BEFORE THE LAND USE HEARINGS OFFICER
OF CLACKAMAS COUNTY, OREGON

Regarding an Application for a Conditional Use Permit to Establish A Home Occupation to Host Events.	)))	**Case File No. Z0063-15-C (Veele's Idyllic Park)**

A. SUMMARY

1. The owner and applicant is Wade Veele.
2. The subject property is located at 33421 South Bud Smith Road, Molalla, OR 97038. The legal description is T5S R3E, Section 20, Tax Lot 1000. The subject property is approximately 39.36 acres and is zoned AGF – Agriculture Forest.
4. On September 17, 2015, the Hearings Officer conducted a public hearing to receive testimony and evidence about the application. At the close of the public hearing, the record was left open for one week for the submission of new evidence, one additional week to respond to the new evidence, and one more week for the applicant's final legal argument.

B. HEARING AND RECORD HIGHLIGHTS

1. The Hearings Officer received testimony at the public hearing about this application on September 17, 2015. All exhibits and records of testimony are filed with the Planning Division, Clackamas County Department of Transportation and Development. At the beginning of the hearing, the Hearings Officer made the declaration required by ORS 197.763. The Hearings Officer disclaimed any *ex parte* contacts, bias or conflicts of interest. The Hearings Officer stated that the only relevant criteria were those identified in the staff report, that participants should direct their comments to those criteria, and failure to raise all arguments may result in waiver of arguments at subsequent appeal forums.
2. At the hearing, county planner Linda Preisz discussed the staff report and recommended approval of the application.
3. The applicant testified in support of the application.

4. A number of nearby residents testified in opposition to the application.

5. At the conclusion of the public hearing, the Hearings Officer closed the public hearing and left the record open for one week for the submission of new evidence, one additional week to respond to the new evidence, and one more week for the applicant's final legal argument.

C. FACTS

The subject property is an approximately 39.36-acre parcel zoned AGF. The property is located at 33241 South Bud Smith Road, Molalla, OR 97038, at the intersection of SE Kelso Road and SE 362nd Avenue. The subject property is a rectangular shaped lot that is relatively flat in the southern area and slopes from east to west. Surrounding properties are all zones AGF or TBR – Timber, and range in size from 5 to 100 acres. Property owners to the west reside on their property and engage in farm and forest uses. The property contains two dwellings that are not at issue and three building that have been used for over two years to host events such as weddings and receptions. The applicant has been using a pavilion, a saloon, and a changing area with two flush toilets to host events. The applicant seeks approval for a home occupation conditional use permit to host up to 15 events per year, averaging 180 guests with a maximum number of 270 guests per event.

D. DISCUSSION

Clackamas Zoning and Development Ordinance (ZDO) 1203.01 provides the approval criteria for conditional uses. ZDO 1203.01(A) provides, "[t]he use is listed as a conditional use in the zoning district in which the subject property is located." ZDO 407 lists the conditional uses for the AGF zone, and it includes "[H]ome occupations to host events, subject to Section 806." The proposal is for a home occupation to host events. Therefore, ZDO 1203.01(A) is satisfied.

ZDO 1203.01(B) provides: "[t]he characteristics of the subject property are suitable for the proposed use considering the size, shape, location, topography, existence of improvements and natural features." The September 10, 2015 staff report analyzes ZDO 1203.01(B) and explains why most of the characteristics of the property are suitable for the use. I adopt and incorporate the findings in the staff report for ZDO 1203.01(B) in this decision, except as follows.

Phillip Wurst (Wurst), who lives adjacent and west of the subject property argues that the characteristics of the site are not suitable for the proposed use. Wurst argues that the location and the topography of the subject property will maximize noise and related impacts downhill towards his property. Wurst also argues that the timbered nature of much of the subject property make it more likely to be a fire risk. Wurst does not argue that the proposed use cannot be conducted on the subject property because of the characteristics of the property, but rather that there will be impermissible impacts on surrounding properties. ZDO 1203.01(B) is more concerned with whether the proposed location of the conditional use is a suitable location for the use. In other words, ZDO 1203.01(B) looks at the four corners of the subject property rather than any impacts off the property. ZDO 1203.01(D) examines the impacts of the proposed conditional use on surrounding properties, and Wurst's issues must be addressed under that provision. Therefore, I agree with the staff report that ZDO 1203.01(B) is satisfied.[1]

ZDO 1203.01(C) provides, "[t]he proposed use is consistent with Subsection 1007.09, and the safety of the transportation system is adequate to serve the proposed use." The staff report explains that the proposed use is consistent with ZDO 1007.09 and the safety of the transportation system is adequate for the proposed use. Opponents do not challenge the application under this provision. I therefore adopt and incorporate the staff report's findings in this decision. ZDO 1203.01(C) is satisfied.

ZDO 1203.01(D) provides, "[t]he proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs or precludes the use of surrounding properties for the primary uses allowed in the zoning district(s) in which surrounding properties are located." Opponents' primary challenges to the application are under this provisions. Opponents first argue that the noise from the events will adversely affect livestock and substantially limit, impair, and preclude use of surrounding properties for farm use. Both Wurst and Phillip Draper (Draper), who also lives west and adjacent of the subject property, argue that the events that have been occurring have adversely affected their livestock. Wurst and Draper state that their livestock move as far away from the subject property as possible during events. Draper also states that his llama did not

[1] To the extent ZDO 1203.01(B) could be construed to apply to impacts on surrounding properties, the discussion under 1203.01(D) addresses the same issues and is incorporated to apply to ZDO 1203.01(B) if necessary.

produce offspring last year, likely because of stress from the applicant's events.

While it certainly seems likely that livestock might avoid the side of the property closest to the subject property during events, the applicant would be limited to 15 events per year and a maximum of one event per week. Even if the livestock do not use one side of the property during events, that still leaves at least 350 days to use that portion of the property. I am not persuaded by opponents' arguments that the failure of the livestock to use the entire property during events would significantly impact their costs. I am also not persuaded that the stress from the events would significantly affect opponents' livestock. The fact that Draper's llama did not reproduce this year does not establish that the events were responsible for significant stress. As the applicant states, his livestock experienced no problems from the events.

Opponents also argue that the events create a fire hazard to forestland because the area is heavily treed and guest at the events would smoke and thus create the potential for fires. The Colton Fire District reviewed the plans and found the facilities well laid out and accessible for their needs. Although the fire district did not specifically address the potential fire hazard from smoking during the events, presumably the issue would have been raised if it was a concern. Additionally, as the applicant states, there is a designated safe smoking area to contain any dangers from smoking. Finally, as opponents complain, the applicant has been conducting events for over two years, but there have been no problems with smoking casing any fires during that time. I agree with the applicant that smoking in the safe smoking area would not significantly increase the fire hazard or fire suppression costs.

Opponents also argue that the noise from the events greatly disrupts their peace and quiet and enjoyment of the rural setting. Furthermore, Draper argues that the noise exacerbates his companion's medical conditions. The staff report states that "[a]s dwellings are not a primary use in the AGF or TBR zones, impacts upon residences is not a concern addressed in [ZDO] 1203.01(D)." Therefore, the staff report does not address such impacts. As a home occupation to host events, the application must also comply with ZDO Section 806.03 (discussed later). ZDO 806.03(H) provides that in the AGF zone, "the evaluation of compliance with [ZDO] 1203.01(D) shall include consideration of impacts on dwellings even though dwellings are not primary uses in these zoning

districts." Therefore, the impacts on opponents' dwellings must be considered.[2]

Although the noise from the events would certainly be noticeable and perhaps even annoying, the proposed use would be limited to 15 events per year. The proposed conditions of approval include compliance with the noise regulations that limit the noise at the boundaries of the subject property. Similar to the arguments regarding opponents' livestock, I am not persuaded that the noise from a maximum of 15 events per year would substantially limit, impair, or preclude use of the opponents' properties for dwellings. With the proposed conditions of approval, ZDO 1203.01(D) can be satisfied.[3]

ZDO 1203.01(E) provides, "[t]he proposal satisfies the goals and policies of the Comprehensive Plan that apply to the proposed use." Wurst argues that the applicant has failed to show compliance with the provisions of the comprehensive plan relating to agriculture and forest lands. Although the applicant did not submit anything regarding the comprehensive plan in its application, the staff report reviewed the application for compliance with the comprehensive plan and found the application satisfied any applicable goals and policies. Wurst does not challenge the staff report findings or cite any specific goals or policies that he believes the application does not satisfy. Therefore, I adopt and incorporate the findings in the staff report in this decision. ZDO 1203.01(E) is satisfied.

ZDO 1203.01(F) provides, "[t]he proposed use complies with any applicable requirements of the zoning district and overlay zoning district(s) in which the subject property is located, Section 800, and Section 1000." The applicable requirements under Section 800 are ZDO 806.03 relating to a home occupation to host events. The staff report addresses all the requirements of ZDO 806.03 and explains why those requirements are satisfied. Opponents do not challenge the application under most of these requirements. Therefore, I adopt and incorporate the findings in the staff report in this decision for purposes of compliance with ZDO 806.03, except as follows.

ZDO 806.03(A) requires that the "home occupation shall be sited on a lot of record that contains a lawfully established dwelling." The CPO argues that the address on

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[2] Under ZDO 806.03(H), the staff report merely states, "[s]ee the discussion in [ZDO] 1203.01(D) [earlier]."

[3] The Community Planning Organization argues that the ZDO allows more than 15 events per year. Proposed condition of approval II. (2), however, expressly limits the proposed CUP to 15 events per year.

the application changed and therefore the proposed home occupation is not proposed for the correct property. The applicant explains that he has one deed with two legal addresses. Regardless of the address on the application, the proposed CUP is proposed for a lot of record that contains the applicant's dwelling. ZDO 806.03(A) is satisfied.

ZDO 806.03(D) requires in the AGF zone that "the home occupation shall be operated substantially in: (1) The dwelling; [or] (2) Other buildings which are normally associated with the uses permitted in the zoning district in which the subject property is located." The proposed use would use the existing pavilion, saloon, and changing room with toilets. Opponents argue that those buildings are not buildings normally associated with agricultural or forest uses. Additional staff comments dated October 1, 2015 state that the pavilion is a pole building and that many pole buildings are used for farm and forest uses. Even though the pavilion has a nicer floor and ceiling than a traditional pole building it could still be used to store farm and forest equipment. Staff comments also state there are no limits on assorted accessory buildings in the timber zone, and conclude that "[a]ll of the structures in this application could be used for farm/forest purposes."

Opponents are correct that a pavilion, saloon, and changing room are not buildings normally associated with farm or forest uses. Staff is also correct that the pavilion, saloon, and changing room could be used for farm and forest uses instead. Additional buildings were being used for family gatherings before the use was expanded to include public use. Even though the applicant had not acquired permits for the additional buildings, the buildings could have been approved as a farm or forest use. While it is a close call, I agree with staff that because the pavilion, saloon, and changing room could be used for farm and forest uses, the mere fact that they are used for hosting events does not render them buildings not "normally associated with the uses permitted in the zoning district * * *." ZDO 806.03(D) is satisfied.

ZDO 806.03(P) regulates restroom facilities for hosting events as a home occupation. Opponents argue that the flush toilets in the changing room are close to a stream and upstream from their property. According to opponents, there is a risk of contamination from so many guests using the flush toilets. The proposed conditions of approval require the applicant to use portable toilets for all events and not the existing

flush toilets. This would eliminate any risk of contamination.[4] The proposed conditions of approval also require the applicant to obtain septic approval for the flush toilets even though they will not be used for events. With the proposed conditions of approval, ZDO 806.03(P) and any other concerns about the toilets are satisfied.

Therefore, all the requirements of ZDO 806.03 are satisfied.[5]

The staff report addresses other applicable development standards. I agree with the staff report and adopt and incorporate those findings in this decision, except as follows. ZDO 406.05(A) provides that the proposed use may only be approved if:

> "1. The proposed use will not force a significant change in, or significantly increase the cost of accepted farming or forest practices on agriculture or forest lands, and
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> "2. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel."

These concerns were addressed earlier under ZDO 12013.01(D). For the same reasons discussed earlier, the proposed complies with ZDO 406.05(A).

With the conditions of approval, the applicant satisfies all the applicable approval criteria.

E. DECISION

Based on the findings, discussion and conclusions provided or incorporated herein and the public record in this case, the Hearings Officer hereby **APPROVES** application Z0063-15-C, with the following conditions of approval.

F. CONDITIONS OF APPROVAL

I. General Conditions:

1) Approval is for the specific use identified in the application materials and on the submitted site plan to the extent they are subject to the Clackamas County Zoning and Development Ordinance and Comprehensive Plan and consistent with the remaining conditions of approval. This land use permit is based on the submitted written narrative and plan(s) dated February 13, 2015 and subsequent submitted materials dated March 4, 2015, and deemed complete on the same day. A revised access plan was submitted September 1, 2015. No work shall occur under this

[4] I am not persuaded that opponents' fear that guests will "go outdoors" instead of using the portable toilets will contaminate opponents' property.
[5] ZDO 806.03(H) regarding the impact on dwellings was addressed earlier.

permit other than which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of approval described herein.

2) The applicant is advised to take part in a Post Land Use Transition meeting. County staff would like to offer you an opportunity to meet and discuss this decision and the conditions of approval necessary to finalize the project. The purpose of the meeting is to ensure you understand all the conditions and to identify other permits necessary to complete the project. If you like to take advantage of this meeting please contact Deana Mulder at (503) 742-4710 or at deanam@clackamas.us .

3) **Prior to the submission of building permits (Change of Occupancy),** the applicant **SHALL** submit a statement of use to Lori Phillips in the Clackamas County Development Agency. Lori Phillips can be contacted at (503) 742-4331, or loriphi@co.clackamas.or.us. The statement of use is used to calculate the Transportation System Development charge. A Transportation System Development Charge (TSDC) is included in the final calculation of the building permit fees for new instructional projects; this includes additions and tenant improvements that increase the number of daily trips to the site.

4) If approved, the conditional use approval is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four year period, the approval shall be implemented, or the approval will become void. "Implemented" means all major development permits shall be obtained and maintained for the approved conditional use, or if no major development permits are required to complete the development contemplated by the approved conditional use, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A "major development permit" is:

   a. A building permit for a new primary structure that was part of the conditional use approval and a change of use building permit to use existing buildings; or
   b. A permit issued by the County Engineering Division for parking lot or road improvements required by the conditional use approval.

5) This Conditional Use approval is granted subject to the above and below stated conditions.

6) The applicant shall provide evidence to this file that the required permits have been submitted to the appropriate departments within 45 days of the decision.

7) The applicant shall provide evidence to this file that the proper permits have been acquired within 45 days of submission.

8) Once permits are acquired, such work shall be finished and evidence of final reports shall be provided to this file before the events area may be used as proposed.

9) Failure to comply with any of the conditions of approval constitutes a violation of this permit and shall be cause for revocation of this approval and the events area shall not be allowed to operate.

10) The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusions by the county concerning whether the activities allowed will or will not come in conflict with the provisions of the federal Endangered Species Act (ESA). This decision should not be construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the federal agencies responsibility for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

II. Planning and Zoning Conditions: Linda Preisz, (503) 742-4528, lindap@clackamas.us

1) Development of the subject property is subject to the provisions of ZDO Sec.1203 and those other relevant codes and ordinances adopted by the Board of County Commissioners pursuant to subsec. 1001.03 of the ZDO, including, but not limited to, the County Roadway Standards, County Excavation and Grading Ordinance, and Oregon Structural Specialty Code, etc.

2) This approval is for a conditional use to establish a home occupation to host events in existing buildings. The approval shall permit the hosting up to 270 guests with an average of 180 per event, one event per weekend. The applicant requests and is approved for hosting a maximum of **15 events per year**. The site takes access off S Fernwood Road.

3) **Prior to issuance of any development permits**, a written irrevocable statement shall be recorded with the deed records for the county binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

4) All events shall comply with ambient noise levels of 60 dB(A) from 7:00 am until 10:00 pm and 50 dB(A) from 10:00 p.m. to 7:00 a.m. A sound level meter may be required if amplified music is heard at the sites property lines during events.

5) A total of five employees will work the events on site at one time. These five employees include the operators, partners, assistants, and any other persons or family members and persons employed by contract to provide services for a single event, such as, but not limited to: caterers, photographers, clergy, musicians, florists, cake bakers, venue setup and cleanup crew wedding planner, bar tenders, waiter, and bouncers.

3) If permanent on-site lighting is planned, it shall be designed, located, shielded, or deflected so as not to shine off-site onto structures or impair the vision of the driver of any vehicle. Prior to final occupancy, submit an outdoor lighting system design plan prior to installation of the outdoor lighting system for review and approval by Planning and Zoning Division.

4) All signs shall be reviewed and approved pursuant to Sections 1010.07 and 1010.13 of the ZDO, prior to installation of the signs.

5) **All necessary development permits (septic, commercial building, change of use, electrical, driveway, etc.) for this facility and associated buildings shall be submitted to the appropriate department and receive final approval.**

6) All event equipment, furniture, goods and other amenities shall be stored indoors on non-event days.

7) The applicants shall obtain all OLCC and Food Handler Permits and Licenses and comply with OLCC regulations.

8) The applicant shall grant access to the site for State and/or County inspections of the facilities without notice.

9) Temporary tents used for events may be placed on the subject property no more than 24 hours before the event and must be removed no more than 24 hours after the event.

10) The construction of any structure that would not otherwise be allowed in the zoning district in which the subject property is located shall be prohibited.

11) **Prior to Occupancy permit issuance:** the applicant shall provide Linda Preisz, Planning & Zoning Division, 503-742-4528, lindap@clackamas.us information concerning the plan for garbage and recycling.

12) Pursuant to Section 704, the setbacks for structures exceeding 120 square feet or 10 feet in height shall be a minimum of 100 feet from the mean high water line of the large stream (Woodcock Creek) located on the parcel.

13) Tree cutting and grading shall be prohibited within the stream buffer strip.

III. <u>Building Code Division Conditions:</u> Richard Carlson, (503) 742-4769, richardcar@co.clackamas.or.us

1) All construction activities, and all changes of use (occupancy type), shall comply with applicable Oregon Specialty Codes and local ordinances. All such codes and ordinances apply to all such activities, even when permits and inspections are not required.

2) Compliance with the following conditions is required **<u>of any new use or occupancy:</u>**

a. All necessary development permits (septic, building, electrical, grading, driveways, etc.) for the property, facility, and associated buildings shall be obtained.
b. The plans must meet the minimum structural integrity and life safety requirements of the applicable Oregon Specialty Codes.
c. Any additional information required by the Building Codes Division, such as engineering, details, and specifications, must be provided to the Plans Examiner reviewing the project.
d. All necessary permits and approved plans must be issued and maintained onsite as required.
e. All required inspections, corrections, and final approval must be obtained.

IV. <u>Engineering Division Conditions:</u> Robert Hixson, (503) 742-4708, roberth@co.clackamas.or.us

September 1, 2015, the applicant submitted a revised access plan. The existing driveway approach is now proposed to be removed and an alternative driveway approach which complies with sight distance requirements is proposed.

The following items are project requirements from the Department of Transportation and Development's Development Engineering Division. These conditions of approval are not intended to include every engineering requirement necessary for the successful completion of this project, but are provided to illustrate to the applicant specific details regarding the required improvements that may prove helpful in determining the cost and scope of the project. These conditions are based upon the requirements detailed in the County's Comprehensive Plan (Comp Plan), the County's Zoning and Development Ordinance (ZDO) and the County's Site Development and Roadway Construction Standards (Roadway Standards). Additional requirements beyond those stated in the

conditions of approval may be required. The applicant may discuss the requirements of the project with staff at any time.

The requirements specifically required by the Comp Plan and the ZDO cannot be modified by the Development Engineering Division. However, the requirements detailed in these conditions of approval, derived from the Roadway Standards, are based upon nationally accepted standards and engineering judgment and may be modified pursuant to Section 170 of the Roadway Standards. The applicant is required to provide sufficient justification to staff in the request. Staff shall determine if a modification is warranted.

1) All frontage improvements in, or adjacent to Clackamas County right-of-way, or on site, shall be in compliance with *Clackamas County Roadway Standards*.

2) The applicant shall obtain a Development Permit from Clackamas County Department of Transportation and Development prior to the initiation of any construction activities associated with the project.

3) The applicant shall design and construct one 28-foot wide (throat width) driveway approach in conformance with *Roadway Standards* Drawing D500 which shall also meet minimum County Roadway Standards sight distance requirements. The 28-foot wide throat shall be a minimum of 20 feet in length. Beyond the first 20 feet of driveway length, the width may taper to 24 feet. The first 20 feet of the driveway approach shall be designed and constructed so that the grade of the driveway approach does not exceed five percent. In addition, storm water runoff from the driveway approach shall not be permitted to flow off the approach onto Fernwood Road.

4) The approximately 180-degree turn, illustrated between the parking area and the driveway approach, shall be designed and constructed to accommodate both passenger vehicle and fire apparatus turning maneuvers.

5) If the proposed access is gated, the applicant shall design and construct the gate so that the gate, when closed, is a minimum of 20 feet from the edge of pavement. The gate shall be constructed so that the gate opens away from Fernwood Road.

6) The existing driveway approach to Fernwood Road shall be permanently removed. The existing gate shall be removed and replaced with fencing.

7) The applicant shall design and construct five-foot wide minimum, unobstructed, hard-surfaced ADA compliant walkways between the ADA parking spaces, the pavilion and the bathroom facility.

8) The applicant shall provide a copy of the surface water management plan to DTD Engineering, Deana Mulder.

9) The applicant shall provide adequate on site circulation for the parking and maneuvering of all vehicles anticipated to use the parking and maneuvering areas, including 24 feet of back up maneuvering room for all 90-degree parking spaces. Loading spaces shall also be afforded adequate maneuvering room.

10) Parking spaces shall meet *ZDO* section 1015 dimensional requirements. The plans shall list the number of parking spaces required (95 parking spaces) and the number of parking spaces provided. The applicant shall label all carpool/vanpool, disabled (**four minimum with one van accessible**), and loading berth spaces on the plans. Parking layout geometry shall be in accordance with ZDO Table 1015-1 and Figure 1015-1.

11) Parking spaces may be on the mown grassy areas or on a gravel surface except for the four required ADA parking spaces, with appropriate adjacent accessible areas, which shall be paved.

12) On-street parking is prohibited on S. Fernwood Road on event days.

13) The applicant shall provide a narrative to Engineering staff, for review and approval, describing the method for designating individual parking spaces, including how parking spaces on gravel or grass will be delineated. If individual spaces are not planned to be delineated, the narrative shall describe how event staff may direct drivers to appropriate parking areas and parking spaces. In addition, the applicant shall provide an exhibit, to scale and with dimensions, illustrating the individual parking spaces and drive aisles. The parking space delineation exhibit may be part of the submitted site plan.

14) The applicant shall provide illuminated two (2) bicycle-parking spaces in accordance with *ZDO* subsection 1015.05, Table 1015-3.

15) The applicant shall provide and maintain adequate intersection sight distances and adequate stopping sight distances at the driveway approach intersection with Fernwood Road. Adequate intersection sight distance for drivers turning left into the site shall also be provided and maintained. In addition, no plantings at maturity, retaining walls, embankments, fences or any other objects shall be allowed to obstruct minimum sight distance requirements. **Plans submitted in anticipation of issuance of a Development Permit shall include an exhibit illustrating sight lines for the site driveway approach intersection with Fernwood Road to insure sight lines are not obstructed by trees or any other objects along the subject property frontage and to insure sight lines do not cross over properties not owned by the applicant.** Minimum intersection sight distances, at the driveway intersection with Fernwood Road, shall be 335 feet, both southerly and easterly along Fernwood Road, measured 14.5 feet back from the edge of the travel lane. Minimum stopping sight

distances shall be in accordance with AASHTO requirements and appropriately adjusted for grades. Stopping sight distances shall be measured along the middle of the individual travel lanes. Minimum intersection sight distance for drivers turning left into the site shall be 245 feet measured from the driver's location where a left turn would be initiated to the middle of the oncoming travel lane.

16) Applicant shall comply with the County Roadway Standards clear zone requirement of seven feet in accordance with Roadway Standards section 245.

17) Following land use approval of this proposal, the applicant shall provide an Engineer's cost estimate to Clackamas County Engineering for any unfinished improvements required by conditions of approval. The estimate shall be submitted for review and approval of quantities of asphalt concrete, aggregates, walkways and any other required improvements and associated construction costs.

18) The applicant shall install and maintain a 30-inch "STOP" sign, with the bottom of the sign positioned five to seven feet above the pavement, at the driveway approach intersection with Fernwood Road. (*Manual on Uniform Traffic Control Devices*)

19) All traffic control devices on private property, located where private driveways intersect County facilities shall be installed and maintained by the applicant, and shall meet standards set forth in the *Manual on Uniform Traffic Control Devices* and relevant Oregon supplements.

20) After land use approval, the applicant shall submit to Clackamas County Engineering Office:

    a) Written approval from the local Fire District for the planned access, circulation, fire lanes and water source supply. The approval shall be in the form of site and utility plans stamped and signed by the Fire Marshal.

    b) Written approval from the Department of Transportation and Development for surface water management facilities and erosion control measures.

    c) A set of site improvement construction plans, including a striping and signing plan, for review, in conformance with *Clackamas County Roadway Standards* Section 140, to Deana Mulder in Clackamas County's Engineering Office and obtain written approval, in the form of a Development Permit.

        i) The permit will be for driveway, walkway, drainage, parking and maneuvering area, and other site improvements.

        ii) The minimum fee is required for eight or fewer, new or reconstructed parking spaces. For projects with more than eight parking spaces, the fee will be calculated at a per parking space rate according to the current fee structure for

commercial/industrial/multi-family development at the time of the Development Permit application.

iii) The applicant shall have an Engineer, registered in the state of Oregon, design and stamp construction plans for all required improvements, or provide alternative plans acceptable to the Engineering Division.

21) Before the County issues a Development Permit, the applicant shall submit a construction vehicle management and staging plan for review and approval by the County DTD, Construction and Development Section, if the public road right-of-way is planned to be used for construction staging. That plan shall show that construction vehicles and materials will not be staged or queued-up on public streets and shoulders without specific authority from DTD. If the public road right-of-way is not planned to be used for construction staging, a note shall be added to the construction drawings stating that the public road right-of-way will not be used for construction staging.

V. **WES Soils Section Conditions:** Aaron Dennis, 503-742-4614, adennis@clackamas.us

Soils has examined the project and has done an evaluation. An unpermitted septic system is a violation of OAR 340-071-0130(15)(a). Therefore, Soils has no option but to recommend **no usage of the system**.

Portable toilets shall be used for guests in lieu of the inside bathrooms. 4 portable toilets per event for up to 250 persons shall be required. Service of these toilets shall be done between events. If two events are scheduled for one day, this will necessitate twice the portable toilets required.

1) The applicant shall apply for a septic permit. The services of a consultant to verify the septic tank size, drainfield length, drainfield depth, pump information, float settings, and timer settings is required.

DATED this 26th day of October, 2015.

Fred Wilson
Clackamas County Hearings Officer

ENDANGERED SPECIES ACT NOTICE

The federal Endangered Species Act (ESA) is not a criterion for approval of this application. The County has reviewed the approval standards in light of the requirements

of the ESA, believes that the criteria for approval are consistent with the terms of the ESA and has submitted the Development Ordinances for consideration for a "4(d)" programmatic limitation. However, the analysis included in this decision does not include an evaluation by the County of the applications for consistency with the ESA nor does the decision reach any conclusions concerning that federal law. The applicant are responsible for designing, constructing, operating and maintaining the activities allowed by an approval of this application in a manner that ensures compliance with the ESA. Any question concerning this issue should be directed to the applicant, their consultants and the federal agencies responsible for administration and enforcement of the ESA for the affected species.

APPEAL RIGHTS

ZDO 1307.10(F) provides that, with the exception of an application for an Interpretation, the Land Use Hearings Officer's decision constitutes the County's final decision for purposes of any appeal to the Land Use Board of Appeals (LUBA). State law and associated administrative rules promulgated by LUBA prescribe the period within which any appeal must be filed and the manner in which such an appeal must be commenced. Presently, ORS 197.830(9) requires that any appeal to LUBA "shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final." This decision will be "final" for purposes of a LUBA appeal as of the date of mailing (which date appears on the last page herein).