is and look for peak hour demand (this is influenced by both trip generation and confluence with other traffic whether normal baseline or event generated)
 - D) If appropriate, provide statements that the new uses do not exceed the previous analysis event as provided in the May 1, 2009 Transportation Impact Analysis.

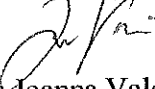
Once you have decided how you would like to address these issues, please submit the revised plans or materials you feel are needed so that the approval criteria are addressed. We will need two (2) copies of your new material.

The County's code gives you two options at this point. You can either elect to provide this missing information by March 28, 2010 or deem your application complete as it exists. We recommend you elect to provide the additional information within the 180 day time period, because without it we may not be able to approve the application. We have enclosed a written option statement to assist you. If you are unable to make your application complete within the 180 days, your application will be closed and your materials returned (application fees are forfeited) [MCC 37.0600B].

Please indicate on the attached form which option you would like to proceed under. You must sign the form and return it to my attention no later than November 30, 2009. If you do not return this form by the date provided above, the Land Use Planning will assume you believe your application is complete and no additional information is needed. Your application will then be processed based upon what has been submitted.

Please do not hesitate to contact me if you have any questions at (503)988-3043 extension 29637 or via email at joanna.valencia@co.multnomah.or.us . I look forward to continuing working with you and helping you move forward with this project as soon as possible.

Sincerely,



Joanna Valencia
Planner

xc: File (T2-09-056)

Winterbrook Planning (applicant representative) (Letter with attachments)
Ben Schonberger
310 SW Fourth Avenue, Suite 1100
Portland, OR 97204

Garvey Schubert Barer (applicant representative) (Letter Only)
Bill Kabeiseman
121 SW Morrison, Suite 1100
Portland, OR 97204

Michael Grimmert, Multnomah County Code Enforcement (Case No. UR-08-039) (Letter only)



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MULTNOMAH COUNTY OREGON

Land Use and Transportation Program
1600 SE 190th Avenue
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(503) 988-3043
www.co.multnomah.or.us/landuse

Application # T2-09-056
Case Planner: Joanna Valencia

APPLICANT'S RESPONSE
(Return by November 30, 2009)

- I intend** to provide the additional information identified in the attached letter from Multnomah County Planning within 180 days. I understand that if I do not make my application complete by March 28, 2010 my application will be closed and I will forfeit my application fees.
- I refuse** to provide the additional information identified in the attached letter from Multnomah County Planning and I am deeming my application complete. I understand that my application will be processed with the supplied information. I am aware that failure to meet the applicable code requirements is grounds for denial of my application.

Signed and Acknowledged (Applicant)

Date

