

BEFORE THE LAND USE HEARINGS OFFICER
CLACKAMAS COUNTY, OREGON

Regarding an Application for a Permit for a
Level Three Major Home Occupation with an
Exception.

Case File No: Z0394-23-HOEX
(Schroeder)

A. SUMMARY

1. The Applicant is Darryl Schroeder. Mr. Schroeder is the contract purchaser of the subject property from Tangee Holub and Geoffrey Rosebrook, current owners of the subject property located at 16109 SE Bartell Rd. (the “Property”). The Property is an approximately 17.07 acre parcel within Clackamas County also known as T02S, R03E, Section 11, Tax Lot 00305, a site approximately 4,500 feet south of the intersection of Hwy. 212.
2. The Property is within the AG/Forest (AG/F) zoning district, with a comprehensive plan designation of Forest. The subject site is not located inside an urban growth boundary. The 150-day deadline for final action on the application pursuant to ORS 215.427(1) is March 18, 2024. The Property is improved with a single-family residential structure (dwelling) and accessory structures.
3. The Applicant is requesting approval of a level three home occupation with an exception. Specifically, the Applicant requests an exception to ZDO¹ 822.04(L)(1) to allow the use of 3,000 square feet of an existing 95” X 40” detached accessory structure. The Applicant proposes to install a seven-foot-high partition wall to separate the home occupation portion of the accessory building from the rest of the building. ZDO 822.04(L)(1) provides for use of a maximum of 1,500 square feet of accessory building floor space for use in a level three major home occupation; however, ZDO 822.05(C)(2) provides for an exception permitting use of up to 3,000 square feet of accessory building floor space for the home occupation provided certain criteria can be met.
4. County staff reviewed the application, including additional submitted application materials, and submitted a staff report to the Hearings Officer recommending approval of the application, subject to a number of proposed conditions of approval. On November 30, 2023, Hearings Officer Carl Cox (the “Hearings Officer”) conducted a public hearing to receive testimony and evidence in support of and in opposition to the Applicant’s proposal. The Hearings Officer approved the application.

B. APPLICATION AND PUBLIC HEARING

1. This application was received by the County on October 5, 2023, and was deemed complete by County staff on October 20, 2023. As the subject property is not located inside an urban growth boundary, the 150-day deadline for final action on the application pursuant to ORS 215.427(1) is March 18, 2024. On October 25, 2023, the County mailed notice of the

¹ Clackamas County Code, Title 1 Zoning and Development Ordinance.
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scheduled November 30, 2023 public hearing on the application, providing the notice to interested agencies, Community Planning Organization(s) and owners of property within 2,640 feet of the subject Property.

2. Kenneth Kent, County Development Engineering, submitted written comments in advance of the public hearing in this matter concerning review of this application by Development Engineering staff. Among other things, Mr. Kent reported that SE Bartel Road is classified as a rural local roadway, providing comments primarily related to adequate and safe access onto a county road [citing ZDO 822.05(A)(e)], and the ability to mitigate impacts by driveway and roadway improvements [citing ZDO 822.06(A)9C)]. County Development Engineering staff noted that SE Bartel Road is a very low volume road in the vicinity of the proposal site with an assumed travel speed of 30 MPH, requiring a minimum sight distance of 165 feet looking to the north and south from the driveway serving the property. Staff concluded adequate sight distance appeared feasible with vegetation trimming. County Development Engineering staff recommended several conditions of approval to ensure the property's driveway access and parking areas meet County standards for the proposal. The Department of State Lands and Clackamas Fire District #1 also responded to the notice of application.
3. Several area residents provided written comments in opposition to the Applicant's proposal, describing Bartel Road as a narrow, dead-end asphalt road with no painted lines or shoulder areas, used by pedestrians, bicyclists, and horse riders, and a school bus picking up children, asserting the road will not safely support additional traffic. Submitted written comments contend the Applicant should locate his business in an appropriately zoned location, that commercial use of properties along Bartel Road should not be allowed, or the zoning should not permit it, or the use of the buildings should not be changed, or the proposal is not consistent with current land use planning. Commentators expressed concerns regarding the application's proposal causing noise and vibration, fumes or odors from hazardous materials, headlight glare, and other nuisances, impacts from additional delivery trucks and trailers, impacts to water and sewer, and other concerns not related to approval criteria.
4. The Hearings Officer received testimony and evidence at the November 30, 2023 public hearing about this application. All exhibits and records of testimony are filed with the Planning Division, Clackamas County Department of Transportation and Development. The public hearing was conducted virtually over the Zoom platform. At the beginning of the hearing the Hearings Officer made the declaration required by ORS 197.763. The Hearings Officer disclaimed any bias, or conflicts of interest, or *ex parte* contact in this matter. The Hearings Officer stated that the only relevant criteria in the current proceeding were those identified in the County's staff report, that participants should direct their comments to those criteria, and failure to raise all arguments may result in waiver of arguments at subsequent appeal forums.
5. At the hearing, County Planner Joy Fields shared a PowerPoint presentation and described the application and supplemental materials submitted by the Applicant in support of this proposal for a Level Three Home Occupation with an Exception. Ms. Fields described the proposal, noting the proposed use of 3,000 square feet of an existing 94' X 40' existing shop for a Home Occupation with an Exception, as accessory building floor space. Ms. Fields noted the proposed use of this space Monday – Friday for an office and custom car repair and

fabrication. Ms. Fields pointed to the relevant ZDO criteria and provided discussion recommending approval of the application subject to conditions of approval consistent with the County's staff report.

6. Several members of the public were in attendance offering testimony and comments opposed to this application for the reasons stated in the written comments submitted in this matter. Public testimony was also provided in support of approving the application, stating delivery trucks serve many area residents, that many area residents have trailers and RVs, and the narrow road requires that drivers are cautious and respectful.
7. Prior to ending the public hearing and closing the record, the Hearings Officer asked whether any of the parties or members of the audience wanted an opportunity to provide additional evidence, arguments, or testimony. As no one requested such opportunity, the Hearings Officer discussed with the Applicant whether they wanted to waive the open-record rebuttal period and waive the open-record "last word" period, and they indicated they wanted to submit a final written statement. The Hearings Officer closed the hearing, leaving the record open until 4:00 p.m., Thursday December 7, 2023 for the Applicant to submit a final written statement into the record. On November 30, 2023, the Applicant submitted a final written statement, and waived the remaining open record period. The Hearings Officer agreed, and closed the record on November 30, 2023 at 4:00 pm, considering all exhibits submitted.
8. In his final written statement, the Applicant Mr. Darryl Schroeder addressed several concerns by neighbors expressed at the hearing. Mr. Schroeder noted that his one of the five employees of the proposed Home Occupation and will live on the Property; therefore, there will only be four commuting employees. Mr. Schroeder expressed his understanding that Bartel Road remain a family friendly road, stating he also has a family and animals, does not have frequent deliveries, and his work will take place within the shop building producing minimal noise.

C. DISCUSSION

The evidence presented is reliable, probative and substantial evidence upon which to base a determination in these matters. This application is being processed as a Type III application pursuant to Section 1307, as required by Section 822.05 Exceptions. A Type III Permit is quasi-judicial in nature, and involves land use actions governed by standards and approval criteria that require the use of discretion and judgment. The issues associated with the land use action may be complex and the impacts significant, and conditions of approval may be imposed to mitigate the impacts and ensure compliance with this Ordinance and the Comprehensive Plan. The Type III procedure is a quasi-judicial review process where the review authority receives testimony, reviews the application for conformance with the applicable standards and approval criteria, and issues a decision.

HOME OCCUPATION WITH EXCEPTIONS PERMIT

This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Section(s) 202, 406, 407, 822, 1006, 1007, and 1307; and the Comprehensive Plan. The Clackamas County Planning and Zoning Staff have reviewed these Sections of the ZDO in conjunction with this proposal and make the following findings and conclusions, ***adopted and/or modified or replaced by***

the Hearings Officer, as denoted by boldface type in italics. As stated at the outset of the hearing, testimony, arguments, and evidence must be directed towards an approval criteria identified in the staff report, or other relevant criteria found in the comprehensive plan or other land use regulation that the person believes applies to the decision.

PROJECT OVERVIEW:

Overview: This application includes a completed land use application form, site plan, application fee and narrative addressing the criteria in Section 822 of the ZDO. The application also includes a description of the proposed use and vicinity map. All the submittal requirements under Subsection 822 are included in the application. The application was submitted on October 5, 2023. Following submission of the application, it was deemed complete on October 20, 2023.

1. Background:

Applicant’s discussion of their proposal:

“Home Occupation with an exception to use the maximum accessory building floor space (ZDO could allow up to 3,000 square feet) Monday-Friday for repairing vehicles, office space and storage with five employees including owner.”

The applicant proposes to use the existing shop space to fabricate body and chassis parts for a custom classic car restoration company. There is not an increase in impervious surface anticipated since the driveway and shop proposed for the home occupation use are existing.

2. Site Description: The property is a 17.07-acre parcel (Tax lot 23E11 02305) located at 16109 SE BARTELL RD, Boring, 97009 (the “site”). The site is in non-intensive farm, pasture and forest with a stream crossing the northwestern corner. The residence and shop proposed for use with the Home Occupation and located on site were permitted through Building Permit number 1614-78 and 1615-78. The site and abutting properties to the north, east, and south are zoned AG/F (Ag/Forest). Abutting properties to the west are zoned TBR and EFU (Timber and Exclusive Farm Use, 80-acre minimum lot size)

3. Natural Features: The site has historically been a mix of farm, forest, and residential use. That said, there is a mapped RSCA stream crossing the northwestern corner – Noyer Creek though it would not be impacted by the proposed use.

4. Man Made Features: house and associated outbuildings.

5. Surrounding Conditions: This area southwest of Boring and west of Cazadero State Trail is in mixed use: farm activities, small woodlots, scattered throughout and rural residential homesites concentrated along the roads.

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6. Service Providers:

- A. Surface Water: The subject property is not located in a public surface water district. Surface water is regulated pursuant to Section 1006 of the ZDO and administered by the DTD Engineering Division.
- B. Water: The subject property is served by on site well.
- C. Sewer: The subject property is not located in a public or private sewer district. Sewage disposal is accommodated by an on-site septic system.
- D. Fire Protection: Clackamas Fire District #1

7. Responses Requested:

- A. Department of Transportation and Development (DTD), Traffic Engineering (TE)
- B. Department of Transportation and Development (DTD), Planning & Zoning
- C. Department of Transportation and Development (DTD), Building Division
- D. Septic & Onsite Wastewater Systems Programs
- E. Clackamas Fire District #1
- F. Boring CPO
- G. Property Owners within 2,640 feet

8. Responses received as of this staff report:

- A. Department of Transportation and Development (DTD), Traffic Engineering (TE) Exhibit #4
- B. A few comments were submitted by members of the public, in opposition.

PART 1. AG/FOREST DISTRICT (AG/F)

1. **Subsection 407** of the Zoning and Development Ordinance lists the uses allowed in the AG/Forest Zone in Table 407-1 and the criteria that must be satisfied in order to approve the use.

- A. **Subsection 407.04 (A):** *Home occupation, subject to Section 822, and 406.05(A)(1), (2), (5) & (E)(1).*

Finding: The subject property is zoned AG/F. Section 407 of the ZDO controls land uses in the underlying AG/F Zoning District. Under Table 407-1 “*Home occupation, subject to Section 822 and 406.05(A)(1), (2), (5) & (E)(1).*” This proposal involves a home occupation. Section 822 and 406 are discussed further into the staff report.

The use of the site for a Home Occupation is an allowed use subject to Section 822 and 406.

Staff Finding: This criterion is met. The Hearings Officer concurs in this staff finding. Several comments were received arguing that the zoning for the subject property should not be changed to allow for the Applicant’s proposed home occupation. However, as staff concluded here, the subject property is already zoned AG/F with numerous allowed and conditional uses described in Table 407-1 of Section 407 of the County’s ZDO, some requiring review pursuant to Type I, Type II, or (as is the case here) Type III Applications. Home occupations such as proposed by the Applicant are among the many allowed uses in

this zone, as are numerous other types of commercial uses. As an application for a Type III Home Occupation with Exception the proposal must also meet certain additional requirements of Section 822 and Section 406, as referenced by staff, designed largely to ensure compatibility with existing farming and/or forest practices.

B. Subsection 406.05 (A): The following criteria apply to some of the uses listed in Table 406-1, Permitted Uses in the TBR District. The applicability of a specific criterion to a listed use is established by Table 406-1. A. General Criteria

1. The use may be allowed provided that:
 - a. 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
 - b. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.

[Section 406.05(A)(1)(b)] Finding: The proposed use on the subject property will be utilizing an existing building for the home occupation. As noted in the application there are similar structures in the area and the addition of no more than 5 employees is not anticipated to significantly change or increase the cost of farm and forest practices due to the home occupation occurring within an existing enclosed structure.

The subject property is approximately 17 acres in size. As the applicant noted in the application, noise from the home occupation is anticipated from hammering, bandsaw and sanding. All of this work would be conducted within an existing building that is accessory to the residence and was built prior to 2013. The submitted site plan demonstrates the property is of sufficient size to accommodate the proposed use and there is no proposed expansion of impervious surface or development.

The applicant highlights that the other dwellings in the area include a neighbor that does car restoration for personal use and a childcare center. Staff anticipate the home occupation will generate noise that is similar to those existing uses. Therefore, the proposed use is not anticipated to change the farm and forest practices, including the equine use, in the area due to noise.

The applicant indicates that there will be no environmental impacts, or traffic impact from the home occupation. Staff agree that environmental impacts from the proposed use are not anticipated since the use will not include painting, upholstery work, or an increase in impervious surface and all work will be conducted indoors. Therefore, staff do not anticipate the home occupation to change the farm and forest practices, including the equine, farm, and timber use.

Staff agree with the applicant that the use of the existing building, on the property that has a forest buffer to the west and tree lines screening the properties to the north and south and thus it will not cause an increase in costs to the farm or forest practices of the area.

Staff finding: This criterion is met. The Hearings Officer concurs in this staff finding. I considered the concerns raised by several neighbors regarding the potential impacts

from noise and additional traffic. Here, the proposed business will have a total of five employees, one of whom is the Applicant (Mr. Schroeder), who will reside on the Property. The Home Occupation is limited to a total of 30 vehicle trips per day, (meaning 15 round trips) including trips by any vehicle used in the home occupation, which includes vehicles used by employees, any delivery vehicle associated with the home occupation, and any customer vehicle.

[Section 406.05(A)(1)(b)] The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression.

Staff Finding: The applicant is the contract purchaser of the property identifies in the application that they will follow the appropriate fire safety standards. Using an existing accessory building for the proposed use is not anticipated to increase the fire risk to surrounding parcels. As conditioned this criterion can be met. ***The Hearings Officer concurs in this staff finding, adopting the related proposed condition of approval.***

[Section 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

Staff Finding: The applicant is the contract purchaser of the property and is the proposed operator of the home occupation. As conditioned this criterion can be met. ***The Hearings Officer concurs in this staff finding, adopting the related proposed condition of approval.***

[Section 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 applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

Staff Finding: The subject site has direct access to a public road. No easement is needed. This criterion is met. ***The Hearings Officer concurs in this staff finding.***

Subsection 406.05(E): Commercial Uses

1. The home occupation shall not unreasonably interfere with other uses permitted in the zoning district in which the subject property is located and shall not be used as justification for a zone change.

Staff Finding: The applicant notes that the home occupation will not interfere with other uses in the surrounding zoning district because all of the work will be conducted inside the existing building. As conditioned this criterion can be met. ***The Hearings Officer concurs in this staff finding, adopting the related proposed condition of approval. As discussed, the current zoning for the subject property already allows for the proposed home occupation use. I find no evidence that the proposed home occupation will***

unreasonably interfere with other uses permitted in the zoning district in which the subject property is located. The proposed custom vehicle work will take place within an existing enclosed shop building and will not involve painting or similar work causing odors and fumes. This is a large property (over 17 acres), so the noise within the enclosed shop space should not unreasonably interfere with uses on other properties. The primary concern expressed is actually the capacity of Bartel Road to safely accommodate additional traffic. Here, the proposed use involves minimal additional vehicle traffic, largely from up to five employee commuters associated with the home occupation, and an occasional trailer bringing a project car. By way of comparison, a horse arena or facility would bring employee and customer vehicles and horse trailers on a regular basis, a much more intensive use of Bartel Road.

PART 2. HOME OCCUPATION STANDARDS

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 3 Major Home Occupations. Subsection 822.04(A-L) identifies the criteria that must be met for a home occupation to be approved. The Planning Division staff 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:

1. *Subsection 822.04(A): The operator shall reside full-time in a lawfully established dwelling unit on the tract on which the home occupation is located.*

Staff Finding: The applicant Darryl Schroeder is the contract purchaser of the property and will be the operator of the home occupation. Mr. Schroeder 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. Staff finds this criterion can be met as conditioned. ***The Hearings Officer concurs in this staff finding, adopting the proposed related condition of approval.***

2. *Subsection 822.04(B) the home occupation shall have no more than five employees.*

Staff Finding: The applicant stated that only five employees of the home occupation business will include Darryl Schroeder. Subsection 822.04(B) allows up to five employees for the level 3 major home occupation business. A condition to this effect is warranted in the conditions of approval. Staff finds this criterion to be met. ***The Hearings Officer concurs in this staff finding, adopting the proposed related condition of approval.***

3. *Subsection 822.04(C)(1) :From 8:00am to 6:00 pm, 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.

Staff Finding: The applicant states the activities associated with the proposed business will occur inside the accessory building. The business hours are proposed between 8:00 AM and 6:00 PM. Staff finds this criterion can be met as conditioned. ***The Hearings Officer concurs in this staff finding, adopting the proposed related condition of approval. As noted, the subject property is over 17 acres, in an area of large properties, and the proposed work will take place within the existing shop.***

4. *Subsection 822.04(C) (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.*

Staff Finding: As addressed above under the findings for Subjection 822.04(C) (1) (a) there is no evidence that noise is an issue with this proposed home occupation, however members of the public are concerned with the added traffic and noise. Staff finds this noise study criterion could be an appropriate condition of approval if evidence is provided in the hearing indicating that noise from the proposed use will exceed the ambient noise of the surrounding area. ***The Hearings Officer considered the concerns raised by area neighbors of the subject property, but notes there is no evidence that noise is an issue with this proposal. As noted, the proposed home occupation is subject to Subsection 822.04(C), requiring the average peak sound pressure level of noise created by the home occupation not exceed the greater of 60 dB(A) or the ambient noise level from 8:00 a.m. until 6:00 p.m. A noise study is not required to demonstrate compliance.***

5. *Subsection 822.04(D): 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.*

Staff 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. Staff finds it is feasible for this criterion to be met as conditioned. ***The Hearings Officer concurs in this staff finding, adopting the proposed related condition of approval. Several concerns were expressed; however, as noted, the subject property is over 17 acres and the Applicant does not propose to use processes associated with the types of vibration, glare, fumes, or odors that would be detectable to normal sensory perception off the subject property.***

6. *Subsection 822.04(E): 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.*

Staff 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. Staff finds it is feasible for this criterion to be met. ***The Hearings Officer concurs in this staff finding, adopting the proposed related condition of approval.***

7. *Subsection 822.04(F): 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.*

Staff Finding: The applicant states outdoor storage is not proposed for the home occupation use. Staff finds it is feasible for this criterion to be met. ***The Hearings Officer concurs in this staff finding.***

8. *Subsection 822.04(G): signs shall be permitted pursuant to Section 1010 signs.*

Staff Finding: The applicant does not propose to use signage for the business. Based on this information staff finds compliance with this criterion is feasible. ***The Hearings Officer concurs in this staff finding, adopting a related condition of approval concerning any future signage.***

9. *Subsection 822.04(H) 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.*

Staff Finding: The applicant states the public right of way will not be used for the home occupation use since adequate area is available on-site and inside the 40' X 75' portion of the accessory structure that is proposed for use by the home occupation business. Staff finds it is feasible for this criterion to be met. ***The Hearings Officer concurs in this staff finding.***

10. *Subsection 822.04(I): 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.*

Staff Finding: The subject property has an access onto a public road. No access requires the use of a private road. Prior to establishing this occupation an entrance permit from Clackamas County Transportation and Engineering Division shall be obtained. Staff finds

this criterion to be met. ***The Hearings Officer concurs in this staff finding, adopting related conditions of approval requiring an entrance permit and meeting Engineering Division requirements.***

11. *Subsection 822.04(J): 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.*

Staff Finding: The subject site is within the AG/F Zoning District. The existing building proposed for the Home Occupation use was built as an ag building that was accessory to the home built with the same building permit package in 1978 (B0B01614-78 and B01615-78 completed as one package). The applicant is not proposing any modification to the outside of the building used for the home occupation. The accessory building that has been on the site since 1978, will be modified internally to separate the area used for the home occupation from the area used for personal storage. This criterion is met. ***The Hearings Officer concurs in this staff finding.***

12. *Subsection 822.05(K): 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.*

Staff Finding: The applicant states that the proposed home occupation would include 5 tanks of Argon, 1 tank of Acetylene, 5 gallons of Lacquer thinner and 20 cans of paint of the rattle can type. These amounts, do not seem excessive and will need to be compared to the amounts allowed by the Oregon Structural Specialty code. A condition to this effect is warranted in the conditions of approval to ensure if any hazardous materials are present the storage would meet the appropriate storing requirements. Neighbor's voiced concern about the environmental impact, and fumes from the home occupation but no specifics about these materials were brought up as concerns. Staff finds it is feasible for this criterion to be met. ***The Hearings Officer concurs in this staff finding, adopting the proposed related condition of approval.***

13. *Subsection 822.04(L) 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.*

Staff Finding: The subject site is surrounded by five parcels, all of which exceed two acres in size. Based on the surrounding parcel sizes staff finds the site is eligible to be reviewed under the level three home occupation criterion. Staff finds this criterion to be met. ***The Hearings Officer concurs in this staff finding.***

14. *Subsection 822.04(L) (1): 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 three major home occupation, a maximum of 1,500 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.*

Staff Finding: Whereas a level three major home occupation is allowed a maximum of 1,500 square feet of area within an accessory structure the applicant has proposed to take an exception to Subsection 822.04(L)(1) and propose to use the 3,000 square feet of existing building square footage in the pre-existing 95’X40’ detached accessory structure. The applicant proposes to install a seven-foot-high partition to separate the home occupation portion of the accessory building from the rest of the building. If the exception criteria are not satisfied then a condition of approval limiting the use to 1500 square feet would be appropriate. This request shall be addressed under Subsection 822.05(C) (2). Staff finds it is feasible for this criterion to be met if approved for an exception under Subsection 822.05(C) (2). ***The Hearings Officer with this analysis.***

15. *Subsection 822.04(L) (2) A level three home occupation shall not generate more than 30 vehicle trips per day. A vehicle trip is defined as “...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.”*

Staff Finding: A level three home occupation is limited to 30 trips per day, 15 round trips. The only vehicle trips proposed to be associated with the home occupation would be the employees coming to work and approximately one truck delivery per day. As discussed in the pre-application conference the cars being worked on, and parts would be delivered to the site as needed. Staff finds it is feasible for this criterion to be met as conditioned. ***The Hearings Officer concurs in this staff finding, adopting the proposed related condition of approval.***

16. *Subsection 822.04(L)(3): The maximum number of vehicles that are associated with a level three major home occupation and located on the property shall not exceed five at any time, including, but not limited to, employee vehicles, customer vehicles, and vehicles to be repaired. Vehicles to be repaired shall be located within an enclosed building or in an areas not visible from off the subject property. No more than one of the five vehicles permitted to be located on the subject property at one time shall exceed a gross vehicle weight rating of 11,000 pounds.*

Staff Finding: As discussed in the pre-application conference and indicated in the application the cars being worked on, and parts would be delivered to the site as needed. 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. In accordance

to Subsection 822.02(F) a vehicles is defined as “*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.*”

Staff Finding: The combined number of vehicles, including the personal vehicles of the property owners the employees vehicles, cars being fabricated, and the one delivery truck, are well within the allowed five vehicles for a level three major home occupation. The custom cars being worked on will be contained within the accessory building. Staff finds it is feasible for this criterion to be met as conditioned. ***The Hearings Officer concurs in this staff finding, adopting the proposed related condition of approval.***

17. *Subsection 822.04(L) (4) 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*

Staff 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. ***The Hearings Officer concurs in this staff finding.***

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:*
18. *Subsection 822.05(A) (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.*

Staff Finding: The applicant has proposed to take exception to one criterion, Subsection 822.04(L) (1) for use of 3,000 square feet of the pre-existing detached accessory structure for the home occupation use. Staff finds the one exception request is within reason to demonstrate compatibility with Subsection 822.04. ***The Hearings Officer concurs in this staff finding.***

19. *Subsection 822.05(A)(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.*

Staff Finding: The applicant implies there would be no noticeable difference between using 3000 square feet of the existing accessory building for the home occupation as compared with the use of the neighbor's shop by the neighbor for personal vehicle repair. The accessory building is already built. Staff finds the use of a portion of the pre-existing accessory structure will not impact the surrounding environment and is smaller than the shop on the property to the south. The location of the accessory structure and area where the proposed home occupation activities will occur is already developed and located approximately 180 feet from adjacent property to the north and over 200 feet from the adjacent property to the south.

The applicant states that the character of the area is a mixed-use with personal car repair, child care, and a dump truck company within a 1/2. Most of the Clackamas County properties are zoned Ag/Forest, or exclusive farm use and consist of rural residential and farm uses on larger parcels, with some parcels over 80 acres. There is a large nursery directly west of the subject property buffered from the subject property by more than 350 feet of woods. There is a rural residential dwelling on a large parcel directly south and north of the property that is buffered from the subject property by a row of trees. Nearby properties have numerous accessory buildings.

The proposed home occupation will include no outside storage, and the existing accessory structure is compatible with the use of adjacent properties. As conditioned staff determine it feasible for this criterion to be met. ***The Hearings Officer concurs in this staff finding and above analysis, adopting the proposed related condition of approval.***

20. *Subsection 822.05(A) (c): The ability to mitigate impacts by driveway and road improvements, screening, landscaping, building location, building design, and other improvements.*

Staff Finding: As previously mentioned the applicant is proposing no new driveway or roads. The existing driveway and parking area would be required to comply with the Clackamas County roadway Standards requirements. Additional requirements by the County Engineering Department outlined in the November 16, 2023 memorandum (Exhibit 3). Conditions to this effect are warranted in the conditions of approval. Staff finds that compliance with the conditions of approval shall ensure it is feasible for this criterion to be met. ***The Hearings Officer concurs in this staff finding, adopting the proposed related conditions of approval.***

21. *Subsection 822.05(A) (d): Potential environmental impacts, including effects on air and water quality; and*

Staff Finding: The applicant states there will be no change to the environment since the existing building will be used for the commercial use instead of personal use. The accessory structure was previously permitted for agricultural uses and is typical development in the AG/F District. A new structure or additional lot coverage is not proposed as part of this application. Due to these facts, staff finds minimal if any impacts will result from the proposed home occupation activities. Staff therefore finds it is feasible for this criterion to be met. ***The Hearings Officer concurs in this analysis and staff finding.***

22. *Subsection 822.05(A) (e): Provision of adequate and safe access to public, County, or state roads.*

Staff Finding: The November 16th, 2023 memo (*Exhibit 3*) from the Clackamas County Engineering Department clarifies requirements necessary to provide safe access to the site and public road. A condition to this effect is warranted in the conditions of approval. Staff finds it is feasible for this criterion to be met. ***The Hearings Officer concurs in this staff finding, adopting the proposed related condition of approval.***

23. *Subsection 822.05(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): 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.

Staff Finding: The application indicates the existing bathroom will be used by employees. No other water use was identified in the application. The water source is not a public or community service but an existing well. This criterion is not applicable. ***The Hearings Officer concurs.***

24. *Subsection 1006.03(B)(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.*

Staff Finding: The on-site water source is provided by a private well, therefore this criterion is not applicable. The Clackamas Fire District #1 did not have comments for the proposed land use application, but did provide comments for the pre-application conference that included the need for: A Fire Access and Water Supply plan for subdivisions and commercial buildings over 1000 square feet in size or when required by Clackamas Fire District #1. Staff finds that compliance with the conditions of approval shall ensure it is feasible for this

criterion to be met. ***The Hearings Officer concurs in this staff finding, adopting the proposed related condition of approval.***

25. *Subsection 1006.03(B)(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.*

Staff Finding: The onsite water source is a private well, therefore this criterion is not applicable. ***The Hearings Officer concurs.***

26. *Subsection 1006.03(B)(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.*

Staff Finding: The onsite water source is a private well, therefore this criterion is not applicable. ***The Hearings Officer concurs.***

27. *Subsection 1006.04(B): 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*

Staff Finding: The site has a septic system to accommodate sewer needs. The Septic and Onsite Wastewater Program does not use Preliminary Statement of Feasibility forms and instead relies on Authorization Notices to ensure adequate septic systems are in place to accommodate the needs. The proposed includes a bathroom in the existing accessory building and is tied to the existing septic system. *Exhibit 2* includes comments from the Soils Departments showing an Authorization Notice will be needed. A condition to this effect is warranted in the conditions of approval. ***The Hearings Officer concurs in this staff finding, adopting the proposed related condition of approval.***

28. *Subsection 1006.04(B)(1): The statement shall verify that sanitary sewer capacity in the wastewater treatment system and the sanitary sewage collection system is available to serve the development or can be made available through improvements completed by the developer or the system owner.*

Staff Finding: Since the on-site septic system is planned to accommodate employee use and an Authorization Notice is required to ensure the existing septic system can accommodate the extra usage of the onsite septic system. A condition to this effect is warranted in the conditions of approval. Staff finds it is feasible for this criterion to be met. ***The Hearings Officer concurs in this staff finding, adopting the proposed related condition of approval.***

29. *Subsection 1006.04(B) (2): The service provider may require preliminary sanitary sewer system plans and calculations for the proposed development prior to signing a preliminary statement of feasibility.*

Staff Finding: The subject site has a septic system serving the subject site. A statement from the Clackamas County Septic and Onsite Wastewater Program staff, dated September 7, 2023, specified that the proposal is to use the existing septic system and thus the applicant shall be required to apply for an Authorization Notice. A condition to this effect is warranted in the conditions of approval. Staff finds it is feasible for this criterion to be met. ***The Hearings Officer concurs in this staff finding, adopting the proposed related condition of approval.***

30. *Subsection 1006.04(B)(3): 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 sanitary sewer system capacity for the development.*

Staff Finding: Comments from the septic and onsite wastewater program indicated that an Authorization Notice will need to be obtained. The application material indicated that the existing onsite bathroom would be utilized by employees, therefore as conditioned this criterion can be met. ***The Hearings Officer concurs in this staff finding, adopting the proposed related condition of approval.***

31. *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.*

[Section 1006.06(C)(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.*

[Section 1006.06(C)(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.*

Staff Finding: The Clackamas County Engineering Department oversees surface water runoff for the subject site. The applicant provided a preliminary statement of feasibility signed by the Transportation and Engineering Division signed on 10/4/23. Based on the comments receive in the September 12, 2023 memorandum since there is no increase in impervious surface area a development permit is not needed, but an entrance will likely be required prior to issuance of a “Change of Occupancy” permit. Conditions to the effect of the above statements are warranted in the conditions of approval. Staff finds it is feasible for the conditions of approval to be met, thereby ensuring compliance with Subsection 1006.06(C). ***The Hearings Officer concurs in this staff finding, adopting the proposed related conditions of approval.***

32. *Subsection 1006.07(A): A land use application shall be deemed complete and may be approved without the submittal of one or more to of the preliminary statements of feasibility required by Subsection 21006.03, 1006.04, and 1006.06 if the applicant demonstrates that a good faith attempt has been made to obtain the statement(s).*

A statement signed by the applicant indicating that the service provider or surface water management authority has not responded to a request for a preliminary statement of feasibility or has refused to issue one.

A copy of the letter delivered to the service provider or surface water management authority clearly requesting a preliminary statement of feasibility. The letter shall be dated no less than 30 days prior to the submittal of the land use application.

33. *Subsection 1006.07(B): In the absence of evidence in the record to the contrary, it shall be presumed that the failure of a service provider or surface water management authority to respond to a request for a preliminary statement of feasibility constitutes a finding of adequacy of service. The presumption shall be for the purposes of land use application approval only and does not guarantee that service can be provided.*

Subsection 822.05(C) (1): An exception shall not be granted to Subsection 822.04(A), (I), (J) or (L) (4) (a) through (d).

Staff Finding: The required materials have been submitted for review of the application. This criterion is met. ***The Hearings Officer concurs.***

34. *Subsection 822.05(C) (2): Accessory building floor place for the home occupation shall not exceed 3,000 square feet.*

Staff Finding: The applicant proposes to use 3,000 square feet of an existing 95'X40' detached accessory structure permitted under permit B01614-78 and B01615-78 as an agricultural structure accessory to a dwelling. The nature of the occupancy shall change from domestic agricultural to commercial use (Exhibit 2), therefore the applicant shall apply for and receive a "Change of Use" permit from the Building Codes Division. The permit applicant shall be accompanied with a site and floor plan. If the applicant proposes to install a wall (7) feet in height to separate personal storage from the home occupation space. A permit from the Building Codes Division is required. Although the accessory structure was built as an ag building, it pre-dates 2013 and therefore, staff understand that the use of the building is able to be modified with the appropriate building permits following land use approval.

The Clackamas Fire District #1 did have comments during the pre-application conference for the preexisting structure converting to commercial Occupancy (included in Exhibit 2). Conditions to the effect of the above statements are warranted in the conditions of approval. Staff finds it is feasible for the conditions of approval to be met, thereby ensuring compliance with Subsection 822.05(C) (2). ***The Hearings Officer concurs in this staff finding, adopting the proposed related conditions of approval.***

35. *Subsection 822.05(C) (3): If the subject property is in an EFU, TBR, or AG/F zoning district, the number of employees shall not exceed five.*

Staff Finding: The subject site is within the Ag/Forest District and will only have five employees. This criterion is met. ***The Hearings Officer concurs in this staff finding, adopting a related condition of approval restricting the home occupation to no more than five employees on the subject property at any given time.***

SUMMARY OF FINDINGS:

The applicant has submitted the necessary information for a level 3 major home occupation and the exception criterion of Subsection 822.05. One exception is requested, an exception to Subsection 822.04(L) (1). The applicant addressed the exception regulations of Subsection 822.05(C) (2) and is at the maximum square footage allowed, 3,000 square feet. A pre-existing structure of 90'X45' is proposed to be modified to separate 3,000 square feet for the home occupation use. Area structure and area is currently developed so no significant impacts to the surrounding environment are likely to occur. Staff further finds the applicant provided adequate information to determine it is feasible to determine the home occupation can comply with the level 3 major home occupation criterion. ***The Hearings Officer concurs.***

D. CONDITIONS OF APPROVAL

The following are recommended conditions of approval by Clackamas County Planning Division staff, ***reviewed, adopted and/or modified by the Hearings Officer:***

General Conditions:

- 1) This land use permit is based on the submitted written narrative and plan(s) dated October 5, 2023 and additional information confirmed through an email on 10/20/23. The application was deemed complete on 10/20/23. 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 <mailto:loriphi@co.clackamas.or.us> 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 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 change of use 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.

I. 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 Sec.822 and those other relevant codes and ordinances adopted by the Board of County Commissioners pursuant to subsection 407 of the ZDO.
- 2) The business owner Darryl Schroeder, is the contract purchaser of the property and will reside in a dwelling on the property prior to the initiation 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 60db, or the ambient noise level between the hours of 8 AM to 6 PM 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 devise off the subject property or cause fluctuations in line voltage off the subject property per ZDO 822.04 (E).

7. Outdoor storage and activities are prohibited per ZDO 822.04 (F).
8. Any future signage is subject to Section 1010.06(B) of the Clackamas County Zoning Development Ordinance ,which limits signage to 32 square feet and not to exceed a height of 8 feet per ZDO 822.04 (G).
9. Home occupation vehicles shall not be stored, parked, fabricated, or repaired on public rights-of-way per ZDO 822.04 (H).
10. Parking of all business related vehicles shall be located to the southwest of the pre-existing 95’x40’ detached accessory structure per ZDO 822.05(A)(c).
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). The amount of hazardous materials will need to be reviewed and confirmed by the Building Codes Division to be in compliance with the Oregon Structural Specialty Code.
12. The applicant has request an exception to Subsection 822.04(L) (1), which allows a maximum of 1,500 **square feet of accessory building space**. In conformance to Subsection 822.05(C) (2) the applicant upon approval is allowed use 3,000 square feet of the existing 40’X95’ 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 is in compliance 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 thirty (30) trips per day (fifteen (3) 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. Only one vehicle in excess of 11,000 pound GVW, is allowed on site as part of the home occupation activities per ZDO 822.04 (L).
15. No more than five 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. This home occupation is considered a commercial use and is not to be used to justify a zone change per ZDO 406.05 (E).

18. A copy of approval from the Clackamas Fire District #1 shall be submitted for the file to per ZDO Subsection 1006.03(B)(1).

II. 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.

IV. 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.
3. The driveway and parking area shall meet the following standards:
 - a. The driveway approach will be required to meet minimum intersection sight distance looking to the left and right on SE Bartel Road. A minimum of 165 feet of sight is required. Sight distance is measured from a point 14.5 feet back from the edge of pavement, from a height of 3.5 feet, to a point in the center of the oncoming travel lane at a height of 3.5 feet. (See sight distance standards in Roadway Standards Section 240.
 - b. Beyond the paved approach, a minimum 12-foot wide gravel driveway shall be constructed, per Roadway Standards drawing R100.
 - c. The parking and maneuvering area shall be surfaced with screened gravel or better, in accordance with Roadway Standards drawing R100.
 - d. Parking spaces shall meet minimum ZDO section 1015 requirements. The site plan shall include dimensions for the parking stalls and back up areas.

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E. DECISION

Based on the findings, discussion, conclusions, and record in this matter, the Hearings Officer APPROVES application Z0394-23-HOEX for a permit for a Level Three Home Occupation with Exception allowing use of 3,000 square feet of accessory building floor space on the subject property, subject to conditions of approval.

Dated: December 6, 2023



Carl D. Cox
Clackamas County Hearings Officer

APPEAL RIGHTS

ZDO 1307.10(F) provides that, with the exception of an application for an Interpretation, the Land Use Hearings Officer's decision constitutes the County's final decision for purposes of any appeal to the Land Use Board of Appeals (LUBA). State law and associated administrative rules promulgated by LUBA prescribe the period within which any appeal must be filed and the manner in which such 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 is "final" for purposes of a LUBA appeal as of the date of the decision appearing by my signature.