

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

Regarding an application by Kienan Streed for a home occupation permit with exceptions to allow a larger accessory structure and outdoor storage on property at 15150 S. Henrici Road in unincorporated Clackamas County, Oregon) **FINAL ORDER**
) **File No.**
) **Z0326-23-HO**
) **(KC Marine)**

A. SUMMARY

1. Kienan Streed (the “applicant”) filed an application for approval of a Level Two Home Occupation permit on a 1.45-acre parcel located at 15150 S. Henrici Road; also known as tax lots 00600 and 00500, Section 15C, Township 3 South, Range 2 East of the Willamette Meridian, Clackamas County (the “site”). The applicant proposes to operate a portion of a dock and boat lift business with a maximum of five employees. The on-site business use consists of an office, boat lift preparation, storage of boats and trailers, and approximately ten shipments per year.

2. The applicant is also requesting exceptions to ZDO Subsections 822.04(F), which limits the external evidence of the home occupation, and 822.04(L)(1), which limits Type II home occupations to a maximum 500 square feet of accessory building space. The applicant proposes to create a screened outdoor storage area and to construct a 2,400 square foot accessory structure on the site for use in the home occupation.

3. County Hearings Officer Joe Turner (the “hearings officer”) held a public hearing about the application on December 21, 2023. County staff recommended that the hearings officer approve the application, subject to conditions. See the Staff Report and Recommendation to the Hearings Officer dated December 12, 2023, (the “Staff Report”), as amended at the hearing. The applicant accepted the findings and conditions in the Staff Report, as amended, without exceptions. The Hamlet of Beaver Creek CPO testified in writing in support of the application. (Exhibit 3).

4. Based on the findings adopted or incorporated in this final order, the hearings officer concludes that the applicant sustained the burden of proof that the application complies with all applicable approval criteria for a Level Two Home Occupation and exceptions. Therefore the hearings officer approves Z0326-23 (KC Marine), subject to the conditions of approval at the conclusion of this final order.

B. HEARING AND RECORD HIGHLIGHTS

1. The hearings officer received testimony at the public hearing about this appeal on December 21, 2023. 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 and evidence offered at the public hearing.

2. County planner Joy Fields summarized the Staff Report and her PowerPoint presentation.

a. She noted that the applicant requests approval of a home occupation permit related to his boat dock and boat lift business. On-site uses will include an office and storage of boats and boat trailers with a maximum five on-site employees. The site is accessed by a shared driveway that also serves properties to the south. The owners of the adjacent properties signed a petition approving the use of the site as a Home Occupation.

b. The applicant also requests exceptions to certain home occupation standards in ZDO 822, specifically:

i. ZDO 822.04(F) which prohibits external evidence of the home occupation. The applicant proposed to create a screened outdoor storage area for boats and trailers; and

ii. ZDO 822.04(L)(1) which limits the amount of accessory building floor space that can be used for the home occupation to 500 square feet. The applicant proposed to construct a 2,400 square foot accessory building for use in the home occupation.

c. She noted the following typographical errors in the Staff Report:

i. Pages 17 and 18 of the Staff Report refer to an existing detached accessory structure. The applicant actually proposed to construct a new 2,400 square foot accessory structure for use in the home occupation.

ii. Condition 12 incorrectly states “The applicant has requested an exception to Subsection 822.04(L) (1), which allows a maximum of 1,500 *square feet of accessory building space*.” (Emphasis in original). ZDO 822.04(L)(1), actually allows a maximum of 500 square feet of accessory building space.

iii. Paragraph 12 on page 16 of the Staff Report cites to ZDO 822.05(K). The correct citation is 822.04.

3. The applicant, Kienan Streed, accepted the revised findings and conditions of approval in the Staff Report without exception.

a. He noted that four employees of the home occupation, including himself, currently live on the site. One of the employees is moving out within the next two weeks. Each employee has their own personal vehicle. Therefore, the employees will not increase the number of vehicles that are currently on the site. The business also has two dedicated work trucks, one of which is stored on the site.

b. All work is performed off-site and he stores the majority of business inventory, equipment, and materials at an off-site storage yard in Milwaukie. The majority of on-site storage will occur within the proposed 2,400 square foot accessory building. Outside storage will only occur a few days per year. Existing and proposed landscaping will screen off-site views of the outdoor storage area on the site.

c. No on-site signage is proposed. No clients or customers come to the site. On-site business activities are limited to office work, loading and unloading of trailers, and employees picking up materials that are stored there in order to transport them to a job site.

4. The hearings officer closed the record at the end of the hearing and announced his intention to approve the application subject to the findings and conditions of approval in the Staff Report, as amended at the hearing.

C. DISCUSSION

The hearings officer adopts the following findings as his own.

PART 1. RURAL RESIDENTIAL FARM FOREST 5-ACRE (RRFF-5) STANDARDS

1. **Table 316-1** of the Zoning and Development Ordinance lists the uses allowed in the Residential Farm Forest 5-Acre (RRFF-5) in Table 316-1 and the criteria that must be satisfied in order to approve the use.

Finding: The subject property is zoned RRFF-5. Section 316 of the ZDO controls land uses in the underlying RRFF-5 Zoning District. Under Table 316-1 Home occupations are an allowed accessory use, subject to Section 822. This proposal involves a home occupation. Section 822 and 316 are discussed below. **This criterion is met.**

Subsection 316.03 (C): Permitted uses are subject to the applicable provisions of Subsection 316.04, Dimensional Standards; Section 1000, Development Standards; and Section 1100, Development Review Process.

Finding: The applicant proposed to operate the use within a proposed 2,400 square foot shop building and a screened outdoor area. The County will review the Dimensional Standards for the accessory building during the building permit review process to ensure compliance with setback and the maximum floor space requirements. The standards of Section 1000 are addressed below and Home Occupations are not subject to Section 1100 development review processes. **This criterion is met as conditioned.**

PART 2. HOME OCCUPATION STANDARDS

1. **Other Applicable Sections of the ZDO:** Other applicable standards and Sections of the ZDO applicable to this application are addressed below.

Section 822 of the Clackamas County Zoning and Development Ordinance regulates home occupations. This application is specifically subject to Subsection 822.04 which controls Level Two Major Home Occupations. Subsection 822.04(A-L) identify the criteria that must be met for a home occupation to be approved. The hearings officer has reviewed this subsection in conjunction with this proposal and makes the following findings:

822.04 Level Two And Three Major Home Occupations: A major home occupation requires review as a Type II application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards and criteria:

- 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 applicant Kienan Streed is the owner of the property and will be the operator of the home occupation. Kienan Streed will reside full time in the primary residence located on the subject property. A condition to this effect is warranted in the conditions of approval. **This criterion can be met as conditioned.**

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

Finding: The applicant stated that a maximum of five employees of the home occupation business, including the applicant Kienan Streed, will work on the site at any time. Subsection 822.04(B) allows up to five employees for the Level Two major home occupation business. A condition to this effect is warranted in the conditions of approval. **This criterion is met.**

- C. *Noise: Noise shall be regulated as follows:*

1. *From 8:00 a.m. to 6:00 p.m., the average peak sound pressure level, when measured off the subject property, 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 home occupation shall not create noise detectable to normal sensory perception off the subject property.*
 - a. *Noise generated by vehicles entering or exiting the subject property, but not by idling vehicles, shall be exempt from Subsection 822.04(C)(1).*
 - b. *Subsection 822.04(C)(1) shall not apply to noise detectable on public rights-of-way and railroad rights-of-way.*

Finding: The applicant states the activities associated with the proposed business will include talking and forklift operations primarily occurring inside the accessory building and enclosed outside storage area. The business hours are proposed between 8:00 a.m. and 6:00 p.m. **This criterion can be met as conditioned.**

2. *A noise study may be required to demonstrate compliance with Subsection 822.04E (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: As addressed above under the findings for Subsection 822.04(C) (1) (a) there is no evidence that noise is an issue with this proposed home occupation. **This criterion is met as conditioned.**

D. Vibration, Glare, Fumes, and Odors: The Home Occupation shall not create vibration, glare, fumes or odors detectable to normal sensory perception off the subject property. Vehicles entering or exiting the subject property shall be exempt from this standards, but idling vehicles shall not.

Finding: There is no evidence that the activities as proposed by the applicant will create vibration, glare, fumes, or odors detectable to normal sensory perception off the subject property. A condition to this effect is warranted in the conditions of approval. **This criterion is met as conditioned.**

E. Electrical Interference: The home occupation shall not create visual or audible electrical interference in any radio, television, or other electronic device off the subject property or cause fluctuations in line voltage off the subject property.

Finding: There is no evidence that the activities as proposed by the applicant will create visual or audible electrical interference in any radio, television or other electronic device off the subject property. A condition to this effect is warranted in the conditions of approval. **This criterion is met as conditioned.**

F. Storage and Display: No outside storage, display of goods or merchandise or external evidence the enclosed building space in which such goods or merchandise are stored, or external evidence of the home occupation shall occur, except as specifically allowed by Subsection 822.04. Notwithstanding this provision, business logos flush-mounted on vehicles used in the daily operations of the home occupation are allowed.

Finding: The applicant is requesting an exception to this criteria pursuant to ZDO 822.05 to allow outdoor storage in an area that is fenced and screened by vegetative plantings. **This criterion is met based on the approved exception.**

G. Signs: signs shall be permitted pursuant to Section 1010 signs.

Finding: No signage is proposed for the business. Any future signage is subject to Section 1010.06(B) of the Clackamas County Zoning Development Ordinance, which limits signage to eight square feet per side or a height of six feet per ZDO 822.04 (G). A condition to this effect is warranted in the conditions of approval. **This criterion is met as conditioned.**

H. Parking: Vehicles associated with the home occupation shall not be stored, parked, or repaired on public right-of-way. Parking spaces needed for employees or customers of the home occupation shall be provided in defined areas of the subject property. Such areas shall be accessible, usable, designed, and surfaced for parking.

Finding: The applicant states the public right of way will not be used for the home occupation business. **This criterion is met.**

I. Access: If the subject property takes access via a private road or access drive that also services other properties, evidence shall be provided, in the form of a petition that all other property owners who have access rights to the private road or access drive agree to allow the specific home occupation described in the application. Such evidence shall include any conditions stipulated in the agreement. A new petition shall not be required for a renewal application.

Finding: The private access drive serving the site also serves abutting properties to the south. The owners of the adjacent properties signed a petition approving the use of the site for KC Marine LLC as a Home Occupation pursuant to ZDO 822. **This criterion is met.**

J. 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 operation's dwelling or other buildings normal associated with uses permitted in the applicable zoning district.

Finding: The subject site is not within the AG/F, EFU, or TBR Zoning District. **This criterion is not applicable.**

K. Hazardous Materials: Hazardous materials shall not be present on the subject property in quantities greater than those normally associated with the primary uses allowed in the applicable zoning district, or in quantities greater than those exempt amounts allowed by the current edition of the Oregon Structural Specialty Code, whichever is less.

Finding: The applicant indicates that there will be no hazardous materials used in the home occupation. **This criterion is met.**

- L. *Level Two and Three Major Home Occupations: Major home occupations are classified as Level Two or three. A level three major home occupation may be established only if at least 50 percent of the lots of record abutting the subject property are larger than two acres; however, a renewal application shall be evaluated on the basis of the lost size analysis first applied to the home occupation. A lot of record is considered to be abutting if it is contiguous to the tract on which the home occupation is proposed, or if it is directly across an access drive, private road, or public or county road with a functional classification below that of a collector. The following standards differ depending on whether the proposed home occupation is a Level Two or three.*

Finding: The subject site is surrounded six lots abutting the subject property and only two lots are over two acres in size. Therefore, the application can only be approved as a Level Two home occupation. **This criterion is met based on the approved exceptions.**

1. *Building Floor Space: The home occupation may be conducted in a dwelling unit, but—except in the case of a bed and breakfast homestay—is limited to incidental use thereof. For a Level Two major home occupation, a maximum of 500 square feet of accessory building floor space may be used for the home occupation. If only a portion of an accessory building is authorized for use in the home occupation, a partition wall at least seven feet in height, or a height as required by the County Building Codes Division, whichever is greater, shall separate the home occupation space from the remainder of the building. A partition wall may include a door, capable of being closed, for ingress and egress between the home occupation space and the remainder of the building.*

Finding: The applicant has requested an exception to Subsection 822.04(L)(1) to allow use of proposed 2,400 square foot detached accessory structure. The applicant proposes to use the entire structure for the home occupation. Therefore, a partition to separate the home occupation portion of the accessory building from the rest of the building is not required. **This criterion is met based on the approved exception.**

2. *Traffic: A Level Two major home occupation shall not generate more than 20 vehicle trips per day...*

ZDO 822.02(G) provides: “Vehicle Trip: A vehicular movement either to or from the subject property by any vehicle used in the home occupation, any delivery vehicle associated with the home occupation, or any customer vehicle.”

Finding: As a Level Two home occupation this use is limited to 20 trips per day, ten round trips. Currently all employees that work on the site also reside on the site. Therefore, employee trips will be limited to employees traveling to and from job sites. The applicant proposes to receive approximately ten shipments per year, which averages less than one delivery a day. No clients or customers will come to the site. A condition is

warranted in limiting the use to a maximum 20 vehicle trips per day. **This criterion is met as conditioned.**

3. *Vehicles: The maximum number of vehicles that are associated with a Level Two major home occupation and located on the subject property shall not exceed four at any time, including, but not limited to, employee and customer vehicles. A Level Two major home occupation shall not involve the use, parking, storage, or repair of any vehicle exceeding a gross vehicle weight rating of 11,000 pounds, except deliveries by parcel post, United Parcel Service, or similar in-town delivery service trucks, and such deliveries shall be limited to no more than one per day.*

ZDO 822.02(F) provides “Vehicle: Any motorized or non-motorized transportation equipment intended for use on public roads and associated with the home occupation, including, but not limited to, a car, van, pickup, motorcycle, truck, bus, recreational vehicle, detached trailer, or a truck tractor with no more than one trailer. Any attached trailer beyond one is a separate vehicle. A detached trailer is categorized as equipment, rather than a vehicle, if it is stored in an enclosed accessory building floor space.”

Finding: While the delivery truck, depending on the particular type of delivery, may exceed 11,000 pounds vehicle weight, there would only be one such vehicle on the property during deliveries. The combined number of vehicles, including the personal vehicles of the property owners, the employees vehicles, and the one delivery truck, are well within the allowed four vehicles for a Level Two major home occupation. A condition is warranted limiting vehicles associated with the home occupation to a maximum of four at any time. **This criterion is met as conditioned.**

4. *Prohibited Uses: the following uses shall be prohibited as a major home occupation.*
 - a. *Marijuana production*
 - b. *Marijuana processing*
 - c. *Marijuana wholesaling*
 - d. *Marijuana retailing.*
 - e. *As a Level Two major home occupation:*
 - i. *Repair or motorized vehicles and equipment, including the painting or repair of automobiles, trucks, trailers, or boats:*
 - ii. *Towing and vehicle storage business and*
 - iii. *Any use that requires a structure to be upgraded to a more restrictive use, under the current edition of the Oregon Structural Specialty Code, than an automobile repair shop with open flame; and*

Finding: The proposed home occupation does not include marijuana productions, processing, wholesale, retailing, or involve vehicle repair, painting, towing, or include

uses that require a structure to be upgraded to a more restrictive use. **This criteria does not apply.**

822.05 Exceptions

An exception to any of the standards identified in Subsection 822.04 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 shall remain compatible with the area. The following factors shall be considered when determining if a use is compatible with the area:*
 - a. *The number of standards identified in Section 822.04 that will be exceeded, it is presumed that the more standards exceeded, the more difficult it will be to demonstrate compatibility.*
 - b. *The character of the neighborhood, including such factors as the presence of off-site similar and outside storage uses, proximity of off-site dwellings, level of surrounding traffic, size of off-site accessory buildings, and background noise levels;*
 - c. *The ability to mitigate impacts by driveway and road improvements, screening, landscaping, building location, building design, and other improvements;*
 - d. *Potential environmental impacts, including effects on air and water quality; and*
 - e. *Provision of adequate and safe access to public, County, or state roads.*

Finding: The applicant has proposed to take exception to two criterion, Subsection 822.04(L) (1) to allow use of a 2,400 square foot detached accessory structure for the home occupation and Subsection 822.04(F) to allow use of a screened outdoor storage area for the home occupation. The two exceptions will not make the use incompatible with the area, based on the findings below.

Large detached accessory buildings are common in the area and, according to the applicant “There are at least 5 other business within our .5 mile stretch of Henrici. There are also at least 3 other properties with outside storage on our street. The proposed area of operation will be entirely screened in with proposed fencing and planting trees for a privacy hedge.”

The applicant proposed to install landscaping and fencing to screen views of the proposed use and outdoor storage area from neighboring properties.

There is no indication the home occupation will produce polluted runoff. In addition, there are no known creeks, wetlands, or other surface water resources on site that could be directly impacted from storm drainage and polluted runoff. The existing driveway and parking area will be required to comply with the Clackamas County surface water runoff requirements as discussed in Exhibit 4.

Exhibit 4 also clarifies requirements necessary to provide safe access between the site and public road.

The hearings officer finds that the proposed use, as conditioned, will remain compatible with the area. **This criterion is met as conditioned.**

- B. Services adequate to serve the proposed use shall be available, including transportation, public facilities, and other services existing or planned for the area affected by the use. At a minimum, compliance with Subsections 1006.03(B), 1006.04(B), and 1006.06(C) (except as set forth in Subsection 1006.07), and 1007.07 is required.*

Subsection 1006.03(B) Water Supply: Approval of a development that requires public or community water service shall be granted only if the applicant provides a preliminary statement of feasibility from the water system service provider.

- 1. The statement shall verify that water service, including fire flows, is available in levels appropriate for the development and that adequate water system capacity is available in source, supply, treatment, transmission, storage and distribution. Alternatively, the statement shall verify that such levels and capacity can be made available through improvements completed by the developer or the system owner.*
- 2. If the statement indicates that water service is adequate with the exception of fire flows, the applicant shall provide a statement from the fire district service the subject property that states that an alternative method of fire protection, such as an on-site water source or a sprinkler system, is acceptable.*
- 3. The statement shall be dated no more than one years prior to the date a complete land use application is filed and need not reserve water system capacity for the development.*

Finding: The applicant provided a preliminary statement of use signed on October 27, 2023, by Clint Taylor with Clackamas River Water. The application narrative also indicates in the that the employees for the home occupation are the same who live in the primary home so additional water and power consumption would be minimal. The preliminary statement of feasibility includes conditions of approval that require the number and placement of fire hydrants must meet the Oregon Fire Code and fire demand, therefore this criterion is addressed by the water provider. Clackamas Fire District #1 did not have comments for the proposed land use application. Additional review by the fire district will occur when a building permit is obtained for the shop building that is proposed for the home occupation use. Clackamas River Water is the water provider for the site and their conditions of approval will ensure the water is available to meet the needs of this home occupation and other utility users. **This criterion is met as conditioned.**

Subsection 1006.04(B) Sanitary Sewer Service: Approval of a development that requires sanitary sewer service shall be granted only if the applicant provides a preliminary statement of feasibility from the sanitary sewage treatment service provider and the collection system service provider

Finding: The site has a septic system to accommodate sewer needs. Sanitary sewer service is not required. **This criterion is not applicable.**

Subsection 1006.06(C): Approval of a development shall be granted only if the applicant provides a preliminary statement of feasibility from the surface water management regulatory authority. The statement shall verify that adequate surface water management, treatment and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner.

- 1. The surface water management regulatory authority may require a preliminary surface water management plan and report, natural resource assessment, and buffer analysis prior to signing the preliminary statement of feasibility.*
- 2. The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve surface water treatment and conveyance system capacity for the development.*

Finding: The Clackamas County Engineering Department oversees surface water runoff for the subject site. The applicant provided a preliminary statement of feasibility signed on October 31, 2023, by the Transportation and Engineering Division. Based on the comments in the June 13, 2023 memorandum for pre-application conference ZPAC0047-22 and the memo dated December 11, 2023 (Exhibit 4), an entrance permit will be required prior to construction of the paved driveway approach and approval of the shop building permit. **This criterion is met as conditioned.**

C. Notwithstanding the remainder of Subsection 822.05:

- 1. An exception shall not be granted to Subsection 822.04(A), (I), (J), or (L)(4)(a) through (d).*

Finding: The applicant is not seeking an exception to these subsections. **This criterion is inapplicable.**

- 2. Accessory building floor space for the home occupation shall not exceed 3,000 square feet.*

Finding: The applicant intends to operate the majority of the home occupation inside a proposed 60- x 40-foot (2,400 square foot) detached accessory structure, which complies with the maximum 3,000 square feet permitted by this subsection. This structure must be constructed to the commercial standards of the Oregon Structural Specialty Code. The

permit application shall be accompanied with a site and floor plan. **This criterion is met as conditioned.**

3. *If the subject property is in an EFU, TBR, or AG/F zoning district, the number of employees shall not exceed five.*

Finding: The site is not located in the within the EFU, TBR, or AG/F zoning district. The is zoned RRF5-5. **This criterion is inapplicable.**

D. CONCLUSION

Based on the findings and discussion provided or incorporated herein, the hearings officer concludes that Case No. Z0326-23 (KC Marine) should be approved, because the application does or can comply with applicable standards of the Clackamas County ZDO, provided it is subject to conditions that ensure timely compliance in fact with the ZDO and relevant Comprehensive Plan Policies.

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 Z0326-23 (KC Marine) subject to the following conditions:

A. General Conditions:

1. This land use permit is based on the submitted written narrative and plan(s) dated August 14, 2023 and additional information provided and confirmed through emails received
 - 10/2/23 – response to Incomplete Notice
 - 10/12/23 – diagram of enclosed area
 - 10/17/23 - updated preliminary statement of feasibility for water,
 - 11/1/23 - updated preliminary statement of feasibility for storm water, and
 - 11/27/23 - copy of access road petition referenced in application.

The application was deemed complete on November 1, 2023. No work shall occur under this permit other than that 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 would like to take advantage of this meeting please contact Wendi Coryell at (503) 742-4710 or at wendicor@co.clackamas.or.us

3. **Prior to the issuance of building permits**, the applicant shall submit a statement of use to Wendi Coryell in the Clackamas County Engineering Division. Wendi may be contacted at 503-742-4657, or wendicor@co.clackamas.or.us. The statement of use is used to calculate the Transportation System Development charge. A Transportation System Development Charge (TSDC) is included in the final calculation of the building permit fees for new instructional projects; this includes additions and tenant improvements that increase the number of daily trips to the site.
4. The on-site septic system proposed to accommodate the use by the employees requires an Authorization Notice to ensure the existing septic system can accommodate the extra usage of the onsite septic system per ZDO 822.05 (B).
5. The Home Occupation with an Exception approval is valid for three years from the date of the final written decision pursuant to 822.07. If the County's final written decision is appealed and subsequently approved, the approval period shall commence on the date of the final appellate decision. During this three 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 home occupation use, or if no major development permits are required to complete the development contemplated by the approved 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 the structure that was part of the home occupation; or
 - b) A permit issued by the County Engineering Division for parking lot or road improvements that may be required if the impervious surface coverage increases, or driveway improvements are needed.
- 6) This Home Occupation with an Exception 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.

B. Planning and Zoning Conditions: Joy Fields, (503) 742-4510, jfields@clackamas.us

1. Development of the subject property is subject to the provisions of ZDO Section 822 and those other relevant codes and ordinances adopted by the Board of County Commissioners pursuant to subsection 316 of the ZDO.
2. Kienan Streed, the owner of the property and the business, will reside in a dwelling on the property as the operator of the home occupation. This land use decision is not transferrable to other parties per ZDO 822.04 (A).

3. There shall be no more than five employees on the property at a given time per ZDO 822.04 (B).
4. Noise created by the business shall not exceed the average peak sound pressure level of 60 dB, or the ambient noise level between the hours of 8 a.m. to 6 p.m. when measured off the property line. During all other hours the business noise levels shall not exceed levels detectable to normal sensory perception off the property per ZDO 822.04 (C).
5. The home occupation shall not create vibration, glare, fumes or odors detectable to normal sensory perception of the subject parcel per ZDO 822.04 (D).
6. The home occupation shall not create visual or audible electrical interference in any radio, television, or other electronic device off the subject property or cause fluctuations in line voltage off the subject property per ZDO 822.04 (E).
7. Pursuant to the approved exception, outdoor storage and activities are prohibited per ZDO 822.04 (F) except within the proposed screened outdoor area shown on the applicant's site plans.
8. Any future signage is subject to Section 1010.06(B) of the Clackamas County Zoning Development Ordinance, which limits signage to eight square feet per side or a height of six feet per ZDO 822.04 (G).
9. Home occupation vehicles shall not be stored, parked, or repaired on public rights-of-way per ZDO 822.04 (H).
10. Parking of all business related vehicles shall be located in defined areas of the subject property. Such areas shall be accessible, usable, designed, and surfaced for parking per ZDO 822.04 (H).
11. Storage of hazardous materials in quantities not normally associated with residential use or exempt amounts allowed by the current edition of the Oregon Structural Specialty Code are prohibited per ZDO 822.04 (K).
12. Pursuant to the approved exception, the applicant may use up to 2,400 square feet of detached accessory structure for the home occupation use.
13. The applicant shall contact DEQ to ensure the necessary permits are acquired and business storage of hazardous materials complies with the DEQ standards and regulations as identified at the following link
<https://www.oregon.gov/deq/Hazards-and-Cleanup/hw/Pages/default.aspx>
14. As specified in the application materials (Exhibit 2) the home occupation business:

- a. Shall not generate more than twenty (20) trips per day (10 round trips) per day over the existing access drive. A vehicle trip is defined under Subsection 822.02 as “*A vehicular movement either to or from the subject property by any vehicle used in the home occupation, any delivery vehicle associated with the home occupation, or any customer vehicle*”; and
 - b. No vehicle in excess of 11,000 pound GVW, is allowed on site as part of the home occupation activities, except for delivery vehicles that are limited to no more than one per day per ZDO 822.04 (L)(3).
15. No more than four vehicles total associated with the home occupation (employees, customers/clients, deliveries) may be located on the property at any one time per ZDO 822.04 (L)(3).
16. Marijuana business activities are a prohibited use as a home occupation.
17. A copy of approval from the Clackamas Fire District #1 shall be submitted for the file to per ZDO Subsection 1006.03(B)(1).

C. **Building Code Division Conditions:** Richard Carlson, (503) 742-4769, richardcar@co.clackamas.or.us

General Conditions:

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, 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.

D. Engineering Division Conditions: Ken Kent, (503 742-4673 kenken@clackamas.us)

1. All frontage and on-site improvements shall be in conformance with the Clackamas County Roadway Standards.
2. The applicant shall obtain an **Entrance Permit** from the County Engineering Section for driveway and on-site access prior to initiation of construction, and establishment of the home occupation. The following access standard apply:
 - a. The driveway approach onto S. Henrici Road serving the home occupation shall meet current standards with a minimum 12-foot wide by 20-foot long paved driveway approach, per Roadway Standards Drawing D500.
 - b. Beyond the paved approach, a minimum 12-foot wide gravel driveway shall be constructed, per Roadway Standards drawing R100.
 - c. All parking and maneuvering areas shall be surfaced with screened gravel or better (constructed per Roadway Standard Drawing R100).

Parking spaces shall meet minimum *ZDO* section 1015 requirements. The site plan shall include dimensions for the parking stalls and back up areas.

DATED this 3rd day of January 2024.



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

APPEAL RIGHTS

ZDO 1307.14(D)(6) 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).