



Lisa Estrin <lisa.m.estrin@multco.us>

T2-2021-14981 Springville Rd.

1 message

Christopher H. Foster <foster@iinet.com>
To: Lisa ESTRIN <lisa.m.estrin@multco.us>

Fri, Apr 15, 2022 at 9:23 AM

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Hello Lisa,

Attached you will find a one page document written and submitted by me to be entered as comment on the pending case T2-2021-14981 on Springville Rd.

As I have occasionally had problems with emails being rejected by the County's system as undeliverable, I would appreciate confirmation that you have received this and the pdf attachment.

Thank you,

Chris Foster

15400 NW McNamee Rd.

Portland Or. 97231

 **Springville.pdf**
85K

April 14th, 2022

Christopher H. Foster
15400 NW McNamee Rd.
Portland, OR 97231

Ms. Lisa Estrin, Senior Planner
Multnomah County Land Use Planning

RE : Comment on Case # T2-2021-14981 for Denial
12424 NW Springville Road.

Dear Ms. Estrin,

I would like to address just one important MCC code criteria: 39.4265(B) (3) (f) or its underlying OAR: 660-33-0135 (1) (c) which states the the dwelling be occupied by a person “principally engaged in farm use of the land”. There are two relevant LUBA cases which establish a dual meaning of “principally engaged” that beg review in your decision making. Those cases are *Oregon Natural Desert Assoc. v. Harney County 42 Or Luba 149 (5/14/2002)* and *Alpin v Deschutes County 69 Or Luba 174 (2014)*. In sum, I believe LUBA has determined the phrase means that a person must be principally engaged in farm use as opposed to some other occupation and that the land is principally engaged in farm use as opposed some other land use. I would propose that the Reed application may fail on both tests here.

In *Alpin V. Deschutes County 69 Or Luba 174 (2014)*. at the second assignment of error (page 14) LUBA notes **“One of the evident purposes of the principally engaged test is to distinguish between dwellings occupied by those principally engaged in farm use and dwellings primarily used as a rural residence”**. In Alpin, LUBA finds the applicant fails the test or is not principally engaged in farm use, but rather is primarily a truck driver off the farm. In the Springville Rd. case before you, we have the Reeds both holding professional positions not related to farm use. My understanding is that Mr. Reed is the principal in a development company, Reed Community Partners and the Ms. Reed operates Reed Dermatology Northwest. I also believe that their children attend school full time. It would seem apparent that the family economic livelihood and time is principally non-farm and that none of the individual occupants is likely to satisfy the test.

In *ONDA v Harney County 42 Luba 149 (5/14/2002)* at assignments 3 & 4 (page 12), LUBA examines the legislative history of “principally engaged” concluding that it carries forward earlier intentions of the farm statues noting that **“ If the land will be principally used for residential purposes rather than for farm use, a dwelling is not permitted”**. In the Springville Rd. application, the most recent submittal (downsized from the original) proposes a 10,000+ square foot home with a permit value of several million dollars. The scale of the residential use is so large as to dwarf the proposed farm use plan or purported profit return. Most would conclude that the principal land use here is residential, with “farm use” as defined in the ORS unlikely or insignificant. Thereby, this aspect fails the test too.

In my view, this application is a clear case of trying to circumvent the intention of Goal 3 and its regulations. A rarely used provision, vague language and discretionary criteria (thankfully since repealed) suggests a pathway. I trust that you will carefully review the circumstances and LUBA clarifications in rendering a decision.

Sincerely,

Christopher H. Foster