

**BEFORE THE LAND USE HEARINGS OFFICER
OF CLACKAMAS COUNTY, OREGON**

Regarding an Application for a Conditional Use)	Case File Nos.
Permit for a New Building in a Habitat)	Z0377-15-C &
Conservation Area at a School Previously)	Z0378-15-HDB
Approved as a Conditional Use Permit.)	(Arbor School)

A. SUMMARY

1. The owner and applicant is the Arbor School of Arts & Sciences.
2. The subject property is located at 4201 and 4620 SW Borland Road, Tualatin, OR 97062. The legal description is T2S R1E, Section 20C, Tax Lots 500 and 600 W.M. The subject property is 20.90 acres and is zoned RRF-5 – Rural Residential Farm Forest – 5 Acre Minimum.
4. On October 22, 2015, the Hearings Officer conducted a public hearing to receive testimony and evidence about the application.

B. HEARING AND RECORD HIGHLIGHTS

1. The Hearings Officer received testimony at the public hearing about this application on October 22, 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 Sandy Ingalls discussed the staff report and recommended approval of the application.
3. Will Hawkins, the school superintendent, testified in support of the application.
4. No one testified in opposition to the application.

5. At the conclusion of the public hearing the Hearings Officer closed the record

C. DISCUSSION

The subject property is a 20.90-acre parcel zoned RRF-5. The property is located at 4201 SW Borland Road, Tualatin, OR 97062. The subject property is in an area of other RRF-5 properties which are primarily in residential and small scale farm use. There is also a nursery and farm pastures to the north and east of the school. The City of Tualatin and several large subdivisions are located just west of the property. SW Borland Road, a minor arterial runs along the southern boundary of the property.

The school has operated as a conditional use on the property for 27 years. Over the years, the school has come to include several campus buildings, athletic fields, a barn and small sheds, and two residences. Saum Creek and a tributary of Saum Creek flow through the south and west portions of the property. Large portions of the property cannot be developed due to conservation easements. Furthermore, the habitat conservation areas around Saum Creek and its tributary leave very little space to build new buildings.

The current proposal is for a 9000 square-foot gathering center. The gathering center would be used to host events that are already occurring on the property, and no additional students, teachers, or guests are anticipated in the application. Because of the conservation easements and HCA, the only place suitable for building the gathering center entails some disturbance of the HCA and therefore requires mitigation. Accordingly, the applicant submitted an application for a construction management plan, map verification, and HCA development permit concurrently with the conditional use application.

The two October 15, 2015 staff reports thoroughly analyze the applicable approval criteria and explain why the conditional use approval criteria and HCA approval criteria are satisfied. As there was no opposition to the applications, it would be a waste of the County's money and resources to review and repeat all of the findings in the staff reports. I therefore adopt and incorporate the findings in the staff report in this decision.¹ All of the approval criteria for a conditional use permit and for construction in the HCA are satisfied.

¹ The applicant stated that it did not object to any of the proposed conditions of approval.

D. DECISION

Based on the findings, discussion and conclusions provided or incorporated herein and the public record in this case, the Hearings Officer hereby **APPROVES** applications Z0377-15-C and Z0378-15-HDB, with the following conditions of approval.

E. CONDITIONS OF APPROVAL

CONDITIONAL USE CONDITIONS

I. General Conditions:

- 1) Approval of this land use permit is based on the submitted written narrative and plan(s) originally submitted August 31, 2015 and deemed complete September 10, 2015. No work shall occur under this 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, Clackamas County Engineering at (503) 742-4710 or at deanam@clackamas.us
- 3) **Prior to the issuance of building permits**, the applicant shall submit a Statement of Use to Lori Phillips. She can be contacted at (503) 742-4433 or loriphi@clackamas.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 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; 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. Failure to comply with any of the conditions of approval constitutes a violation of this permit and may be cause for revocation of this approval.
- 6) 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: Sandy Ingalls, (503) 742-4532, sandy@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 add a 9,000 square foot a multi-purpose “Gathering Center” to be used for music and expression arts classroom, assembly and performance hall/auditorium for the existing Arbor School Campus. The applicant is also adding 22 additional parking spaces and landscaping to the site. School hours are Monday – Friday 8:30 am to 3:00pm, with 3-5 major events per year. The number of people associated with both the current and proposed uses is: Staff 30, Students 155. The calculated occupant load of the proposed facility is 433 people. Proposed project will remove some trees and disturb some areas of the Habitat Conservation Area (HCA) associated with tributary to Saum Creek, as reviewed under file No. Z0378-15-HDB in conjunction with Conditional Use File No Z0377-15-C. HCA disturbance will be compensated by

planting 112 native trees and 261 native shrubs. The site takes access off SW Borland Road.

- 3) Comply with all conditions of approval found in the Staff Report for File No. Z0378-15-HDB.
- 4) Any outdoor lighting shall be located and designed so that it does not shine onto adjacent properties or right-of-ways, per Section 1005 of the ZDO.
- 5) All signs shall comply with Section 1010 of the ZDO, and state regulations; and signs shall be maintained.
- 6) **Prior to building permit approval**, the applicant shall submit a landscape plan to the County's Planning and Zoning Arborist, Sandy Ingalls for review and approval prior to planting, illustrating the location of the vegetation and a legend, per ZDO Section 1009, including subsections 1009.02, 1009.03, 1009.04, 1009.05, 1009.08, and Table 1009-1 requirements, to be planted within and around the proposed structure and parking lot. A minimum landscaped area of 25% for the development of the conditional use shall be landscaped with a minimum of 75% of the required landscape plants/trees from Table 1009-1, being planted with 50% conifers and 50% deciduous native and/or drought-tolerant plants/trees.
- 7) **Prior to Occupancy**, the developer shall submit a signed maintenance contract, or provide a financial guarantee, covering the landscape maintenance costs during the guarantee period.
- 8) **Prior to Occupancy**, the proposed landscaping shall be installed and inspected.
- 9) **Prior to final occupancy permit issuance**: the applicant shall contact Linda Preisz, Planning & Zoning Division, 503-742-4528, lindap@clackamas.us. She can provide the necessary information about size of service trucks and appropriate containers. She also must sign off on behalf of the service provider(s). Detailed information, including ZDO 1021, is available on the county web site www.co.clackamas.or.us under "Garbage & Recycling." Note: Roofs over trash / recycling enclosures are not allowed.
- 10) **Prior to Occupancy**, the acceptable trash/recycling enclosure shall be installed and inspected.
- 11) **Tree Protection Fencing and Signage Requirements**:
 - A) Submit Tree Protection Fencing and Signage Plans to the County Arborist - Sandy Ingalls for review and approval **prior to any construction activities on site**. The plan should include the location of the trees, fencing and signage

in relation to the construction zone(s) on site. Tree protection fencing should be placed at a minimum distance beyond the dripline of the trees.

- B) Prior to installing tree protection fencing on site, walk the site with County Arborist and project manager and/or arborist reviewing areas that are to be protected.
- C) Install approved 6-foot tall chain link fencing around the trees/groves of trees to be protected at a minimum distance beyond the dripline of the trees. Secure fencing with metal posts on 6-8 foot centers and buried 2 foot depth, but not cemented in the ground or placed in root zone area.
- D) Install weather proof signs on the fencing so that at least one sign can be seen from anywhere on site.

Example of Sign

<p>TREE PROTECTION AREA</p> <p>No activity – including: grading, storage, stockpiling, construction vehicles or trailers, waste, equipment cleaning, pedestrian traffic, etc. -- is <u>permitted</u> within fenced area.</p> <p><u>Entry Permitted Only with Prior Approval of Project Certified Arborist</u></p> <p>Contact: [Project Certified Arborist Name and Phone Number, NOT County Arborist]</p>

- E) After installation of tree protection fencing and prior to any construction on site, have the County arborist review the installed tree protection fencing for approval with the project arborist and/or project manager.
- F) Once tree protection fencing is approved by the County arborist, the project arborist is in charge of the tree(s) health on site.
- G) Tree protection fencing stays in place until permitted to be removed by the project arborist and project manager.

III. Building Code Division Conditions: 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 prior to the commencement of any new use or occupancy:
 - a. All necessary development permits (septic, building, electrical, grading, driveways, Manufactured home or RV placement, 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. Engineering Division Conditions: Robert Hixson, (503) 742-4708, roberth@co.clackamas.or.us

Traffic Engineering and Development Review staff have visited the site and reviewed the application.

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.

Development Engineering recommended conditions of approval:

- 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 reconstruct the existing driveway approach, raising the approach elevation, to facilitate the achievement of adequate intersection sight distance westerly. The driveway approach shall be reconstructed consistent with *Roadway Standards* Drawing D500. In addition, the driveway approach shall also comply with the requirements of Roadway Standards subsection 250.7.3. The average grade of the landing shall not be greater than five percent and the applicant shall provide a driveway profile to demonstrate the transition from Borland Road. All grade breaks and vertical curves shall be identified and labeled.
- 4) All curbs shall typically be type "C", or curb and gutter if curb line slope is less than one percent, if they carry, direct or channel surface water. Alternative curbs will be considered when it is determined by the Clackamas County Department of Transportation and Development that type "C" curbs or curb and gutter are not appropriate. Extruded curbs for carrying, directing or channeling surface water, or used as a vehicle wheel stop, shall not be allowed.
- 5) The applicant shall design and construct the new onsite walkways at a minimum width of five feet. The walkways may be constructed at the six-foot width as proposed. The walkways shall be unobstructed for their full width and shall also be hard-surfaced and ADA compliant between the new ADA parking spaces and the multi-purpose building. Walkways shall be constructed where illustrated on the submitted Webster Wilson Architect site plan dated March 5, 2015.
- 6) The applicant shall provide a copy of the Surface Water Management Authority of Clackamas County (SWMACC) approved drainage study and surface water management plan to DTD Engineering, Deana Mulder.
- 7) 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.
- 8) Parking spaces shall meet *ZDO* section 1015 dimensional requirements. The applicant shall install 22 new parking spaces on site per their site plans on page 5 and 6, above. The plans shall list the number of parking spaces required and the number of parking spaces provided. The applicant shall label all parking spaces for the disabled and all parking spaces for carpool/vanpool use on the plans.

Parking layout geometry shall be in accordance with ZDO Table 1015-1 and Figure 1015-1.

- 9) The applicant shall provide appropriate technical information associated with the alternative porous parking and maneuvering area surface to the Engineering Division for review and approval prior to the issuance of a Development Permit. The applicant shall also provide appropriate technical information to the SWMACC as the alternative surface will also require that agency's approval. In addition, the applicant shall propose a method for delineation of the parking spaces on the porous surface for Engineering staff review and approval.
- 10) The applicant shall provide illuminated for 2 bicycle-parking spaces in accordance with ZDO subsection 1015.05, Table 1015-3.
- 11) The applicant shall provide and maintain adequate intersection sight distances at the driveway approach intersection with Borland Road. 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 a plan and profile exhibit, based on survey data, illustrating the sight line for the Borland Road driveway approach intersection with Borland Road to insure sight lines are not obstructed by the Borland Road vertical curve to the west or any other objects along the subject property frontage.** Minimum intersection sight distance, at the driveway approach intersection with Borland Road, shall be 500 feet, both easterly and westerly along Borland Road, measured 14.5 feet back from the edge of the travel lane.
- 12) Applicant shall comply with County Roadway Standards clear zone requirements in accordance with Roadway Standards section 245.
- 13) Prior to the issuance of a building permit, the applicant shall submit to Clackamas County Engineering Office:
 - a) Written approval from Tualatin Valley Fire and Rescue 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 Surface Water Management Authority of Clackamas County 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, curb, walkways, 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.
- 14) 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.
- 15) Prior to certificate of occupancy, 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, curbs, walkways and any other required improvements and associated construction costs.

V. **Water Environment Services (WES) Conditions:** Tim Finley, (503) 742-4575, TimFin@co.clackamas.or.us

Sanitary:

- 1. This development is not inside a sanitary sewer district and is required to provide onsite sewage treatment facility (septic).
- 2. A soil feasibility study has been submitted for review. Final approval by the Clackamas County soils department for the installation of onsite sewer system is required.

Storm drainage:

1. The development is subject to the Rules and Regulations for Surface Water Management and Standard Specifications of Surface Water Management Agency of Clackamas County (SWMACC).
2. Cost of the Surface Water facilities shall be borne entirely by the developer.
3. This development is subject to a minimum plan review fee for Surface Water plan review and for Erosion Control. **Plan review fees are due with the first submittal for plan review.**
4. Surface Water detention calculations shall be by the King County method (SBUH hydrograph - software version 4.21B or higher). The detention requirement is to reduce the 2-year developed discharge to one half of the pre-developed rate.
5. Water quality requirements shall be met. Facilities must be designed to treat the runoff from rainfall. Water quality must address the prosperous removal requirement in the R&R for this area.
6. Stormwater infiltration shall be provided. Infiltration systems must be sized to infiltrate the entire runoff volume from a one-half inch 24-hour rainfall event within a period of 96 hours.
7. The developer's engineer must provide supporting data TO WES/CCSD#1 that the downstream conveyance system has adequate capacity to accommodate the Surface Water flows and not cause flooding.
8. The developer is required to address long term maintenance. The owner shall submit a written stormwater maintenance agreement to the District. The agreement shall indicate that the owner will have the on-site storm sewer facilities inspected at least once per year (August or September), and clean or repair the facilities as needed. All sediment and debris removed shall be disposed of to an approved site. Blackberry vines and dead vegetation shall be removed once annually during the months of August or September. This agreement shall be signed by the owner and notarized, and the original copy sent to Water Environment Services.
9. Submit complete civil plans, including an erosion control plan, to be reviewed for both sanitary and stormwater regulations by the Water Environment Services.
10. Any substantial deviation from the approved construction plans must have prior approval of the District.
11. The Erosion Control plan shall submit a plan to implement wet weather measures within 14 days of final grading and between the months of October 1st and April 30th.

VI. Tualatin Valley Fire & Rescue Conditions: Jason Arn, 503-259-1510,
Jason.Arn@tvfr.com

- 1) **FIRE APPARATUS ACCESS ROAD DISTANCE FROM BUILDING AND TURNAROUNDS:** Access roads shall be within 150 feet of all portions of the exterior wall of the first story of the building as measured by an approved route around the exterior of the building or facility. An approved turnaround is required if the remaining distance to an approved intersecting roadway, as measured along the fire apparatus access road, is greater than 150 feet. (OFC 503.1.1) **Preliminary site plan does not provide access to within 150 feet of all portions of the structure.**
- 2) **DEAD END ROADS:** Dead end fire apparatus access roads in excess of 150 feet in length shall be provided with an approved turnaround. (OFC 503.2.5 & D103.1)
- 3) **FIRE APPARATUS ACCESS ROAD WIDTH AND VERTICAL CLEARANCE:** Fire apparatus access roads shall have an unobstructed driving surface width of not less than 20 feet (26 feet adjacent to fire hydrants (OFC D103.1)) and an unobstructed vertical clearance of not less than 13 feet 6 inches. The fire district will approve access roads of 12 feet for up to three dwelling units and accessory buildings. (OFC 503.2.1 & D103.1) **Please ensure adequate fire apparatus access to the south side of existing office, currently there is a deck with egress stairs off the second floor of the existing office.**
- 4) **NO PARKING SIGNS:** Where fire apparatus roadways are not of sufficient width to accommodate parked vehicles and 20 feet of unobstructed driving surface, “No Parking” signs shall be installed on one or both sides of the roadway and in turnarounds as needed. Signs shall read “NO PARKING - FIRE LANE” and shall be installed with a clear space above grade level of 7 feet. Signs shall be 12 inches wide by 18 inches high and shall have red letters on a white reflective background. (OFC D103.6)
- 5) **NO PARKING:** Parking on emergency access roads shall be as follows (OFC D103.6.1-2):
 - a. 20-26 feet road width – no parking on either side of roadway (signage to indicate the no parking)
 - b. 26-32 feet road width – parking is allowed on one side (signage to indicate the no parking side)
 - c. Greater than 32 feet road width – parking is not restricted

- 6) **PAINTEd CURBS:** Where required, fire apparatus access roadway curbs shall be painted red (or as approved) and marked “NO PARKING FIRE LANE” at 25 foot intervals. Lettering shall have a stroke of not less than one inch wide by six inches high. Lettering shall be white on red background (or as approved). (OFC 503.3)
- 7) **SURFACE AND LOAD CAPACITIES:** Fire apparatus access roads shall be of an all-weather surface that is easily distinguishable from the surrounding area and is capable of supporting not less than 12,500 pounds point load (wheel load) and 75,000 pounds live load (gross vehicle weight). Documentation from a registered engineer that the final construction is in accordance with approved plans or the requirements of the Fire Code may be requested. (OFC 503.2.3)
- 8) **TURNING RADIUS:** The inside turning radius and outside turning radius shall be not less than 28 feet and 48 feet respectively, measured from the same center point. (OFC 503.2.4 & D103.3)
- 9) **ANGLE OF APPROACH/GRADE FOR TURNAROUNDS:** Turnarounds shall be as flat as possible and have a maximum of 5% grade with the exception of crowning for water run-off. (OFC 503.2.7 & D103.2)
- 10) **ANGLE OF APPROACH/GRADE FOR INTERSECTIONS:** Intersections shall be level (maximum 5%) with the exception of crowning for water run-off. (OFC 503.2.7 & D103.2)
- 11) **GATES:** Gates securing fire apparatus roads shall comply with all of the following (OFC D103.5, and 503.6):
 - a. Minimum unobstructed width shall be not less than 20 feet (or the required roadway surface width), or two 10 foot sections with a center post or island.
 - b. Gates serving three or less single-family dwellings shall be a minimum of 12 feet in width.
 - c. Gates shall be set back at minimum of 30 feet from the intersecting roadway or as approved.
 - d. Electric gates shall be equipped with a means for operation by fire department personnel
 - e. Electric automatic gates shall comply with ASTM F 2200 and UL 325.
 - f. Removable bollards are not an approved alternate to a swinging gate.
- 12) **ACCESS DURING CONSTRUCTION:** Approved fire apparatus access roadways shall be installed and operational prior to any combustible construction

or storage of combustible materials on the site. Temporary address signage shall also be provided during construction. (OFC 3309 and 3310.1)

13) **TRAFFIC CALMING DEVICES:** Shall be prohibited unless approved by the Fire Code Official. (OFC 503.4.1)

14) **RURAL COMMERCIAL BUILDINGS - REQUIRED FIRE FLOW:** Required fire flow for rural and suburban areas in which adequate and reliable water supply systems do not exist shall be calculated in accordance with National Fire Protection Association Standard 1142, 2012 Edition. (OFC B107)

- A reduction in firefighting water supply of 75% will be allowed when the building is provided with an approved automated sprinkler system installed in accordance with Section 903.3.1.1 (NFPA 13).
- The calculated firefighting water supply will be waived when structures are voluntarily protected by an approved automatic fire sprinkler system when otherwise not required by the Oregon Structural Specialty Code.

Tualatin Valley Fire & Rescue to determine feasibility of current tank size and arrangement including location of drafting port(s). Please provide 1142 calculation and fire sprinkler demand to determine total water supply. Drafting port near existing Stables Building may need to be turned or moved to facilitate better connection.

15) **KNOX BOX:** A Knox Box for building access is required for this building. Please contact the Fire Marshal's Office for an order form and instructions regarding installation and placement. (OFC 506.1)

16) **UTILITY IDENTIFICATION:** Rooms containing controls to fire suppression and detection equipment shall be identified as "Fire Control Room." Signage shall have letters with a minimum of 4 inches high with a minimum stroke width of 1/2 inch, and be plainly legible, and contrast with its background. (OFC 509.1)

HABITAT CONSERVATION AREA CONDITIONS

1. **General Conditions:**

- A) Approval of these land use permits are based on the submitted written narrative and plan(s) submitted August 31, 2015. No work shall occur under this permit beyond that specified in this decision. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of approval described herein.
- B) The proposed development is also subject to the Findings and Conditions of File No. Z0377-15-C.

- C) 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.

1. Construction Management Plan Conditions:

- A) Pursuant to Subsection 706.08, the proposed Construction Management Plan (CMP) shall meet the following standards:

- i. Erosion prevention and sediment control (EPSC) measures shall be required and shall comply with the standards of the Surface Water Management Agency of Clackamas County (SWMACC).

Prior to Planning approval of the Building Permit for the proposed new building: The applicant shall obtain an Erosion Control Permit from SWMACC.

Orange construction fencing (i.e. safety fencing, snow fencing, or a comparable product) shall be installed in such a manner as to protect the area of the HCA not authorized for disturbance.

Trees in the HCA shall not be used as anchors for stabilizing construction equipment.

Native soils disturbed during development shall be conserved on the subject property.

Development shall not commence until the EPSC measures and fencing required pursuant to Subsections 706.08(A) and (B) are in place.

Compliance with the Construction Management Plan shall be maintained until the development is complete.

2. Map Verification Conditions:

- A) Approval Period: The approval of this HCA Map Verification shall be valid for four (4) 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.

- i. "Implemented" has the meaning set forth in Subsection 706.06(D)(1) and (2), except that under Subsection 706.06(D)(2), if the approval did not contemplate a specific development

proposal, “implemented” means at least one County development permit shall be obtained and maintained.

If this approved HCA Map Verification is not implemented within the initial approval period established by Subsection 706.06(D), a two-year time extension may be approved pursuant to Section 1310.

- B) Pursuant to Subsection 706.09(A)(1), the HCA Boundary is established as mapped on the Metro Nature in Neighborhoods Title 13 Map for T2S R1E Section 20 (Exhibit HCA-2).

3. Development Permit (Subsection 706.10[B]) Conditions:

- A) The development that is approved within the HCA through this decision shall not result in the removal of the developed areas from the HCA and shall not change the applicable HCA categories.

- B) Approval Period: The approval of this HCA Development Permit shall be valid for four (4) 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.

- i. In this case, “implemented” means all major development permits shall be obtained and maintained, or if no major development permits are required to complete the development contemplated by the approved HCA Development Permit, “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 or manufactured dwelling placement permit for a new primary structure that was part of the HCA Development Permit approval; or

A permit issued by the County Engineering Division for parking lot or road improvements that were part of the HCA Development Permit approval.

If this approved HCA Development Permit is not implemented within the initial approval period established by Subsection 706.06(D), a two-year time extension may be approved pursuant to Section 1310.

- C) Mitigation Standards: The mitigation standards for the development within the HCA, proposed pursuant to Subsection 706.10(B), shall be implemented as outlined and described in the “Table 706-6 Tree & Shrub Replacement Schedule” on Page 4 of the Narrative (Exhibit HCA-4), consisting of a total of 112 native trees and 261 native shrubs.

i. **Required Plants and Plant Densities:** All trees, shrubs and ground cover shall be native vegetation. The applicant shall comply with Subsection 706.10(A)(6)(a) (ii).

a) The mitigation requirement shall be calculated based on the number and size of trees that are removed from the site, resulting in the planting of 112 native trees and 261 native shrubs. Trees that are removed from the site shall be replaced as shown in Table 706-5. Conifers shall be replaced with conifers. Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

Plant Size: Replacement trees shall be at least one-half inch in caliper, measured at six inches above the ground level for field grown trees or above the soil line for container grown trees (the one-half inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round), unless they are oak or madrone which may be one-gallon size. Shrubs shall be in at least a one-gallon container or the equivalent in ball and burlap and shall be at least 12 inches in height.

Plant Spacing: Trees shall be planted between eight and 12 feet on center, and shrubs shall be planted between four and five feet on center, or clustered in single species groups of no more than four plants, with each cluster planted between eight and 10 feet on center. When planting near existing trees, the drip line of the existing tree shall be the starting point for plant spacing measurements.

Plant Diversity: Shrubs shall consist of at least two different species. If 10 trees or more are planted, then no more than 50 percent of the trees may be of the same genus.

Invasive Vegetation: Invasive non-native or noxious vegetation shall be removed within the mitigation area prior to planting, and shall be removed or controlled for five years following the date that the mitigation planting is completed.

Mulching: Mulch shall be applied around new plantings at a minimum of three inches in depth and 18 inches in diameter.

Tree and Shrub Survival: Trees and shrubs that die shall be replaced in kind to the extent necessary to ensure that a minimum of 80 percent of the trees initially required and 80 percent of the shrubs initially required shall remain alive on the fifth anniversary of the date that the mitigation planting is completed.

Planting Timeframe: The required mitigation shall be planted as soon as it is reasonably feasible within the parameters of on-site construction activities and seasonal requirements for the plantings.

Monitoring and Reporting: Monitoring of the mitigation site shall be the ongoing responsibility of the property owner. For a period of five years following the date that the mitigation planting is completed, the property owner shall submit an annual report to the Planning Director documenting the survival of the trees and shrubs on the mitigation site. In lieu of complying with the monitoring and reporting requirement, the property owner may post with the County a performance bond, or other surety acceptable to the County, in an amount sufficient to cover costs of plant material and labor associated with site preparation, planting, and maintenance. An applicant who elects to post a surety shall be subject to Subsections 1104.03 through 1104.05.

All vegetation shall be planted on the subject property, either within the HCA or in an area contiguous to the HCA, provided, however, that if the vegetation is planted in an area contiguous to the HCA, such area shall be protected from development by a restrictive covenant, conservation easement, or public dedication.

- D) **Prior to Planning approval of the Building Permit for the gathering center:** The applicant shall provide a mitigation / landscaping plan that complies with the mitigation standards outlined above.

Prior to finalization of the Building Permit for the proposed gathering center: The applicant shall fully implement the mitigation / landscaping plan. The County shall inspect the site to ensure that the mitigation / landscaping plan has been fully implemented, and the Building Permit shall not be finalized until the implementation of the mitigation / landscaping plan is approved by the Planning Division.

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).