



LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Steve Wills, Director
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www.linncountyor.gov

NOTICE OF PENDING LAND USE ACTION

The following request was submitted for review by this Department. Any comments provided must be received by 5:00 p.m., January 10, 2024. All comments are appreciated; however, Oregon law requires that written comments specify which application criteria apply to submitted testimony.

APPLICANT NAME: Brett Vanleeuwen LANDOWNER: Brett Vanleeuwen and Ashley Reese

FILE NUMBER/ TYPE OF REQUEST: PD24-0401; a conditional use permit application for an accessory farm dwelling, pursuant to Linn County Code (LCC) Section 928.326(C)(2).

LOCATION OF PROPERTY: The property is located at 30466 Creek Bend Road, approximately 2.18 miles west of the City of Halsey and approximately 2.1 miles east of the junction of American Drive and Peoria Road. (T13S, R04W, Section 34, Tax Lot 100).

PLAN DESIGNATION/ZONE DESIGNATION: Agricultural Resource / Exclusive Farm Use (EFU)

URBAN GROWTH AREA/PLANNING AREA: N/A

SUMMARY OF REQUEST: A conditional use permit application to site a dwelling on a 152.97-acre property to be used as an accessory dwelling for a farm worker to assist with the existing grass seed farm operation. The primary dwelling, occupied by Ashley and Josh Reese, is located on the same parcel of land as the proposed accessory farm dwelling. Additional parcels of land under the same contiguous ownership include T13S, R04W, Section 27, Tax Lot 400, and T13S, R04W, Section 26, Tax Lot 400. The purpose of this notice is to solicit comments and input from surrounding property owners and affected agencies regarding the applicable decision criteria (attached) so that the Department may make a final land use decision.

COMMENTS: (blank lines for input)

BY _____ AGENCY (IF ANY) _____ DATE _____

STAFF CONTACT PERSON: Julia Fox; (541)967-3816, ext. 2366 or jfox@co.linn.or.us

Table with 3 columns: Linn County, State of Oregon, Other. Rows include EHP, Parks, Assessor, GIS, Sheriff, Bldg Official, Roads, Surveyor, Flood Official, DEQ, DOGAMI, DSL, Water, ODFW, ODOT/OSHD, ODSF, DLCD, Parks, State Fire Marshal, School, Landowners, City Of, Other, RFD: Halsey-Shedd.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR, OR SELLER: ORS 215 requires that if you receive this notice, it must be promptly forwarded to the purchaser.

1. Oregon law [ORS 215.416(5)] requires that local governments make copies of applicable decision criteria available to any participant in a land use hearing. This application will be reviewed, and a decision made, using the decision criteria listed below.

LCC Sections 933.310 (B)(1-3) and 933.410 contain the decision criteria specified for use with this application.

LCC 933.310 (B) Decision Criteria

- (1) The development site has physical characteristics needed to support the use. Those characteristics include, but are not limited to, suitability for a sewage treatment system and an adequate supply of potable water.
- (2) The development will not be located within a mapped geological hazard area or within a 100-year floodplain unless it is demonstrated that the proposal can be designed and engineered to comply with accepted hazard mitigation requirements.
- (3) The proposal will not have a significant adverse impact on sensitive fish or wildlife habitat.

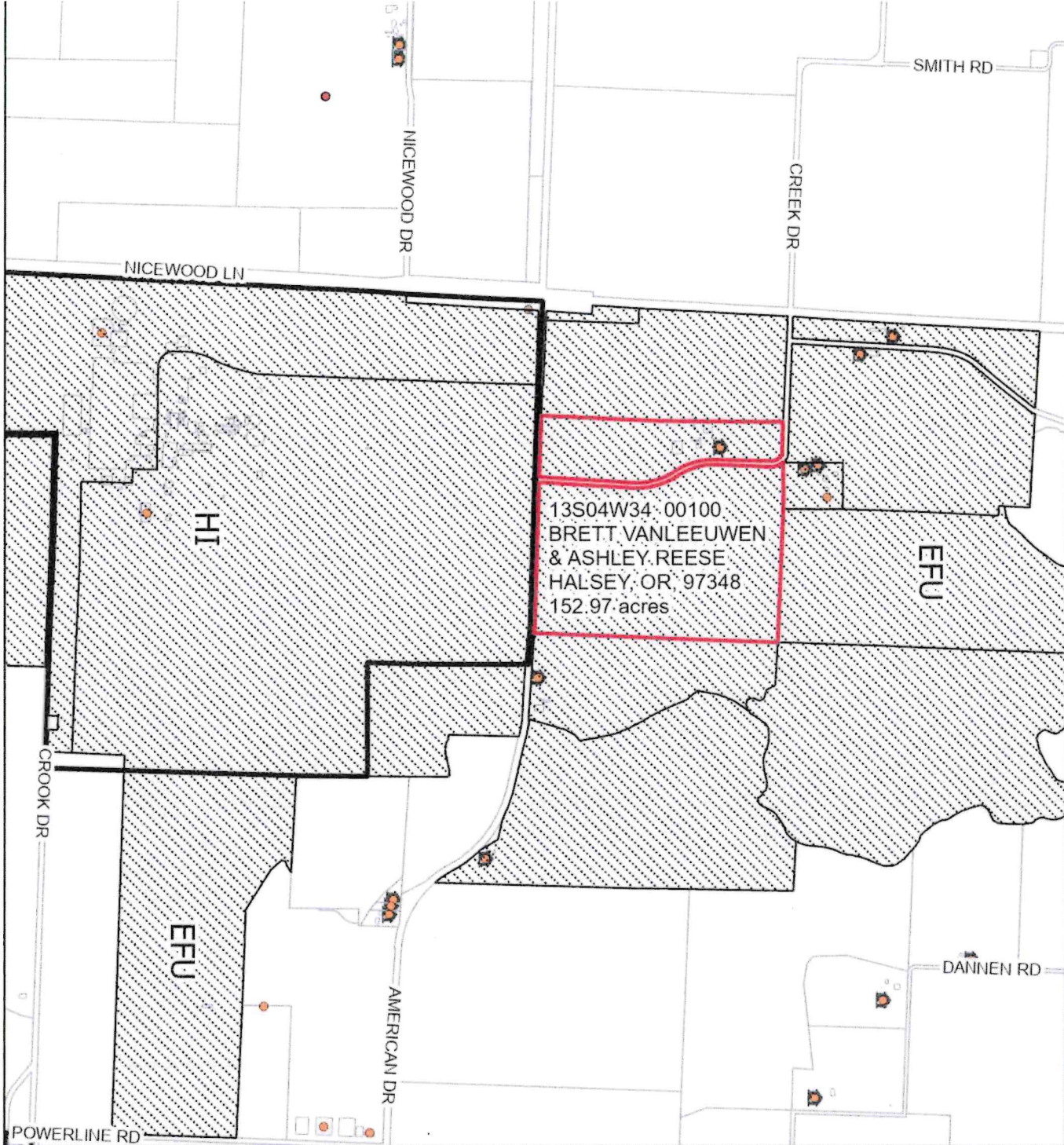
933.410(B) - Decision Criteria: Accessory Farm Dwellings





- (B) *Decision criteria.*
- (1) An accessory farm dwelling approved pursuant to this section will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose seasonal or year-round assistance in the management of the farm use, such as planting, harvesting, marketing or caring for livestock, is or will be required by the farm operator.
 - (2) The accessory farm dwelling will be located:
 - (a) On the same authorized unit of land as the primary farm dwelling; or
 - (b) On the same tract as the primary farm dwelling when the authorized unit of land on which the accessory farm dwelling will be sited is consolidated into a single authorized unit of land with all other contiguous authorized units of land in the tract; or
 - (c) On an authorized unit of land on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only a manufactured dwelling and a deed restriction is filed with the County Clerk. The deed restriction shall require the manufactured dwelling to be removed when the authorized unit of land is conveyed to another party. The manufactured dwelling does not have to be removed if it is reapproved under the applicable rules; or
 - (d) On an authorized unit of land on which the primary farm dwelling is not located, when the accessory farm dwelling is limited to only attached multi-unit residential structures allowed by the applicable state building code or similar types of farm labor housing as existing farm labor housing on the farm or ranch operation registered with the Department of Consumer and Business Services, Oregon Occupational Safety and Health Division under ORS 658.750. All accessory farm dwellings approved under this section shall be removed, demolished or converted to a nonresidential use when farm worker housing is no longer required; or
 - (e) On an authorized unit of land on which the primary farm dwelling is not located, when the accessory farm dwelling is located on an authorized unit of land at least 80 acres in size and the authorized unit of land complies with the gross farm income requirements in LCC 933.400(C)(1)(a) or (b), or 933.400(D)(1), whichever is applicable; and
 - (3) There is no other dwelling on lands owned by the farm operator that is vacant or currently occupied by persons not working on the subject farm or ranch that could reasonably be used as an accessory farm dwelling; and
 - (4) *Income Test.* The primary farm dwelling to which the proposed dwelling would be accessory meets one of the following.
 - (a) *Non-HVFL.* On land identified as non-HVFL, the principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced in each of the last two years or three of the last five years the lower of subparagraphs (a) or (b).

- (i) At least \$40,000 in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or
 - (ii) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract.
 - (b) HVFL. On land identified as HVFL, the principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203 which produced at least \$80,000 in gross annual income from the sale of farm products in each of the last two years or three of the last five years.
 - (c) It is located on a commercial dairy farm as defined in this Code; and
 - (i) The building permits, if required, have been issued and construction has begun or been completed for the buildings and animal waste facilities required for a commercial dairy farm; and
 - (ii) The Oregon Department of Agriculture has approved a permit for a "confined animal feeding operation" under ORS 468B.050 and ORS 468B.200 to 468B.230; and
 - (iii) A Producer License for the sale of dairy products under ORS 621.072.
 - (5) The County shall not approve any proposed partition under LCC Chapter 924 (Partitioning Code) for an accessory farm dwelling unless that dwelling has been requalified as a dwelling in conjunction with farm use and the proposed parcels meet the minimum property size requirement of LCC 924.500 (B) (OAR 660-033-0100).
 - (6) An accessory farm dwelling cannot later be used to satisfy the requirements for a nonfarm dwelling pursuant to OAR 660-33-130(4).
 - (7) For purposes of this section, "**accessory farm dwelling**" includes all types of residential structures allowed by the applicable state building code.
2. All testimony and evidence must be directed toward the criteria described above or other criteria in the plan or land use regulations, which you believe, apply to the decision. Failure to raise an issue before the close of the record during the comment period/final evidentiary hearing, by letter or in person, or failure to provide statements or evidence sufficient to afford the decision maker(s) and the parties an adequate opportunity to respond to each issue raised precludes an appeal based on that issue.
 3. Please note the deadline stated in the accompanying notice for submitting your written comments for decisions to be made by the Planning and Building Department.
 4. If a public hearing is scheduled before either the Planning Commission or the Board of County Commissioners, written and/or oral comments may be submitted either before and/or during that hearing. Please note the time and date of the hearing in the accompanying notice.
 5. A map(s) depicting the parcel under review and surrounding lands is attached to the notice.
 6. A copy of the application, all documents and evidence submitted by or on behalf of the applicant and the applicable criteria are available for inspection at no cost and will be provided at reasonable cost. For applications scheduled for public hearing, a staff report will be available for inspection at the Department at least seven days prior to the hearing. A copy of the staff report will be provided at reasonable cost.
 7. If additional documents or evidence are provided by any party, the local government may allow a continuance or leave the record open to allow the parties a reasonable opportunity to respond. Any continuance or extension of the record requested by the applicant shall result in a corresponding extension of the 150-day time limitations of ORS 215.428.

8. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional evidence or testimony regarding the application. The decision maker shall grant the request by either (a) continuing the public hearing or (b) leaving the record open for additional written evidence or testimony. If the decision maker grants a continuance, the hearing shall be continued to a date, time and place certain at least seven days from the initial hearing.
 - (a) At the continued hearing, persons may present and rebut new evidence and testimony. If new written evidence is submitted, any person may request, prior to the close of the continued hearing that the record be left open for at least seven more days to submit additional written evidence or testimony to respond to the new written evidence.
 - (b) If the record is left open, it shall remain open for at least seven days. During the period the record was left open, any participant may file a written request with the local government for an opportunity to respond to new evidence submitted. If the record has been closed and such a request has been timely filed, the record shall be reopened. Unless waived by the applicant, the applicant shall have at least seven days after the record is closed to all other parties to submit final written arguments in support of the application. The applicant's final submittal shall be considered part of the record, but shall not include any new evidence. **If the record is reopened to admit new evidence or testimony, any person may raise new issues, which relate to the new evidence, testimony or decision criteria for the application.** Except when requested or agreed to by the applicant, the extension shall be subject to the 150-day limitations of ORS 215.428.
9. Appeals from Departmental decisions result in a hearing before the Planning Commission; appeals from Commission decisions result in a new hearing before the Board of County Commissioners.
10. Testimony or evidence previously submitted to the Commission must be **resubmitted** by the parties to the Board for the new hearing.
11. If this case is scheduled for a public hearing, the hearing will begin with a declaration of any ex parte contacts (contacts which occurred outside of the public hearing) or any conflict of interest by the decision makers. This will be followed by the staff report from the planning department. Then the applicant (or appellant if case is an appeal) will testify, followed by testimony by other people in support of the application. After the people who are in favor of the application are finished, testimony from opponents will begin. This will be followed by testimony from people who neither favor nor oppose the application. The applicant will then be given the opportunity for rebuttal. The decision makers are free to ask questions of any person who has testified or of staff at any point during the hearing.

If the hearing is continued or the record is left open, the chairperson will announce the date, time, and place for resumption of the hearing and/or what limitations exist on further testimony or submittal of written materials. If a site visit is warranted, the chairperson will announce the time and date of such a visit. If the hearing and record are closed, the decision makers will begin deliberations and/or will announce the time, date and place when the decision will be made.



-  Subject Property
-  Notice Area
-  Zoning Boundaries
-  Taxlots

13S04W34 00100
BRETT VANLEEuwEN
& ASHLEY REESE
HALSEY, OR, 97348
152.97 acres