

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

Regarding a remanded application by Devyn Petersen and ) **FINAL ORDER**  
Staci Dalton for approval of a conditional use permit to ) **ON REMAND**  
operate a home occupation to host weddings and events at ) **Case No. Z0123-23-C**  
29335 S. Beaver Creek Road in Clackamas County, Oregon ) **(Sage and Social Remand)**

**A. FINDINGS**

1. Devyn Petersen and Staci Dalton (the “applicants”) requested approval of a Conditional Use Permit (“CUP”) to operate a home occupation to host weddings and other events.

a. The applicants propose to operate the facility on a 19.6-acre parcel located at 29335 S. Beaver Creek Road; also known as tax lot 608, Section 31, Township 4 South, Range 3 East, of the Willamette Meridian, in Clackamas County (the “site”). The site and most abutting properties are zoned AG/F (Agriculture/Forest). The property abutting the northwest corner of the site is zoned TBR (Timber). S. Beaver Creek Road abuts the south boundary of the site. A private driveway provides access to the residence on site. The site is currently developed with a single-family residence and a 3,000 square foot ag-exempt barn with a covered patio on the west side (the “barn”). The barn and residence are located in the northern portion of the site. The remainder of the site is currently used for agriculture: nine-acres of Christmas trees<sup>1</sup> on the east side of the site and a one-acre flower farm south of the event venue.

b. The applicants proposed to conduct up to 52 events per year with a maximum 100 guests per event.<sup>2</sup> The applicants initially proposed to conduct events in the existing barn and a proposed 1,400 square foot building with two bathrooms with showers, a kitchen, and bride and groom changing rooms (the “dressing building”) located north of the barn. The applicants also propose an outdoor ceremony area southwest of the barn, two storage containers, a temporary food truck parking space, a 70 space parking lot, and roughly three-acres of landscaping. The applicants propose to plant a hedge between the outdoor ceremony area and the storage containers and parking lot. Additional overflow parking is proposed in an 80- x 40-foot gravel surfaced area north of the house and east of the dressing building. The applicants propose to conduct event management and business operations in the existing residence.

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<sup>1</sup> The majority of the Christmas trees have been removed from the site. (Exhibits 11, The applicants propose to plant pumpkins on the site in 2024. (Exhibit 34).

<sup>2</sup> The summary of the proposal in the original decision provided that the applicant proposed 36 events per year with a maximum 150 guests per event, and an average of 100 guests per event. However, Condition of Approval 10 in the original decision allowed up to 52 events per year with a maximum 100 guests per event. That condition was not appealed and is therefore binding.

2. By order dated March 4, 2024, Clackamas County Hearings Officer Joe Turner (the “hearings officer”) approved the application, including the dressing building, subject to conditions of approval. (Exhibit 57). Neighboring residents Greg and Malia Kupillas (the Kupillas) appealed the county’s decision to the Oregon Land Use Board of Appeals (LUBA).

3. LUBA remanded the decision to the County by order dated July 10, 2024, finding that:

a. ORS 215.760(2) prohibits a barn previously authorized by ORS 215.760(1) from being converted to an event facility; and

b. There is insufficient evidence in the record that the proposed dressing building containing two bathrooms with showers, a kitchen, and changing rooms is a “[b]uilding[] normally associated with uses permitted in the [AG/F] zone...” (ORS 215.448(1)(a)(B) and ZDO 806.02(C)).

*Kupillas v. Clackamas County*, LUBA No. 2024-015 (2024) (*Kupillas I*)

4. The applicants appealed LUBA’s decision to the Oregon Court of Appeals, which reversed LUBA’s decision regarding ORS 215.760(2) and remanded the decision to LUBA. *Kupillas v. Sage & Soc.*, 337 Or.App. 67, 563 P.3d 394 (2024). The Court of Appeals did not address the dressing building issue.

5. The Kupillas filed a petition for review with the Supreme Court, which denied review on April 10, 2025.

6. By order dated June 26, 2025, LUBA remanded the decision to the County solely to address the dressing building issue. *Kupillas v. Clackamas County*, LUBA No. 2024-015 (2024) (*Kupillas II*).

7. On remand, the applicants proposed to eliminate the dressing building.

8. The hearings officer held a remand hearing limited to the issue of whether the proposed use, as modified to remove the dressing building, complies with ZDO 806.02(C) and ORS 215.448(1)(c), which require that “[t]he home occupation shall be operated substantially in the operator’s dwelling or other buildings normally associated with uses permitted in the applicable zoning district.” The hearings officer allowed all interested parties to submit additional argument and testimony regarding this issue. County staff, the applicants’ attorney, and Mr. Kupillas and one other interested person testified orally at the remand hearing. Other persons testified in writing. The principal contested issues in the case on remand include the following:

a. Whether the County provided adequate notice of the public hearing on remand;

b. Whether Staff's testimony regarding County approvals of permanent restrooms in Ag-exempt structures is evidence of bias and whether allegations of Staff bias provide grounds for a new hearing;

c. Whether the following issues fall within the limited scope of the remanded decision and whether elimination of the dressing building alter the hearings officer's prior findings of compliance:

i. Whether elimination of the previously proposed dressing building will cause the use to "[a]lter 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 underlying zoning district." ZDO 1203.01(D);

ii. Whether prior violations are relevant to the applicable approval criteria and whether the County can ensure compliance with the conditions of approval;

iii. Whether the applicants can operate the facility in compliance with the five (5) employee limit of ZDO 806.02(B);

iv. Whether the applicable approval criteria require permanent restrooms for the proposed use and whether to a barn with permanent restrooms is a "[b]uilding[]" normally associated with uses permitted in the [AG/F] zoning district. ZDO 806.02(C);

v. Whether elimination of the previously proposed dressing building will prevent compliance with the noise limitations of ZDO 806.02(J); and

vi. Whether the use of portable restrooms was addressed in the prior decision and whether elimination of the permanent restrooms in the previously proposed dressing building will alter the prior findings of compliance with applicable approval criteria.

10. Based on the findings provided or incorporated herein, the hearings officer finds that the applicants sustained the burden of proof that the proposed use, without the previously proposed dressing building, does or can comply with the relevant approval standards of the Clackamas County Zoning and Development Ordinance (the "ZDO"), provided the applicants comply with conditions of approval recommended by County staff or warranted by the facts and law to ensure the proposed use does comply in fact with those standards. Therefore the hearings officer approves the application subject to the conditions at the end of this Final Order On Remand.

## **B. HEARING AND RECORD HIGHLIGHTS**

1. The hearings officer received testimony at the public hearing about this application on August 14, 2025. All exhibits and records of testimony are filed at 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 following is a summary by the hearings officer of selected testimony at the public hearing.

2. County planner Melissa Lord summarized the history of the application and remand. She noted that LUBA remanded the application solely regarding whether the proposed dressing building complies with ZDO 806.02(C) and ORS 215.448(l)(c); i.e., whether the dressing building is a “[b]uilding[] normally associated with uses permitted in the applicable zoning district.” On remand, the applicants proposed to eliminate the dressing room from the application. She opined that this modification does not affect the prior findings that the application can or will comply with all applicable approval criteria for the proposed use.

a. The application as modified on remand does not include any permanent restrooms. The applicants proposed to use portable restrooms as allowed by ZDO 806.02(L). However, the County Building and Septic Departments, pursuant to their regulations, may require permanent restrooms to serve the proposed use. Therefore, the applicants may want to submit modified floor plans showing the location of permanent restrooms within the existing barn. The County commonly approves permanent restrooms in barns and other accessory structures in the AG/F, EFU, and TBR zones.

3. Attorney Damien Hall appeared on behalf of the applicants, Devyn Petersen and Staci Dalton.

a. He argued that removal of the dressing building from the application will not alter the prior determination of compliance with all applicable approval criteria. Removal of the dressing building will not affect farm and forest operations on surrounding properties.

b. The ZDO does not require permanent restrooms for this use. The applicants will provide portable restrooms on the site and, if necessary, permanent restrooms in the barn. He requested the hearings officer add a finding or condition stating that nothing in the order precludes permanent restrooms in the barn.

4. Greg Kupillas noted that the dressing building included four permanent restrooms and a kitchen to serve up to 100 guests on the site. Removal of the dressing building will increase the need for portable restrooms and food servers on the site.

a. He questioned how the applicants will comply with the five employee limit of ZDO 806.02(B). The applicants is currently holding events on the site, utilizing two or more food trucks and a beverage truck serving wine, beer, and other alcohol

products. Each truck has one to two servers. Events on the site will also require a facility operator and assistant, a DJ, and a photographer. Even if each truck has only one server, three trucks, a DJ, a photographer, and an event operator would equal six employees on the site.

b. He argued that any portable restrooms must be removed after events in order to comply with ZDO 806.02(O), which prohibits the “[o]utward appearance ... [or] characteristics of a business or operation of a service commercial nature...”

5. Laura Van Tyne agreed with Mr. Kupillas that portable restrooms must be removed after events in order to comply with ZDO 806.02(O) and that servers in the food trucks will cause the use to exceed the five employee limit of ZDO 806.02(B). The applicants are currently conducting events on the site in violation of the Code and other regulations, as they have not received building permits and inspections allowing public use of the barn and they do not have an approved CUP. Given their current and past illegal behavior they are unlikely to comply with the conditions of approval in the future. She argued that this type of use should not be allowed in the AG/F zone.

6. At the end of the public hearing, the hearings officer held the record open for three weeks, subject to the following schedule:

a. For one week, until August 21, 2025, to allow all parties the opportunity to submit new testimony and evidence;

b. For a second week, until August 28, 2025, to allow all parties the opportunity to respond to testimony and evidence submitted during the first week; and

c. For a final week, until September 4, 2025, to allow the applicants to submit a final written argument.

7. The record in this case closed at 4:00 p.m. on September 4, 2025. Exhibits 68 through 73 were submitted during the open record period.

## **C. PROCEDURAL ISSUES**

### **1. SCOPE OF REVIEW**

LUBA remanded this CUP decision for the sole issue of determining whether there is substantial evidence that the proposed dressing building containing two bathrooms with showers, a kitchen, and changing rooms is a “[b]uilding[] normally associated with uses permitted in the [AG/F] zone...” (ORS 215.448(1)(a)(B) and ZDO 806.02(C). The applicants proposed to withdraw the dressing building as a component of the proposal. Therefore, the scope of the remand is limited to determining whether that modification, the withdrawal of the dressing building, affects the application’s compliance with any applicable approval criteria. Other issues related to compliance with the conditional use

criteria in ZDO 1203.03 and the event facility criteria in ZDO 806 were addressed in the prior decision and affirmed by LUBA. Issues that were not raised in the prior appeal were waived and the hearings officer has no authority to reconsider those issues in this proceeding.

## **2. NOTICE**

The hearings officer finds that the County provided adequate notice of the hearing. The County mailed notice of the remand hearing to the applicant, the neighborhood association, property owners within ½ mile of the site, and other agencies as required by ZDO 1307.11(A) (Exhibit 65). The County is not required to provide notice to the owners of properties located outside of ½ mile radius notice area and the hearings officer cannot require notice in excess of Code requirements.

The hearings officer finds that the public had an adequate opportunity to review and respond to the proposed development, consistent with the limitations of the Code. The applicants submitted their “Remand Memo” (Exhibit 66) one week prior to the hearing as required by the Hearings Officer’s “Remand Procedure Order” (Exhibit 64). The applicant’s Remand Memo and the remainder of the record were available for public review prior to the hearing. The neighborhood was well represented at the hearing. Residents of the neighborhood testified clearly and succinctly regarding issues of concern to them. The hearings officer held the record open after the hearing to allow the public the opportunity to submit additional testimony and evidence as set out in the Remand Procedure Order. Opponents did not request a longer open record period.

Contrary to opponent’s assertions in Exhibit 69, the hearings officer did not prohibit the submittal of new evidence at the remand hearing. The Remand Procedure Order expressly allowed the submittal of new evidence, stating “Any interested person may testify and submit evidence during the remand proceeding, however, testimony and evidence will be limited to the single issue of whether and how withdrawal of the dressing building affects the application’s compliance with any approval criteria.” (Exhibit 64 at 3).

## **2. ALLEGED STAFF BIAS**

The hearings officer finds that staff did not exhibit any bias in this proceeding. Staff merely informed the applicant, the hearings officer, and other parties that the County Building and Septic Departments may require permanent restrooms to serve the proposed use pursuant to their regulations and suggested that the applicants consider submitting modified floor plans showing the location of permanent restrooms within their existing barn. Staff then summarized the County’s historic practice of approving restrooms in ag-exempt buildings. Staff made these statements on the record and all parties had the opportunity to respond to those statements orally during their testimony at the hearing or in writing during the open record period.

In addition, even if staff's comments were evidence of bias, allegations of bias by staff are not grounds for action where, as here, the hearings officer is the final decision maker on this application. *Hoskinson v. City of Corvallis*, 60 Or LUBA 93, 101 (2009). Therefore, there are no grounds for requiring a new hearing.

#### **D. FINDINGS**

Many of the issues raised by opponents are outside the limited scope of this remand proceeding. However, for the sake of completion, the hearings officer addresses those issues and reiterates the prior findings regarding all of the applicable approval criteria, with amendments as necessary to address whether removal of the dressing building alters the prior findings.

##### **1. ZDO Section 1203.02 CONDITIONAL USES**

###### **a. *1203.02: SUBMITTAL REQUIREMENTS***

**Finding:** The hearings officer previously determined that the application was complete. That determination was not challenged on appeal and is therefore final. Elimination of the dressing building from the application does not alter that finding.

**The submittal requirements of Subsection 1203.02 are met.**

###### **b. *1203.03 GENERAL APPROVAL CRITERIA: A conditional use requires review as a Type III application pursuant to Section 1307, Procedures, and shall be subject to the following standards and criteria:***

###### **A. *The use is listed as a conditional use in the zoning district in which the subject property is located.***

**Finding:** The hearings officer previously determined that the proposed use is site is listed as a conditional use in the in the AG/Forest (AG/F) district. ZDO Section 407, Table 407-1 of the ZDO controls land uses in the underlying AG/F district. "*Home occupation to host events, subject to Section 806*", is listed as a conditional use. That determination was not challenged on appeal and is therefore final. Elimination of the dressing building from the application does not alter that finding.

**This criterion is met.**

###### **B. *The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features.***

**Finding:** The hearings officer previously determined that the characteristics of the site are suitable for the proposed use. That determination was affirmed on appeal and is therefore

final. Elimination of the previously proposed dressing building does not alter the characteristics of the site.

**This criterion is met.**

*C. The proposed use is consistent with Subsection 1007.07, and safety of the transportation system is adequate to serve the proposed use.*

**Finding:** The hearings officer previously determined that the proposed use is consistent with Subsection 1007.07, and safety of the transportation system is adequate to serve the proposed use. That determination was not challenged on appeal and is therefore final. Elimination of the dressing building from the application does not alter that finding.

**This criterion is met.**

*D. The 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.*

**Finding:** The hearings officer previously determined that the proposed use, as conditioned, 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. That determination was not challenged on appeal and is therefore final. Elimination of the dressing building from the application does not alter that finding. Elimination of the dressing building will not alter the potential impacts of the use on the surrounding area.

Opponents argued that removal of the kitchen and permanent restrooms proposed in the dressing building will require the applicants to utilize food and beverage trucks and portable restrooms. However, the use of food trucks and portable restrooms were both proposed in the original application. (See Exhibits 1 at 28-29, 2a at 5, 2b at 3, 34 at 9, and 57 at 1 and 26). The use of food trucks and portable restrooms was not challenged on appeal. Therefore, that issue was waived and may not be considered in this remand proceeding.

Allegations of past violations by the applicants (conducting unpermitted events) are not relevant to the applicable approval criteria for this application and are outside the scope of the remand. In addition, the applicants' past behavior does not show that they cannot or will not operate the use in a manner that complies with the ZDO. If the applicants sustain the burden of proof that the application complies with the approval standards, or if it can comply provided certain conditions are imposed, the hearings officer must as a matter of law approve the application subject to those conditions, ORS 197.522(4).

The adopted conditions of approval require ongoing compliance with all applicable approval criteria. It is in the applicants' best interest to comply with those conditions as failure to do so can be a basis for enforcement, including modification or revocation of



the CUP. Suggestions that conditions attached to a land use decision may be violated are speculative, and are not grounds for denial of the application. *Canfield v. Lane County*, 16 Or LUBA 951 (1988). The County will monitor and enforce the permit. The County's Community Environment Section exists for the purpose of identifying, responding to, and remedying alleged violations of County land use decisions and codes. Neighboring residents can assist in the enforcement process by reporting any violations they observe. If the applicants fail to comply with the conditions of approval, i.e., by exceeding the hours of operation, guest limits, maximum noise levels, or otherwise expanding or changing the use, the planning director may initiate proceedings to revoke the permit. But the hearings officer cannot assume that the applicants will not comply and deny the application on that basis.

The fact that neighbors can assist in monitoring the use does not shift the responsibility to them to do so. The County continues to bear the responsibility for enforcing its laws. However neighbors may be in a better position to monitor the use on a continuing basis because of their proximity, and it may be in their interests to do so given the complaint-driven nature of the enforcement process.

**This criterion is met as conditioned.**

*E. The proposed use is consistent with the applicable goals and policies of the Comprehensive Plan.*

**Finding:** The hearings officer previously determined that the proposed use is consistent with the applicable goals and policies of the Comprehensive Plan. That determination was not challenged on appeal and is therefore final.

**This criterion is met.**

*F. The proposed use complies with any applicable requirements of the zoning district and overlay zoning district(s) in which the site is located, and Section 1000 Development Standards.*

**Finding:** The hearings officer previously determined that the proposed use complies with the requirements of the AG/F zone and the Section 1000 Development Standards. Those determinations were not challenged on appeal and are therefore final.

**This criterion is met.**

**This criterion is met.**

## **2. ZDO SECTION 806 HOME OCCUPATIONS TO HOST EVENTS**

### **a. 806.02 STANDARDS**

- A. *Operator: The operator shall reside full-time in a lawfully established dwelling unit on the tract on which the home occupation is located.*

**Finding:** The hearings officer previously determined that the applicants can comply with this requirement. That determination was not challenged on appeal and is therefore final.

**This criterion is met as conditioned.**

- B. *Employees: The home occupation shall have no more than five employees.*

**Finding:** The hearings officer previously determined that the applicants can comply with this requirement. That determination was not challenged on appeal and is therefore final.

The hearings officer finds that elimination of the dressing building, which included a kitchen, will not *per se* increase the number of employees on the site. Preparation of food in the previously proposed kitchen would also require employees, yet compliance with the five employee limit was not challenged on appeal. Therefore, this issue is waived and may not be considered on remand.

The applicants propose to have no more than five (5) employees, which is within the permissible number of employees allowed for a home occupation. The applicants may need to modify their current, unauthorized, operations in order to meet this standard, but it is feasible to do so. If necessary, the applicants can utilize offsite food preparation or take other steps to limit the number of employees on the site. The site is located within the AG/F zoning district. Therefore, persons employed by contract to provide services for an event are considered “employees”, including, but not limited to, food truck operators or caterers, photographers, and florists. A condition of approval is warranted to ensure compliance with this criterion.

**This criterion is met as conditioned.**

- C. *Type of Buildings: Notwithstanding the definition of home occupation in Section 202, Definitions, in the AG/F, EFU, and TBR Districts, the home occupation shall be operated substantially in the operator’s dwelling or other buildings normally associated with uses permitted in the applicable zoning district.*

**Finding:** The applicants originally proposed that the events would occur within two buildings, the existing barn and the proposed dressing building. However, on remand, the applicant’s proposed to eliminate the dressing building. As modified, events will be operated substantially in the existing barn on the site. The hearings officer previously determined that the existing barn is a “[b]uilding[] normally associated with uses permitted in the [AG/F] zoning district.” That determination was affirmed on appeal and is not subject to reconsideration on remand.

Based on Staff's testimony at the hearing, the County Building and Septic Departments may require permanent restrooms to serve the proposed use pursuant to those departments' regulations. The applicable sections of the Zoning and Development ordinance do not require the use of permanent restrooms for the proposed event facility. Therefore, the hearings officer has no authority to require permanent restrooms.

If permanent restrooms are required, the applicant proposed to locate permanent restrooms inside the existing barn. The hearings officer finds that inclusion of permanent restrooms within the existing barn will not alter the prior finding that the existing barn is a "[b]uilding[]" normally associated with uses permitted in the [AG/F] zoning district," as the provision of restrooms within the barn will not alter the use or appearance of the structure. In addition, based on Staff's un rebutted testimony and Attachment A of Exhibit 70, the County commonly approves restrooms in barns and other agricultural buildings in the AG/F, EFU, and TBR zones. The fact that the restrooms will primarily serve the proposed event facility rather than agricultural activities on the site is irrelevant, as barns with permanent restrooms are "[n]ormally associated with uses permitted in the [AG/F] zoning district" and the Code allows the use of such buildings for event facilities. Nothing in this approval shall be construed to preclude or approve the installation of permanent restrooms within the barn.

**This criterion is met as conditioned.**

**D. Tents:** *Temporary tents are allowed as follows:*

- 1. In the AG/F, EFU, and TBR Districts, temporary tents are permitted to the extent consistent with Subsection 806.02(C).*
- 2. In a zoning district other than AG/F, EFU, and TBR, one temporary tent is permitted, and additional temporary tents may be permitted if consistent with Subsection 1203.03.*
- 3. Temporary tents 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.*

**Finding:** The hearings officer previously determined that the applicants can comply with this requirement. That determination was not challenged on appeal and is therefore final.

**This criterion is met as conditioned.**

**E.** *In the AG/F, EFU and TBR Districts, the evaluation of compliance with Subsection 1203.03(D) shall include consideration of impacts on dwellings even though dwellings are not primary uses in these zoning districts.*

**Finding:** The hearings officer previously determined that the applicants can comply with this requirement. That determination was not challenged on appeal and is therefore final.

**This criterion is met.**

- F. During the months of November through March, no event shall take place outside the hours of 9:00 A.M. to 10:00 P.M. During the months of April through October, no event shall take place outside the hours of 8:00 A.M. to 10:00 P.M. These time restrictions do not apply to persons involved in the set-up or clean-up of the facilities.*

**Finding:** The hearings officer previously determined that the applicants can comply with this requirement. That determination was not challenged on appeal and is therefore final.

**This criterion is met as conditioned.**

- G. A maximum of two events shall be allowed per day, and no more than one event shall occur at any one time. During the months of November through March, no more than five events shall be allowed per week. During the months of April through October, no more than seven events shall be allowed per week.*

**Finding:** The hearings officer previously determined that the applicants can comply with this requirement. That determination was not challenged on appeal and is therefore final.

**This criterion is met as conditioned.**

- H. A maximum number of guests for any single event is 300. However, to the extent necessary to comply with Subsection 1203.03, a lower limit may be imposed based on site capacity constraints.*

**Finding:** The hearings officer previously determined that the applicants can comply with this requirement. That determination was not challenged on appeal and is therefore final.

**This criterion is met as conditioned.**

- I. All lighting used during events shall comply with Subsection 1005.04(A).*

**Finding:** The hearings officer previously determined that the applicants can comply with this requirement. That determination was not challenged on appeal and is therefore final.

**This criterion is met as conditioned.**

- J. Noise shall be regulated as follows:*

- 1. From 7:00 a.m. until 10:00 p.m. on Friday and Saturday and until 9:00 p.m. on all other days of the week, the average peak sound pressure level, when measured off the site, of noise created by the home occupation shall not exceed the greater of*

*60 dB(A) or the ambient noise level. During all other hours, the average peak sound pressure level, when measured off the site, of noise created by the home occupation shall not exceed the greater of 50 dB(A) or the ambient noise level.*

*a. Noise generated by vehicles entering or exiting the site, but not by idling vehicles, shall be exempt from Subsection 806.02(J)(1).*

*b. Subsection 806.02(J)(1) shall not apply to noise detectable on public rights-of-way and railroad rights-of-way.*

- 2. A noise study may be required to demonstrate compliance with Subsection 806.02(J)(1). If a noise study is required, measurements shall be made with a sound level meter. The sound level meter shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter, as specified in ANSI Standard 1.4-1971. The sound level meter shall contain at least an A-weighted scale, and both fast and slow meter response capability. Personnel making measurements shall have completed training in the use of the sound level meter, and measurement procedures consistent with that training shall be followed.*

**Finding:** The hearings officer previously determined that the applicants can comply with this requirement. That determination was not challenged on appeal and is therefore final. Elimination of dressing building will not alter the noise impacts of the use, as the proposed events will continue to take place as proposed in the original application: predominantly indoors, within the existing barn, or in outdoor areas identified on the site plans.

**This criterion is met as conditioned.**

*K. The home occupation shall comply with Section 1015, Parking and Loading, except as modified by Subsection 806.02(K):*

- 1. On-street parking shall be prohibited on the day of an event.*

**Finding:** The hearings officer previously determined that the applicants can comply with this requirement. That determination was not challenged on appeal and is therefore final.

**This criterion is met as conditioned.**

- 2. An alternative to the parking area surface required pursuant to Subsection 1015.01(B) may be approved based on the following criteria:*

- a. *It is appropriate considering season, duration, and intensity of use.*
- b. *It shall be surfaced with hardy grasses, wood chips, or other similar organic materials sufficient to adequately stabilize the ground surface for parking.*
- c. *In order to minimize tracking of soil onto the roadway, a driveway surfaced with screened gravel or better must extend a minimum of 200 feet in length from the interior edge of the roadway that provides access to the site. A traffic management plan must direct all vehicular traffic along the required driveway prior to such traffic entering the roadway.*

The applicants did not request an alternative parking area surface. All parking areas on the site are gravel surfaced as allowed by Subsection 1015.01(B).

**These criteria are inapplicable.**

**L. Portable restroom facilities shall:**

1. *Include hand-sanitizing or hand-washing facilities;*
2. *Comply with the standards of the service provider and the applicable regulations of the Oregon Department of Environmental Quality;*
3. *Be screened from adjacent lots and rights-of-way by sight-obscuring fences or plantings; and*
4. *Be located a minimum of 50 feet from all lot lines.*

**Finding:** The applicants originally proposed to use portable restroom facilities in addition to four permanent restrooms in the proposed dressing building. The hearings officer determined that it is feasible to provide portable restrooms that comply with these requirements. That determination was not challenged on appeal and is not subject to reconsideration on remand.

On remand the applicants proposed to eliminate the dressing building and associated permanent restrooms. However, the elimination of the permanent restrooms does not alter the prior finding, as the use of portable restroom facilities was also proposed in the original application. The applicants may need to increase the number of portable restrooms to compensate for the loss of the permanent restrooms in the dressing building. But additional portable restrooms will not alter the feasibility of compliance with this criteria.

**This criterion is met as conditioned.**

**M.** *One temporary sign shall be allowed in addition to signs permitted pursuant to Section 1010, Signs. The sign shall not exceed eight square feet in area; shall be placed on private property on the day of the event; shall be removed no more than 24 hours after the event; and shall be physically attached to the premises in a manner which both prevents the sign from being moved or blown from its location, and allows the prompt removal of the sign.*

**Finding:** The hearings officer previously determined that the applicants can comply with this requirement. That determination was not challenged on appeal and is therefore final.

**This criterion is met as conditioned.**

**N.** *Equipment, furniture, goods, and other amenities used for events shall be stored indoors on non-event days.*

**Finding:** The hearings officer previously determined that the applicants can comply with this requirement. That determination was not challenged on appeal and is therefore final.

Opponents now assert that portable restrooms used for events are subject to this requirement and must be stored indoors on non-event days. However, the use of portable restrooms was proposed in the original application and this issue was not raised in the original hearing or on appeal. Therefore, that issue has been waived and may not be considered in this remand proceeding.

**This criterion is met as conditioned.**

**O.** On non-event days, the use shall not take an outward appearance nor manifest any characteristics of a business or operation of a service commercial nature, except for those characteristics normally associated with or allowed for a primary use in the subject zoning district, or, in the AG/F, EFU, and TBR Districts, for a use identified as “allowed” by Table 407-1, Permitted Uses in the AG/F District, 401-1, Permitted Uses in the EFU District, or 406-1, Permitted Uses in the TBR District, respectively.

**Finding:** The hearings officer previously determined that the applicants can comply with this requirement. That determination was not challenged on appeal and is therefore final.

Although opponents did not expressly raise compliance with this criterion in their testimony, compliance with this criterion arguably falls within the scope of their testimony regarding compliance with ZDO 806.02(N). However, as discussed above, the use of portable restrooms was proposed in the original application and this issue was not raised in the original hearing or on appeal. Therefore, that issue has been waived and may not be considered in this remand proceeding.

**This criterion can be met with a condition of approval.**

4. **ZDO SECTION 407 AG/FOREST DISTRICT**

- a. 407.04 Uses Permitted. Table 407-1 lists “Home Occupation to Host Events, subject to Section 806”.
- b. 406.05(A)(1): The use may be allowed provided that: (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 (2) the proposed use will not significantly increase the fire hazard or significantly increase fire suppression costs or significantly increase fire suppression personnel.

**Finding:** The hearings officer previously determined that the applicants can comply with this requirement. That determination was not challenged on appeal and is therefore final.

**This criterion is met.**

- c. **406.05(A)(2):** A written statement recorded with the deed or written contract with the County or its equivalent is obtained from the land owner that recognizes the rights of the adjacent and nearby land owners to conduct forest operations consistent with the Oregon Forest Practices Act and Rules.

**Finding:** The hearings officer previously determined that the applicants can comply with this requirement. That determination was not challenged on appeal and is therefore final.

**This criterion is met as conditioned.**

- d. **406.05(A)(5):** If road access to the use is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the United States Bureau of Land Management (BLM), or the United States Forest Service (USFS), then the applicants shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicants to agree to accept responsibility for road maintenance.

**Finding:** The site takes access directly from S. Beaver Creek Road, a County road. The road access is not a privately owned road. Therefore a long-term road access agreement is not necessary.

**This criterion is not applicable.**

- e. **406.05(E)(1):** The home occupation shall not unreasonably interfere with other uses permitted in the zoning district in which the site is located and shall not be used as justification for a zone change.

**Finding:** The hearings officer previously determined that the applicants can comply with this requirement. That determination was not challenged on appeal and is therefore final.



**This criterion is met.**

- f. **407.06 Dimensional Standards.** Subsection 406.08, which establishes dimensional standards in the TBR District, shall apply in the AG/F District.

**Finding:** The hearings officer previously determined that the applicants can comply with this requirement. That determination was not challenged on appeal and is therefore final.

**This criterion is met.**

- g. **407.07 Development Standards.** Subsection 406.08, which establishes development standards in the TBR District, shall apply in the AG/F District.
  - i. 406.08(A) Fuel-free break standards shall be provided surrounding any new structure approved after April 28, 1992, pursuant to a land use application. A primary fuel-free break area shall be maintained surrounding any new structure, including any new dwelling. The primary safety zone is a fire fuel break extending a minimum distance around structures. The minimum distance is established by Table 406-2, Minimum Primary Safety Zone and Figure 406-1, Example of Primary Safety Zone. The goal within the primary safety zone is to remove fuels that will produce flame lengths in excess of one foot.

**Finding:** The hearings officer previously determined that the applicants can comply with this requirement. That determination was not challenged on appeal and is therefore final.

**This criterion is met as conditioned.**

- ii. 406.08(C) Compatibility Siting Standards. The compatibility siting standards shall apply to any new structure, including any new dwelling, approved pursuant to a land use application based on standards in effect on or after April 28, 1994.

**Finding:** The hearings officer previously determined that the applicants can comply with this requirement. That determination was not challenged on appeal and is therefore final.

**This criterion is met as conditioned.**

## **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 Z0123-23-C (Sage and Social) subject to the following conditions:

### **Conditions of Approval:**

1. Approval of this land use permit is based on the submitted written narrative and plan(s) filed with the County on March 28, 2023, and additional materials received on April 20 and May 10, 2023, without the previously proposed dressing building. No work shall occur under this permit other than which is specified within these documents, unless otherwise required or specified in the conditions below. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of any approval resulting from the decision described herein.
2. The conditional use approval is valid for four (4) years from the date of the final written decision (ZDO 1203.05). 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
3. Within six months from the effective date of this Final Order the applicants shall modify the existing outdoor lighting on the site so that it does not shine onto adjacent properties, upwards or rights-of-way.
4. Within six months from the effective date of this Final Order the applicants shall obtain a building permit to convert the existing ag-exempt barn to a facility that is subject to public use and access for the proposed events or cease use of the barn for events and prohibit public access to the existing barn.
5. All signs shall comply with ZDO Section 1010.02, 1010.07, and 806.02(M). One temporary sign shall be allowed in addition to signs permitted pursuant to Section 1010. The temporary sign shall not exceed eight square feet in area; shall be placed on private property on the day of the event; shall be removed no more than 24 hours after the event; and shall be physically attached to the premises in a manner which both prevents the sign from being moved or blown from its location, and allows the prompt removal of the sign. The applicants shall obtain a sign permit for the existing permanent sign or remove this sign.
6. Use of on-site sewage disposal facilities, if proposed, shall be subject to approval by Septic & Onsite Wastewater System Programs.
7. The Operator of this home occupation shall reside full time in the dwelling on site, and be majority owner in the business and responsible for day-to-day operations [ZDO 806.01(C) and 806.02(A)]

8. The home occupation shall have no more than five full-time or part-time employees on site, including persons employed by contract to provide services for a single event, such as caterers, photographers, and florists. [ZDO 806.02(B)]
9. During the months of November through March, no event shall take place outside the hours of 9:00 a.m. to 10:00 p.m. During the months of April through October, no event shall take place outside the hours of 8:00 a.m. to 10:00 p.m. These time restrictions do not apply to persons involved in the set-up or clean-up of the facilities [ZDO 806.02(F)]
10. There shall be no more than one event per day throughout the entire year and no more than 5 events per week. The Conditional Use approval authorizes a maximum total of 52-events per year, with a maximum of 100 people per event. [ZDO 806.02(G)]
11. Temporary tents may be allowed, though the events shall be operated substantially in the operator's dwelling or other buildings normally associated with uses permitted in the AG/F District. Temporary tents may be placed on the site no more than 24 hours before the event and must be removed no more than 24 hours after the event. [ZDO 806.02(D)]
12. Noise shall be regulated as follows [ZDO 806.02(J)]:

From 7:00 a.m. until 10:00 p.m. on Friday and Saturday and until 9:00 p.m. on all other days of the week, the average peak sound pressure level of the noise shall not exceed the greater of 60 dB(A) or the ambient noise level when measured off the site. During all other hours, the average peak sound pressure level of the noise shall not exceed the greater of 50 dB(A) or the ambient noise level when measured off the site.

- a. Noise generated by vehicles entering or exiting the site, but not by idling vehicles, shall be exempt from Subsection 806.02(J)(1)
  - b. Subsection 806.02(J)(1) shall not apply to noise detectable on public rights-of-way and railroad rights-of-way.
13. Restroom facilities shall be regulated as follows [ZDO 806.02(L)]:
- a. Portable restroom facilities shall include hand-sanitizing or hand-washing facilities.
  - b. Portable restroom facilities shall be subject to the standards of the service provider and the County Septic & Onsite Wastewater System Programs.
  - c. Portable restroom facilities shall be screened from adjacent properties and rights-of-way by sight-obscuring fences or plantings (existing can satisfy) and
  - d. Shall be located a minimum of 50 feet from all lot lines.
14. On non-event days, the use shall not take an outward appearance nor manifest any characteristics of a business or operation of a service commercial nature, except

for those characteristics normally associated with or allowed for a use identified as “allowed” by Table 407-1, Permitted Uses in the AG/F District. [806.02(O)]

15. Fuel-free break standards shall be provided surrounding the new 70-foot by 36-foot structure. A primary fuel-free break area shall be maintained surrounding any new structure. The primary safety zone is a fire fuel break extending a minimum distance around structures. The minimum distance is established by Table 406-2, Minimum Primary Safety Zone and Figure 406-1, Example of Primary Safety Zone. The goal within the primary safety zone is to remove fuels that will produce flame lengths in excess of one foot. The fuel-free break standards shall be completed and approved prior to issuance of any septic, building, or manufactured dwelling permits and within six months from the effective date of this Final Order. Maintenance of the fuel-free breaks shall be the continuing responsibility of the property owner. [406.08(A)]

Within six months from the effective date of this Final Order the applicants shall, sign a notarized Fuel-Free Break Standards Compliance form and return a copy to the Planning and Zoning division.

16. Within six months from the effective date of this Final Order, the applicants shall record a written irrevocable statement in the deed records of the County binding upon the landowner, and the landowner's successors in interest, acknowledging the right of adjacent and nearby farm and forest operators to employ accepted farm and forest management practices and 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 Oregon Revised Statutes (ORS) 30.936 or 30.937. Impacts from farming and forest practices may include, but are not limited to: noise, dust, spray, smoke, vibrations, and visual impacts. [ZDO 406.05(A)(2)]
17. All frontage improvements in, or adjacent to Clackamas County right-of-way, and all on-site access improvements, shall be constructed in compliance with the Clackamas County Roadway Standards.
18. The applicants 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. The required access and parking improvements shall be completed within six months from the effective date of this Final Order.
19. The driveway approach serving the event site on S. Beaver Creek Road shall be paved to a minimum width of 20 feet and length of 20 feet, per Standard Drawing D500.
20. Minimum intersection sight distance of 555 feet to the southwest, and 610 feet to the northeast shall be provided at the proposed driveways serving the event site on S. Beaver Creek Road. Intersection sight distance shall be measured 14.5 feet back from the edge of pavement at a height of 3.5 feet to an object height of 3.5 feet in the center of the oncoming travel lane.

21. The applicants shall provide adequate on site circulation for the parking and maneuvering of all vehicles anticipated to use site, as follows:
- a. Parking spaces and drive aisles shall meet that standards of ZDO Section 1015 and Roadway Standards Drawings P100/P200. Each parking space will be required to meet minimum width and length of 8.5 feet by 16 feet, with a 24 foot drive isle width.
  - b. The main access road providing access the event facility site shall be surfaced with screened gravel or better and no less than 20 feet in width. Roads and parking areas shall be con-structed per Standard Drawing R100.
  - c. Parking spaces shall be adequately delineated. For paved surfaces, parking spaces shall be striped. For a gravel surface, wheel stops or a similar physical features shall be provided to delineate each gravel parking space.
  - d. The applicants shall provide a dimensioned site plan indicating each parking space and drive aisles.
  - e. Handicapped (ADA) parking spaces and adjacent accessible areas shall be paved with asphalt concrete or an equivalent approved by Clackamas County Engineering staff, as required by the Building Department.
  - f. Drainage facilities shall be designed and constructed in conformance with Clackamas County Roadway Standards Chapter 4, providing water quality treatment and conveyance to a suitable outfall.
22. Prior to the issuance of a building permit and/or site development and within six months from the effective date of this Final Order, the applicants shall submit to Clackamas County Engineering Office:
- a. Written approval from the Clackamas Fire District #1 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 Clackamas County Engineering for surface water management facilities and erosion control measures.
  - c. A set of street and site improvement construction plans, in conformance with Clackamas County Roadway Standards Section 140, to Clackamas County's Engineering Office and obtain written approval, in the form of a Development Permit.
    - i. The permit will be for driveway, drainage, parking and maneuvering areas, and other site improvements.
    - ii. The minimum fee deposit is required upon submission of plans for the Development Permit. The fee will be calculated based on 8.83% of the public improvements and 5% of the onsite transportation improvements, according to the current fee schedule.

- iii. The applicants 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.
- 23. Within six months from the effective date of this Final Order, the applicants shall submit a plan to the Planning and Zoning Division showing satisfaction of requirements from Section 1021 of the Zoning and Development Ordinance regarding trash/recycling, or a plan suitable to meet the standard residential pick-up service provided by the trash hauler. Detailed information, including ZDO 1021, is available on the county web site [www.clackamas.us](http://www.clackamas.us) under “Garbage & Recycling.”
- 24. A minimum of 55 parking spaces are required (50 for guests, 5 for employees), and must meet the parking area design standards of ZDO Section 1015.02. [ZDO 1015, Table 1015-1]. Parking spaces on the site shall not be rented, leased, or assigned, or used for storage or for conducting business activities.

DATED this 18th day of September 2025.

A handwritten signature in black ink, appearing to read 'Joe Turner', with a long horizontal stroke extending to the right.

Joe Turner, Esq., AICP  
Clackamas County Land Use Hearings Officer