



NOTICE OF HEARING

November 4, 2024

Philip & Staci Dalton
29335 S Beaver Creek Rd.
Mulino, OR 97042

RE:: County of Clackamas v. Philip & Staci Dalton
File: V0021423

Hearing Date: December 4, 2024

Time: This item will not begin before 11:00am however it may begin later depending on the length of preceding items.

Location: Hearing will be held by virtual Zoom meeting. Please see attached information regarding the process for the Zoom meeting.

Enclosed you will find the following:

1. Notice of Rights
2. Copy of Complaint and Request for Hearing

You **must** appear at the time set forth in this Notice of Hearing or the relief requested in the **Complaint** may be **granted against you by default**.

You can access the complete hearing packet at <https://www.clackamas.us/codeenforcement/hearings>

You may contact Shane Potter, Code Compliance Specialist for Clackamas County at (503) 742-4465, should you have any questions about the violation(s) in the **Complaint**. Do not call the Compliance Hearings Officer.

Enclosures

CC: Carl Cox -Compliance Hearings Officer

STATEMENT OF RIGHTS

1. **Prior to the Hearing.** You have the right to make the following requests:
 - (A) You can request the opportunity to review public records and to talk to County staff about the violations or request a subpoena for that purpose if the County does not allow you to do so.
 - (B) You can request that the Hearings Officer postpone the hearing for good cause by writing the Hearings Officer at least 7 calendar days prior to the scheduled hearing date.
 - (C) You can request that the Hearings Officer decide the matter based exclusively on written materials from the parties or conduct the hearing by phone.
2. **Procedure.** The hearing will be governed by general rules of procedure designed to allow you to hear and confront the evidence against you, and for you to present evidence favorable to you. You are not required to present any evidence, the burden is on the County to establish by a preponderance of the evidence that a violation exists, or existed. Either party may, at their own expense, obtain an attorney to represent them at the hearing. If you wish to be represented by an attorney they need only notify the County and the Hearings Officer in writing of their intent to appear on your behalf. The County will present evidence first, and then you may question that evidence. You may then present your own evidence, if you wish, and the County may question your evidence. Testimony by witnesses is evidence. The Hearings Officer may inquire into any facts that are relevant to the hearing and may question the parties or witnesses about the case. Evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible.
3. **Record of Proceedings.** An audio record will be made of the proceedings when a hearing is conducted. The audio record is available through the Clackamas County Code Enforcement Section and is available to you upon request.
4. **Hearings Officer.** The Hearings Officer is an independent contractor paid by the County to conduct hearings and render decisions. He/she is not a County employee. His/her function is to preside over the hearing, make a record of proceedings, consider admissible evidence, and interpret and apply the law. After the hearing is closed the Hearings Officer will enter written findings of fact, conclusions of law, and any Order deemed proper. If a violation is proven, then the Order may include civil penalties, fines, administrative fees, or may require the respondent to take certain actions, or refrain from certain actions. An Order issued by the Hearings Officer may be a Final Order or Continuing Order. The Hearings Officer's Order is the final decision of the County, and may be appealed pursuant to Oregon law. The Hearings Officer for Clackamas County is:

Carl Cox
Attorney at Law
14725 NE 20th Street, #D-5
Bellevue, WA 98007
5. **Right to Recess.** If, during the course of the hearing, Respondent or the County requests a recess or postponement, or additional time to present crucial evidence, the Hearings Officer may allow a continuance of the hearing for good cause. The Respondent may also request that the proceeding be continued after the end of the hearing if the Respondent determines that additional evidence should be brought to the attention of the Hearings Officer.
6. **Right to Appeal.** The Final Order of the Hearings Officer shall set forth the right of the respondent to appeal any adverse Order. Appeal may be taken pursuant to Section 2.07.130 of the Clackamas County Hearings Officer Code, and Oregon Revised Statute 34.010-34.100. If appeal is taken, appellant is responsible for all costs of appeal including preparation of transcript.



You must have access to the internet or to a telephone line to use the Zoom platform, a copy of the link is provided below.

If you would like to present evidence at the Hearing please email or mail your evidence to Shane Potter at 150 Beaver Creek Rd, Oregon City, Oregon 97045, **no later than 4 working days prior to the hearing**. Staff will number your evidence for the hearing and provide the numbered documents to the Hearings Officer and send them back to you for reference.

If you are unable to participate in a hearing through the Zoom platform please contact Shane Potter at 503-742-4465 **within 3 calendar days of receipt of the Notice of Hearing**.

If you do not know how to use Zoom, please Google "how to use Zoom" and there are many interactive guides on the internet. **When joining the webinar please accept the request to join as a panelist.**

If you experience difficulties connecting to the Zoom hearing **before** your scheduled start time, please call 503-830-9960 for assistance.

Zoom invite

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join.

<https://clackamascounty.zoom.us/j/83321415505?pwd=PQErgnF07l0djp3j3mRSJuXpn8ZCNK.1>

Passcode: 536856

Or One tap mobile:

+12532158782,,83321415505# US (Tacoma)

+13462487799,,83321415505# US (Houston)

Or join by phone:

Dial(for higher quality, dial a number based on your current location):

US: +1 253 215 8782 or +1 346 248 7799 or +1 408 638 0968 or +1 669 444 9171 or +1 669 900 6833 or +1 719 359 4580 or +1 253 205 0468 or +1 309 205 3325 or +1 312 626 6799 or +1 360 209 5623 or +1 386 347 5053 or +1 507 473 4847 or +1 564 217 2000 or +1 646 876 9923 or +1 646 931 3860 or +1 689 278 1000 or +1 301 715 8592 or +1 305 224 1968

Webinar ID: 833 2141 5505

Department of Transportation and Development

Nondiscrimination Policy:

The Department of Transportation and Development is committed to non-discrimination. For more information go to: www.clackamas.us/transportation/nondiscrimination, email JKauppi@clackamas.us or call (503) 742-4452.

¡LE DAMOS LA BIENVENIDA! Spanish

El Departamento de Transporte y Desarrollo está comprometido con la no discriminación. Para obtener más información, visite: www.clackamas.us/transportation/nondiscrimination, envíe un correo electrónico a JKauppi@clackamas.us o llame al 503-742-4452.

ДОБРО ПОЖАЛОВАТЬ! Russian

Департамент транспорта и развития инфраструктуры стремится к соблюдению политики недопущения дискриминации. Для получения дополнительной информации посетите веб-сайт: www.clackamas.us/transportation/nondiscrimination, отправьте письмо на адрес эл. почты JKauppi@clackamas.us или позвоните по телефону 503-742-4452.

欢迎! Chinese (Mandarin)

交通和发展部致力于实现非歧视。如需了解更多信息，请访问 www.clackamas.us/transportation/nondiscrimination，发送电子邮件至 JKauppi@clackamas.us 或致电 503-742-4452。

CHÀO MỪNG! Vietnamese

Bộ Vận Tải và Phát Triển cam kết thực thi chính sách không phân biệt đối xử. Để biết thêm thông tin, vui lòng truy cập trang mạng: www.clackamas.us/transportation/nondiscrimination, gửi email đến JKauppi@clackamas.us hoặc gọi điện thoại theo số 503-742-4452.

환영합니다. Korean

운송개발부는 차별 금지를 위해 모든 노력을 기울이고 있습니다. 자세한 내용은 홈페이지 www.clackamas.us/transportation/nondiscrimination을 참조하거나 이메일 JKauppi@clackamas.us, 또는 전화 503-742-4452번으로 연락 주십시오.

BEFORE THE COMPLIANCE HEARINGS OFFICER
OF THE COUNTY OF CLACKAMAS

CLACKAMAS COUNTY,

FILE NO(S): V0021423

Petitioner,

v.

PHILIP JACOB and STACI DALTON,

Respondents.

COMPLAINT AND REQUEST FOR
HEARING

I Shane Potter, Code Enforcement Specialist for Clackamas County, allege the following:

1.

Respondents' mailing address is: 29335 S Beaver creek Rd., Mulino, OR 97042.

2.

The address or location of the violation(s) of law alleged in this complaint is: 29335 S Beaver creek Rd., Mulino, OR 97042, also known as T4S, R3E, Section 31, Tax Lot 00608, and is located in Clackamas County, Oregon.

3.

On or about the 20th day of September, 2023, and on or about the 30th day of October, 2023, the Respondents violated the following laws, in the following ways:

Title 12 of the Clackamas County Zoning and Development Ordinance (ZDO) Code Section 407.04. The property is zoned Ag/Forest (AG/F). This violation is a Priority 2 violation pursuant to the Clackamas County violation Priorities.

4.

The Department initiating this procedure is the Code Enforcement Section of the of the Department of Transportation and Development.

5.

Notice of the violation was given to Respondents in the following manner: Violation notice dated September 20, 2023 and Citation and Complaint #2300214-1 on October 30, 2023. A copy of the notice documents are attached to this Complaint as Exhibits C and G, and incorporated by this reference.

6.

Based on these allegations, petitioner requests that a hearing be set in this matter. Petitioner seeks an Order from the Hearings Officer granting the following relief:

1. Pursuant to Clackamas County Code Section 2.07.090, ordering Respondents to immediately abate the violations and bring the property at issue into

compliance with all laws, and permanently enjoining Respondents from violating these laws in the future;

2. Pursuant to Clackamas County Code Section 2.07.090, imposing a civil penalty against Respondents for each violation, within the range established by the Board of County Commissions. Said range for a Priority 2 for a Zoning Code violation being \$500.00 to \$2,500.00 per occurrence as provided by Appendix B to the Clackamas County Code;

3. Pursuant to Clackamas County Code Section 2.07.090, ordering Respondents to pay an administrative compliance fee as provided by Appendix A to the Clackamas County Code; and

4. Pursuant to Clackamas County Code Section 2.07.090, ordering Respondents to reimburse the County for any expense the County may incur in collection of any penalties, fines or fees that may be imposed.

5. Ordering any other relief deemed reasonably necessary to correct the violations.

DATED THIS 30th day of October, 2024

A handwritten signature in black ink that reads "Shane Potter". The signature is written in a cursive style with a large, sweeping initial "S".

Shane Potter
Code Enforcement Specialist
FOR CLACKAMAS COUNTY

CLACKAMAS COUNTY,

Petitioner,

v.

PHILIP JACOB and STACI DALTON,

Respondents.

File No.: V0021423

STATEMENT OF PROOF

History of Events and Exhibits:

- Exhibit A Respondents' mailing address is 29335 S Beaver creek Rd., Mulino, OR 97042. Respondents own and/or reside on property located at 29335 S Beaver creek Rd., Mulino, OR 97042, also known as T4S, R3E, Section 31 Tax Lot 00608, located within Clackamas County. The parcel is zoned Ag/Forest District (AG/F). Exhibit A page 2 is a 2023 aerial. Exhibit A page 3 is a closeup of the buildings.
- July 27, 2023 Clackamas County received complaints regarding Sage and Social operating an event center on the property without land use approval. Staff researched the alleged violation and found that an application for a conditional use permit to operate events had been filed with Planning and Zoning in March 2023. A hearing was held before the Planning and Zoning Hearings Officer on July 13, 2023.
- August 9, 2023 Exhibit B Correspondence was mailed to Respondents advising them of an alleged event venue operating without land use approval that may constitute a violation of the County Zoning and Development Ordinance.
- August 18, 2023 Code Enforcement Specialist (CES) Shane Potter spoke with Respondents attorney, Peter Livingston, who explained they are currently going through the land use process.
- September 20, 2023 Exhibit C CES Potter sent a violation notice to Respondents concerning a zoning violation on the property. The violation notice contained detailed descriptions of the violations, required abatement by no later than October 20, 2023, provided detailed instructions for how to do so, and provided County contact information. The mailed notice was not returned.

September 20, 2023 Exhibit D	Email between CES Potter and Respondents' attorney, Peter Livingston, stating they are awaiting review by Planning and Zoning to determine whether they can use the ag exempt building or not.
October 23, 2023 Exhibit E	CES Potter and Planner Melissa Lord discussed the current violation and that there have not been any responses from Respondents' attorney.
October 23, 2023 Exhibit F	CES Potter performed research of the internet and found that there is a website advertising for event space on site.
October 30, 2023 Exhibit G	CES Potter issued Citation No. 2300163-1 to Respondents in the amount of \$400.00 for the violation confirmed to exist on the property during a review of the file on October 23, 2023, specifically for hosting events, more specifically weddings, without land use approval. The citation was sent via first class mail. The mail was not returned, and the citation remains unpaid.
November 13 & 15, 2023	On November 13, 2023, CES Potter spoke with the Respondents' attorney, Nikesh Patel, who stated they are waiting on a hearing to address this issue. On November 15, 2023, Respondent Staci Dalton came in to pay for the conditional use permit application.
March 4, 2024 Exhibit H	Planning and Zoning Hearings Officer issues decision approving the event center and allowing the agricultural exempt barn to be used for events.
July 29, 2024 Exhibit I	Planning and Zoning provided a copy of the LUBA decision.
August 5, 2024 Exhibit J	The LUBA decision is appealed to the Court of Appeals.
September 23, 2024 Exhibit K	After consultation with management, a change of procedures was instituted where the County will not place violation files on hold during the land use review process. CES Potter prepared a notice to Respondents concerning the change and explained that further events being held in violation of the code beyond the October 9, 2024, deadline may result in further enforcement. The letter was mailed via first class mail. The mail was not returned. The letter was also sent to Respondents' attorney, Nikesh Patel, by email.
October 12 – 26, 2024 Exhibit L	Photos of events taking place were provide by the complainant.

October 30, 2024 CES Potter researched the website
Exhibit M

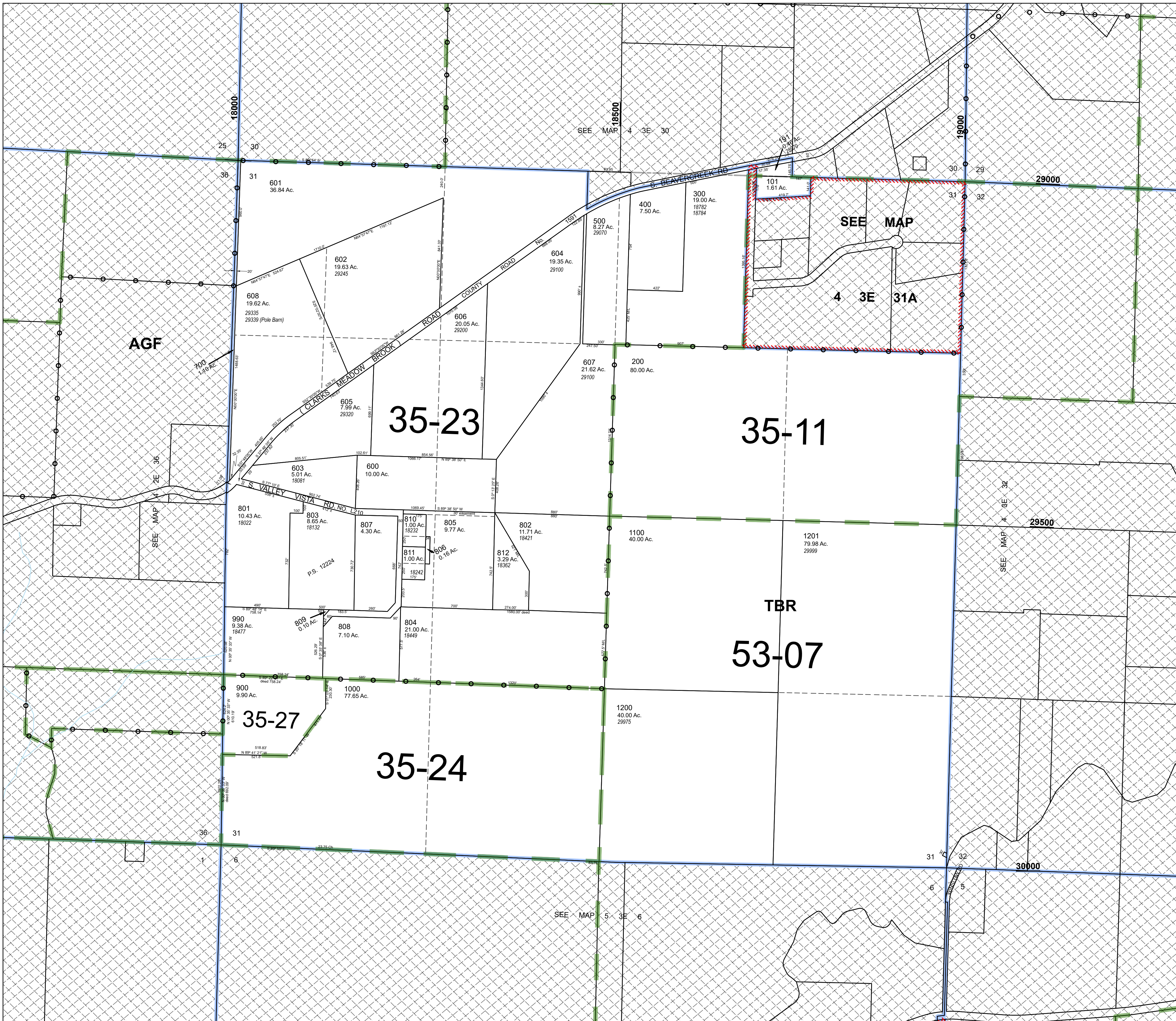
October 30, 2024 Clackamas County referred this matter to the Compliance Hearings
Officer.

If the Hearings Officer affirms the County's position that a violation of the Zoning Ordinance exists on the subject property, the County would request a Final Order. The County further requests:

- Payment of Citation No. #2300214-1 for \$400.00.
- Imposition of civil penalties of up to \$2,500.00.
- Imposition of the administrative compliance fee from September 2023. As of the date of this report the administrative compliance fee is \$975.00. However, due to some inactivity the approval period (while the decision was appealed to LUBA), the County is requesting a reduction of \$525.00 for a total administrative compliance fee of \$450.00.
- If the violations are not abated the County may request authorization for further enforcement action including to proceed to Circuit Court.
- The County requests the Hearing's Officer to permanently enjoin Respondents from violating these laws in the future.
- The County would also ask that reimbursement be ordered for any expense the County incurs in collection of these monies.

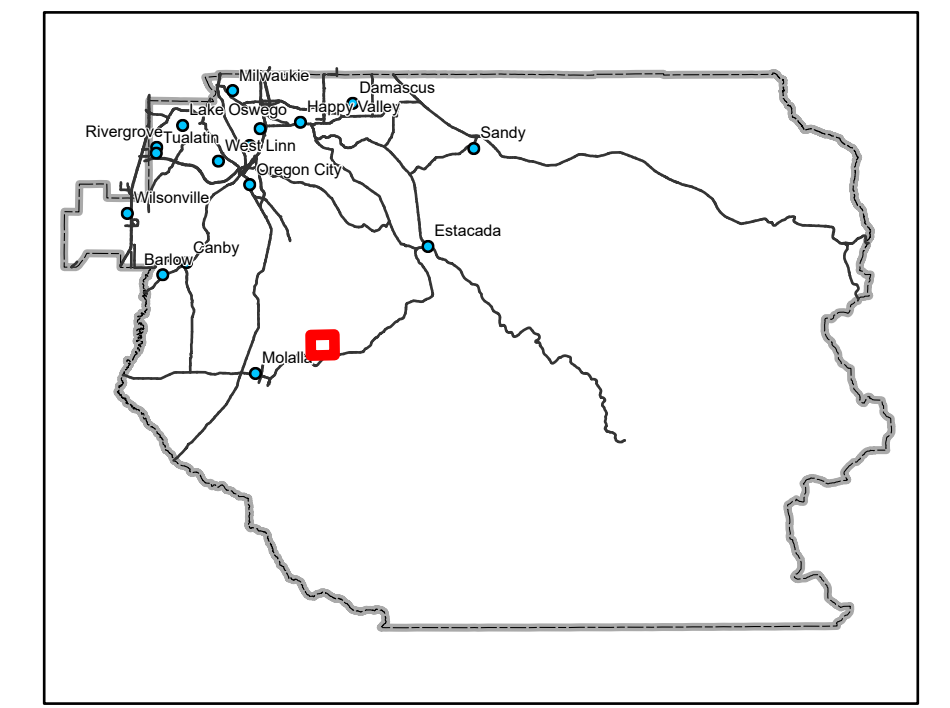
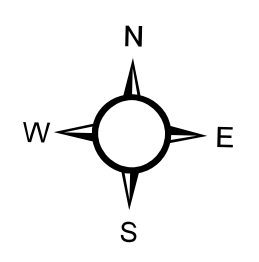
SEC.31 T.4S. R.3E. W. M.
CLACKAMAS COUNTY

1" = 400'



- Cancelled**
- 100
 - 190
 - 813
 - 800
 - 691
 - 692
 - 696
 - 698
 - 790

- Parcel Boundary
- Private Road ROW
- Historical Boundary
- Railroad Centerline
- Tax Code Lines
- Map Index
- Water Lines
- Land Use Zoning
- Plats
- Water
- Corner
- Section Corner
- 1/16th Line
- Govt Lot Line
- DLC Line
- Meander Line
- PLSS Section Line
- Historic Corridor 40'
- Historic Corridor 20'



THIS MAP IS FOR ASSESSMENT PURPOSES ONLY







Property Account Summary  Barcode

Account Number 01054478 **Property Address** 29335 S BEAVERCREEK RD , MULINO, OR 97042

General Information

Alternate Property #	43E31 00608
Property Description	Section 31 Township 4S Range 3E TAX LOT 00608
Property Category	Land &/or Buildings
Status	Active, Locally Assessed, Use Assessed
Tax Code Area	035-023
Remarks	

Tax Rate

Description	Rate
Total Rate	12.6792

Property Characteristics

Property Tax Deferral	Potential Additional Tax Liability
Neighborhood	12204: Molalla rural north all other
Land Class Category	541: Non EFU farmland improved
Building Class Category	15: Single family res, class 5
Year Built	2019
Acreage	19.63
Change property ratio	5XX

Related Properties

No Related Properties Found

Parties

Role	Percent	Name	Address
Taxpayer	100	DALTON PHILIP JACOB & STACI	29335 S BEAVERCREEK RD, MULINO, OR 97042
Tax Service Co.	100	CORELOGIC TAX SERVICES	UNKNOWN, MILWAUKIE, OR 00000
Owner	100	DALTON PHILIP JACOB & STACI	29335 S BEAVERCREEK RD, MULINO, OR 97042
Mortgage Company	100	WASHINGTON FEDERAL SAVINGS	MORTGAGE CO MAILING, UNKNOWN,

Property Values

Value Type	Tax Year 2022	Tax Year 2021	Tax Year 2020	Tax Year 2019	Tax Year 2018
AVR Total	\$643,522	\$545,402	\$281,521	\$14,404	\$11,231

Exempt					
TVR Total	\$643,522	\$545,402	\$281,521	\$14,404	\$11,231
Real Mkt Land	\$409,710	\$335,931	\$291,977	\$258,373	\$225,034
Real Mkt Bldg	\$1,086,410	\$773,290	\$338,380	\$5,760	
Real Mkt Total	\$1,496,120	\$1,109,221	\$630,357	\$264,133	\$225,034
M5 Mkt Land	\$65,634	\$53,815	\$46,773		
M5 Mkt Bldg	\$1,086,410	\$773,290	\$338,380	\$5,760	
M5 SAV	\$37,826	\$37,826	\$38,210	\$40,802	\$39,057
SAVL (MAV Use Portion)	\$11,798	\$11,456	\$11,128	\$11,568	\$11,231
MAV (Market Portion)	\$631,724	\$533,946	\$270,393	\$2,836	
Mkt Exception	\$143,690	\$388,800	\$379,393		
AV Exception	\$81,760	\$255,442	\$267,472		

Active Exemptions

No Exemptions Found

Events

Effective Date	Entry Date-Time	Type	Remarks
08/01/2023	08/01/2023 14:28:00	The situs address has changed	by ROMYMIE
03/29/2022	04/11/2022 09:05:00	Taxpayer Changed	Property Transfer Filing No.: 410929 03/29/2022 by CINDYSIM
03/29/2022	04/11/2022 09:05:00	Recording Processed	Property Transfer Filing No.: 410929, Warranty Deed, Recording No.: 2022-018683 03/29/2022 by CINDYSIM
03/29/2022	04/05/2022 14:37:00	Taxpayer Changed	Property Transfer Filing No.: 410750 03/29/2022 by ROMYMIE
03/29/2022	04/05/2022 14:37:00	Recording Processed	Property Transfer Filing No.: 410750, Bargain & Sale, Recording No.: 2022-018682 03/29/2022 by ROMYMIE
01/14/2019	01/14/2019 12:15:00	The situs address has changed	by DROME
12/19/2018	01/15/2019 12:22:00	Taxpayer Changed	Property Transfer Filing No.: 346560 12/19/2018 by NICOLEB
12/19/2018	01/15/2019 12:22:00	Recording Processed	Property Transfer Filing No.: 346560, Warranty Deed, Recording No.: 2018-076110 12/19/2018 by NICOLEB
01/04/2018	01/04/2018 09:21:00	Seg/Merge Completed	Parent in Seg/Merge SM180097, Effective: 01/02/2017 by DROME
01/04/2018	01/04/2018 09:18:00	Seg/Merge Initiated	SEG/MERGE BEGUN ON SM180097 EQUAL EXCHG (1.27 AC) BETWEEN TL 00602 & TL 00608, AC ADJ (.01 AC) OF TL 00608 BY 2017-071612, EFF 2018-19 by DROME
12/12/2016	01/03/2017 09:21:00	Taxpayer Changed	Property Transfer Filing No.: 309362 12/12/2016 by HEIDIHAR
12/12/2016	01/03/2017 09:21:00	Recording Processed	Property Transfer Filing No.: 309362, Bargain & Sale, Recording No.: 2016-085544 12/12/2016 by HEIDIHAR
12/12/2016	12/28/2016 12:13:00	Taxpayer Changed	Property Transfer Filing No.: 308845 12/12/2016 by HEIDIHAR

12/12/2016	12/28/2016 12:13:00	Recording Processed	Property Transfer Filing No.: 308845, Bargain & Sale, Recording No.: 2016-085543 12/12/2016 by HEIDIHAR
02/02/2011	02/03/2011 16:41:00	Taxpayer Changed	Property Transfer Filing No.: 212770 02/02/2011 by LAURIEB
02/02/2011	02/03/2011 16:41:00	Recording Processed	Property Transfer Filing No.: 212770, Bargain & Sale, Recording No.: 2011-007637 02/02/2011 by LAURIEB
11/08/2010	11/18/2010 09:25:00	Taxpayer Changed	Property Transfer Filing No.: 209738 11/08/2010 by LAURIEB
11/08/2010	11/18/2010 09:25:00	Recording Processed	Property Transfer Filing No.: 209738, Bargain & Sale, Recording No.: 2010-071061 11/08/2010 by LAURIEB
03/23/2010	11/09/2010 11:30:00	Recording Processed	Property Transfer Filing No.: 209458, Bargain & Sale, Recording No.: 2010-017403 03/23/2010 by LAURIEB
03/23/2010	11/09/2010 11:30:00	Taxpayer Changed	Property Transfer Filing No.: 209458 03/23/2010 by LAURIEB
03/21/2007	03/23/2007 09:24:00	Recording Processed	Property Transfer Filing No.: 157251, Warranty Deed, Recording No.: 2007-023955 03/21/2007 by LYNNENEW
03/21/2007	03/23/2007 09:24:00	Taxpayer Changed	Property Transfer Filing No.: 157251 03/21/2007 by LYNNENEW
04/21/2003	04/21/2003 16:51:00	Annexation Completed For Property	Diss FD68, Order 2003-46-annexed by 035-023 for 2003-Revise TCA Membership by JENMAYO
04/08/2002	04/19/2002 14:22:00	Taxpayer Changed	Property Transfer Filing No.: 51061 04/08/2002 by MARYHAN
04/08/2002	04/19/2002 14:22:00	Recording Processed	Property Transfer Filing No.: 51061, Bargain & Sale, Recording No.: 2002-033083 04/08/2002 by MARYHAN
05/10/2001	05/10/2001 14:25:00	Seg/Merge Completed	Parent in Seg/Merge SM010491, Effective: 01/02/2000 by LAURAOMM
05/10/2001	05/10/2001 14:24:00	Seg/Merge Initiated	SM010491 FOR 2001-02 MERGE FROM 43E31 00698; BEFORE 1/1/2001
04/19/2001	04/19/2001 15:58:00	Annexation Completed For Property	Cancel 035-010 into 035-019-annexed by 035-019 for 2001-Revise TCA Membership by JENMAYO
07/01/1999	07/01/1999 12:00:00	Ownership at Conversion	Bargain and Sale: 93-30313, 4/1/93, \$ 0

Tax Balance

No Charges are currently due. If you believe this is incorrect, please contact the Assessor's Office.

Total Due only includes the current 2022 taxes. Please select View Detailed Statement for a full payoff.

[Installments Payable/Paid for Tax Year\(Enter 4-digit Year, then Click-Here\):](#)

Receipts

Date	Receipt No.	Amount Applied to Parcel	Total Amount Due	Receipt Total	Change
11/10/2022 00:00:00	5273350	\$8,159.34	\$8,159.34	\$7,914.56	\$0.00
11/15/2021 00:00:00	5131241	\$6,806.51	\$6,806.51	\$6,602.31	\$0.00
06/10/2021 00:00:00	5008091	\$17.73	\$17.73	\$17.73	\$0.00
03/03/2021 00:00:00	4994129	\$2,641.45	\$2,659.06	\$2,641.45	\$0.00

11/18/2020 11:36:00	4955500	\$1,320.72	\$3,962.17	\$1,320.72	\$0.00
11/12/2019 00:00:00	4673126	\$245.22	\$245.22	\$237.86	\$0.00
11/07/2018 11:58:00	4479455	\$158.05	\$4,595.88	\$4,458.00	\$0.00

Sales History

Sale Date	Entry Date	Recording Date	Recording Number	Sale Amount	Excise Number	Deed Type	Grantee(Buyer)	Other Parcels
03/25/2022	04/11/2022	03/29/2022	2022-018683	\$1,400,000.00	410929		DALTON PHILIP JACOB & STACI	No
03/25/2022	04/05/2022	03/29/2022	2022-018682	\$0.00	410750		BAULT SKYE	No
12/13/2018	01/15/2019	12/19/2018	2018-076110	\$325,500.00	346560		BAULT SKYE & ASHLEY	No
12/06/2016	01/03/2017	12/12/2016	2016-085544	\$0.00	309362		HARRISON JULIE ANN TRUSTEE	No
12/06/2016	12/28/2016	12/12/2016	2016-085543	\$0.00	308845		HARRISON JULIE ANN	No
02/02/2011	02/03/2011	02/02/2011	2011-007637	\$0.00	212770		HARRISON JULIE ANN TRUSTEE	No
11/03/2010	11/18/2010	11/08/2010	2010-071061	\$0.00	209738		HARRISON JULIE ANN	No
12/23/2009	11/09/2010	03/23/2010	2010-017403	\$0.00	209458		HARRISON JULIE ANN TRUSTEE	No
03/13/2007	03/23/2007	03/21/2007	2007-023955	\$0.00	157251		HARRISON JULIE ANN	No

Property Details

Living Area Sq Ft	Manf Struct Size	Year Built	Improvement Grade	Stories	Bedrooms	Full Baths	Half Baths
2304	0 X 0	2019	52	1.0	3	2	1

File No.: 22-346041

Clackamas County Official Records
Sherry Hall, County Clerk

2022-018683

03/29/2022 11:56:02 AM

D-D Cnt=1 Stn=75 BRAD
\$15.00 \$16.00 \$10.00 \$62.00

\$103.00

Grantor
Skye Bault and Ashley Bault 29335 S Beaver creek Road Mulino, OR 97042
Grantee
Philip Jacob Dalton and Staci Dalton 20371 Meadow Avenue Oregon City, OR 97045
After recording return to
Philip Jacob Dalton and Staci Dalton 20371 Meadow Avenue Oregon City, OR 97045
Until requested, all tax statements shall be sent to
Philip Jacob Dalton and Staci Dalton 29335 S Beaver creek Road Mulino, OR 97042 Tax Acct No(s): 43E31 00608, 01054478

Reserved for Recorder's Use

STATUTORY WARRANTY DEED

Skye Bault and Ashley Bault, as tenants by the entirety, Grantor(s) convey and warrant to Philip Jacob Dalton and Staci Dalton, as tenants by the entirety, Grantee(s), the real property described in the attached Exhibit A, free of encumbrances EXCEPT covenants, conditions, restrictions, easements, and encumbrances of record as of the date hereof.

The true consideration for this conveyance is **\$1,400,000.00**. (Here comply with requirements of ORS 93.030)

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009 AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

WFG Title 22-346041 HB

Executed this 25 day of March, 2022

S. Bault
Skye Bault

A. Bault
Ashley Bault

STATE OF OREGON
COUNTY OF Clackamas

This instrument was acknowledged before me this 25 day of March, 2022 by Skye Bault and Ashley Bault.

Cortney A. Smith
Notary Public for Oregon
My Commission Expires: Jan 05, 2024

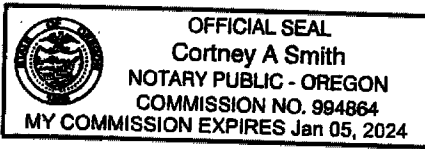


EXHIBIT "A"
LEGAL DESCRIPTION

A tract of land being a part of the Northwest one-quarter of Section 31, Township 4 South, Range 3 East of the Willamette Meridian, in the County of Clackamas and State of Oregon, same being a portion of that tract of land conveyed to Julie Ann Harrison, Trustee of the Julie Ann Harrison Trust dated December 30, 1992, as amended, by Recorder's Fee No. 2017-061415, Clackamas County Records and being more particularly described as follows:

Beginning at the Northwest corner of said Section 31; thence Easterly along the North line of said Section 31 a distance of 20.00 feet to the Northwest corner of a tract of land conveyed to Dwin Dale Dunkin, et ux, as Recorder's Fee No. 73-13749, Clackamas County Records; thence South along the West line of said Dunkin tract a distance of 960.00 feet to the Northwest corner of the aforementioned Julie Ann Harrison tract and the true point of beginning of the tract herein to be described; thence North $64^{\circ} 57' 47''$ East along the Northerly line of the Julie Ann Harrison tract which is a line whose terminus is a point 1,560.00 feet East of the West line of said Dunkin tract, when measured at right angles thereto and 240.00 feet South of the North line of said Dunkin tract, a distance of 524.67 feet to an iron rod with a yellow plastic cap; thence South $25^{\circ} 02' 30''$ East a distance of 948.12 feet to an iron rod with a yellow plastic cap on the Northwesterly right of way of County Road No. 1591 (also known as Beaver Creek Road); thence Southwesterly along the Northwesterly right-of-way of County Road No. 1591 to the West line of said Dunkin tract; thence North along the West line of said Dunkin tract to the the true point of beginning.



August 9, 2023

Philip & Staci Dalton
29335 S Beaver creek Rd
Mulino, OR 97042

**Subject: Alleged Violations of the Zoning and Development Ordinance,
Title 12, Section 407 of the Clackamas County Code**

Site Address: 29335 S Beaver creek Rd Mulino, OR 97042
Legal Description: T4S, R3E, Section 31, Tax Lot 00608

It has come to the attention of Clackamas County Code Enforcement that a wedding venue may be operating from the above referenced property without land use approval.

This may constitute a violation of the Zoning and Development Ordinance, Title 12, Section 407 of the Clackamas County Code.

Please contact Shane Potter, Code Enforcement Specialist, within ten (10) days of the date of this letter in order to discuss this matter.

E-mail address is SPotter@clackamas.us

Telephone number is 503-742-4465

**Clackamas County encourages voluntary compliance with code violations to support a safe and healthy community for all. Please note that a \$75.00 monthly Administrative Compliance Fee will be assessed if a violation has been determined and has not been abated. When a property owner works cooperatively with the County to resolve a confirmed code violation, the County may waive all or part of that fee.*

Department of Transportation and Development

Nondiscrimination Policy:

The Department of Transportation and Development is committed to non-discrimination. For more information go to: www.clackamas.us/transportation/nondiscrimination, email JKauppi@clackamas.us or call (503) 742-4452.

¡LE DAMOS LA BIENVENIDA! Spanish

El Departamento de Transporte y Desarrollo está comprometido con la no discriminación. Para obtener más información, visite: www.clackamas.us/transportation/nondiscrimination, envíe un correo electrónico a JKauppi@clackamas.us o llame al 503-742-4452.

ДОБРО ПОЖАЛОВАТЬ! Russian

Департамент транспорта и развития инфраструктуры стремится к соблюдению политики недопущения дискриминации. Для получения дополнительной информации посетите веб-сайт: www.clackamas.us/transportation/nondiscrimination, отправьте письмо на адрес эл. почты JKauppi@clackamas.us или позвоните по телефону 503-742-4452.

欢迎! Chinese (Mandarin)

交通和发展部致力于实现非歧视。如需了解更多信息，请访问 www.clackamas.us/transportation/nondiscrimination，发送电子邮件至 JKauppi@clackamas.us 或致电 503-742-4452。

CHÀO MỪNG! Vietnamese

Bộ Vận Tải và Phát Triển cam kết thực thi chính sách không phân biệt đối xử. Để biết thêm thông tin, vui lòng truy cập trang mạng:

www.clackamas.us/transportation/nondiscrimination, gửi email đến JKauppi@clackamas.us hoặc gọi điện thoại theo số 503-742-4452.

환영합니다. Korean

운송개발부는 차별 금지를 위해 모든 노력을 기울이고 있습니다. 자세한 내용은 홈페이지 www.clackamas.us/transportation/nondiscrimination을 참조하거나 이메일 JKauppi@clackamas.us, 또는 전화 503-742-4452번으로 연락 주십시오.



DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

September 20, 2023

Violation No.:V0021423

Philip Jacob & Staci Dalton
29335 S Beaver Creek Rd.
Mulino, OR 97042

RE: CLACKAMAS COUNTY CODE SECTIONS ADDRESSED IN VIOLATION: No.:
V0021423

1. CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE TITLE 12 – SECTION 400 NATURAL RESOURCE DISTRICTS – SECTION 407 AG/FOREST DISTRICT (AG/F) – 12.407.04 USES PERMITTED

SITE ADDRESS: 29335 S Beaver Creek Rd., Mulino, OR 97042
LEGAL DESCRIPTION T4S, R3E, SECTION 31, TAX LOT 00608

Dear Philip & Staci Dalton,

I am sending this violation notice as a formality. I see that a Land Use file has been applied for. File Z0123-23 is an application to host events. However it currently shows an incomplete letter dated April 12, 2023. When an application is made to the Planning and Zoning Division we place our code enforcement file on hold until the review is completed. However when a violation exists there are requirements for time frames to complete certain tasks. I have placed this information in the text below. To abate these violations you must complete the following **NO LATER THAN: October 20, 2023**


Hosting Events without Land Use Approval

1. Clackamas County received complaints about events occurring on site. You currently have an incomplete application to host events with the Planning and Zoning Division (File Z0123-23). To abate the violations please address the options below. We encourage you to reach out to the Clackamas County Planning and Zoning Division at 503-742-4500 or by email at zoninginfo@clackamas.us to discuss your options or determine if other options are available that are not listed below.
 - a. If you are not currently holding events and/or advertising further enforcement will not occur until you resume activities or receive your Land Use approval, and
 - b. If you are still holding events and/or advertising you remain in violation and will need to provide a completed application to the Planning and Zoning Division by the deadline listed in this letter. Failure to do so may result in further enforcement action.

If you have questions concerning permit requirements, online submittal process, or land use process, please contact the department listed above at the phone number or email listed, or stop by the offices located at 150 Beaver Creek Rd., Oregon City, OR 97045, Monday through Thursday between the hours of 8:00 a.m. and 4:00 p.m. The offices are closed on Fridays

ITEMS INCLUDED IN THIS PACKET

- Violation Letter
- Required Notice of Fines and Penalties

A handwritten signature in black ink that reads "Shane Potter". The signature is written in a cursive style with a large, looping initial "S".

Shane Potter
Code Enforcement Specialist
Clackamas County Code Enforcement
Phone: 503-742-4465
spotter@clackamas.us

Important Notices

1. **Administrative Compliance Fees.** It is important that you contact the Code Enforcement Section to resolve the violations described in the enclosed letter. **An administration compliance fee of \$75 will now be assessed monthly until the violations are abated.**
2. **Failure to resolve those violations may result in one or more of the following:** (1) a citation and fine, and (2) referral of this matter to the County Code Enforcement Compliance Hearings Officer.
3. **Request for a Hearing:** If you dispute the existence of the violations described in the enclosed letter you may request a hearing before the Hearings Officer by sending a written request for a hearing, including your name and address to: Code Enforcement Section, 150 Beaver Creek Rd., Oregon City, OR 97045, or at codeenforcement@clackamas.us.
4. **Potential Fines and Penalties:** The Clackamas County Code provides for Citation fine amounts of up to \$500 and additional civil penalties imposed by the Hearings Officer of up to \$3,500 for each day the County verifies the noncompliance. Fine amounts and civil penalties may be assessed for each cited violation and may be assessed separately against each named party. In addition, the Hearings Officer may order the violation to be abated by the County at the expense of the property owner(s) and responsible parties.
5. **Voluntary Compliance:** Clackamas County encourages voluntary compliance with code violations to support a safe and healthy community for all. Please note that when a property owner works cooperatively with the County to resolve a confirmed code enforcement violation, the County may in its discretion waive all or part of the \$75 per month administrative fee.
6. **Non-Compliance may result in a lien upon your property:** Fines and costs are payable upon the effective date of the final order declaring the fine and costs. Fines and costs under this Chapter are a debt owing to the County, pursuant to ORS 30.460, and may be collected in the same manner as any other debt allowed by law. If fines or costs are not paid within 60 days after payment is ordered, the County may file and record the order for payment in the County Clerk Lien Record.
7. **Final Order may be enforced in Circuit Court:** Also, be advised that non-compliance with a Hearings Officer's Order may result in the matter being referred to County Counsel for legal action in Circuit Court which may result in additional penalties or other sanctions.
8. **Recurrences will result in additional Citations:** Finally, recurrences of abated violations may result in the issuance of a citation without prior notice.

From: [Peter Livingston](#)
To: [Potter, Shane](#)
Subject: RE: Property at 29335 S Beaver creek Rd, Mulino
Date: Wednesday, September 20, 2023 12:59:15 PM
Attachments: [image001.jpg](#)

Warning: External email. Be cautious opening attachments and links.

Thank you. You have my attention! I will follow up and let you know the status.

Peter

Peter Livingston
Contract Attorney
plivingston@dunncarney.com
Direct 503.417.5477

From: Potter, Shane <SPotter@clackamas.us>
Sent: Wednesday, September 20, 2023 12:48 PM
To: Peter Livingston <PLivingston@dunncarney.com>
Subject: RE: Property at 29335 S Beaver creek Rd, Mulino

Hi Peter,

I wanted to send a copy of the violation letter to you. As we discussed we will stay enforcement with a couple exceptions. One if they are not holding events or advertising right now or if they complete the application by the deadline listed in the letter since there is currently not a completed application submitted. Feel free to contact me with any questions you may have.

Sincerely,

Shane Potter
Code Enforcement Specialist
Code Enforcement
Department of Transportation and Development
150 Beaver creek Rd., Oregon City, OR 97045
Primary Phone: 503-742-4465
spotter@clackamas.us
www.clackamas.us
Hours: M-F from 7:30 am until 4:00 pm (Lobby closed to the public on Fridays)

From: [Lord, Melissa](#)
To: [Potter, Shane](#)
Subject: RE: Property at 29335 S Beaver creek Rd, Mulino
Date: Monday, October 23, 2023 3:19:49 PM
Attachments: [RE Sage Social.msg](#)
[image001.jpg](#)
[image002.jpg](#)

Hi Shane,

Peter retired recently, but I do have another contact at Dunn Carney who has taken over one of his other projects if you need it.

I got confirmation from the County Building Official (Cheryl) and from the State – these applicants will not be allowed to convert their ag building into a wedding venue. They have two options: tear-down and rebuild, or propose to build a new building for the events

I emailed the applicants this info too but haven't heard back. Their hearing was postponed until January 11th but they will have to modify their proposal to address the fact that they cant convert the existing building (as proposed).

So no, in short, they don't have land use approval to host weddings and they aren't going to be able to do it in the building that's there already.

Mel

Melissa Lord (she/her)

Planner II

Clackamas County Planning and Zoning Division
150 Beaver creek Road, Oregon City, OR 97045
MLord@Clackamas.us | 503-742-4504
Hours: M-F 7:30am to 5:00pm

The Planning and Zoning public service telephone line at 503-742-4500 and email account at zoninginfo@clackamas.us are staffed Monday through Thursday from 8:00 a.m. to 4:00 p.m., and the public service lobby is open Monday through Thursday from 8:00 a.m. to 4:00 p.m.

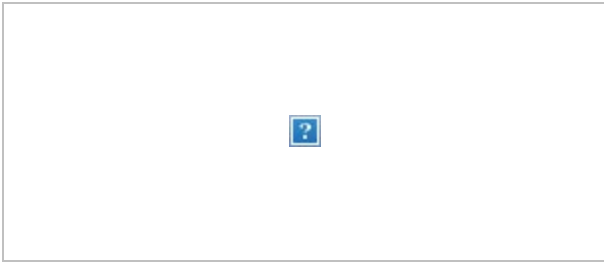
From: Potter, Shane
Sent: Monday, October 23, 2023 3:05 PM
To: Lord, Melissa <MLord@clackamas.us>
Subject: RE: Property at 29335 S Beaver creek Rd, Mulino

Hi Melissa,

I said below it was the owner it actually is the owners attorney. I just wanted to clarify that.

Sincerely,

Shane Potter
Code Enforcement Specialist
Code Enforcement
Department of Transportation and Development
150 Beaver Creek Rd., Oregon City, OR 97045
Primary Phone: 503-742-4465
spotter@clackamas.us
www.clackamas.us
Hours: M-F from 7:30 am until 4:00 pm (Lobby closed to the public on Fridays)



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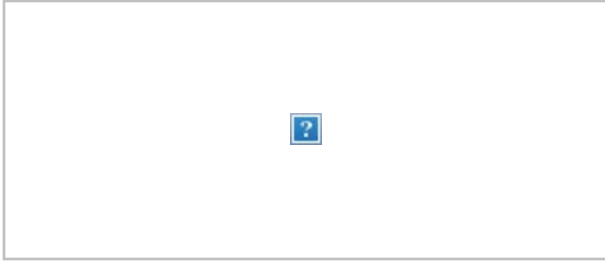
From: Potter, Shane
Sent: Monday, October 23, 2023 2:26 PM
To: Lord, Melissa <MLord@clackamas.us>
Subject: FW: Property at 29335 S Beaver Creek Rd, Mulino

Hi Melissa,

Below in the email chain with myself and owner of the property he mentions that you were working on getting some alterations from the state to help them with the application. After review of my file it shows they have continued to hold wedding events and I have not heard anything from them about completing the application so I wanted to check with you on the status of this application before I issue citations. Sorry in short can you provide me an update on this case?

Sincerely,

Shane Potter
Code Enforcement Specialist
Code Enforcement
Department of Transportation and Development
150 Beaver Creek Rd., Oregon City, OR 97045
Primary Phone: 503-742-4465
spotter@clackamas.us
www.clackamas.us
Hours: M-F from 7:30 am until 4:00 pm (Lobby closed to the public on Fridays)



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From: Potter, Shane
Sent: Wednesday, September 20, 2023 2:56 PM
To: 'Peter Livingston' <PLivingston@dunncarney.com>
Subject: RE: Property at 29335 S Beaver creek Rd, Mulino

Hi Peter,

Thanks for that update.

Sincerely,

Shane Potter
Code Enforcement Specialist
Code Enforcement
Department of Transportation and Development
150 Beaver creek Rd., Oregon City, OR 97045
Primary Phone: 503-742-4465
spotter@clackamas.us
www.clackamas.us
Hours: M-F from 7:30 am until 4:00 pm (Lobby closed to the public on Fridays)



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From: Peter Livingston <PLivingston@dunncarney.com>
Sent: Wednesday, September 20, 2023 2:54 PM
To: Potter, Shane <SPotter@clackamas.us>
Cc: Damien R. Hall <DHall@dunncarney.com>
Subject: RE: Property at 29335 S Beaver creek Rd, Mulino

Warning: External email. Be cautious opening attachments and links.

Shane –

I understand that planner Melissa Lord is going to step up her efforts to get permission from the State Building Codes Division for alterations to the barn that will allow it to be used in support of the home occupation/events use. She expects to update me later this week or early next week. I'll keep you informed.

Peter



K&B



KRISTY & BRIAN

MULINO, OR

RSVP

KRISTY AND BRIAN'S WEDDING

4:00 PM-10:00 PM

EXHIBIT F PAGE 1 OF 4



REGISTRY



EMILY & DAN

OCTOBER 28, 2023 • MULINO, OR
5 DAYS TO GO!

Gift Providers



Shop Registry

Our Wish List

Filter/Sort



A&D

ANDREA & DENNIS

OCTOBER 8, 2023 • MULINO, OR

OCTOBER 8,
2023

MULINO
OR

RSVP

WEDDING DAY

OCTOBER 8, 2023

4:00 PM - 10:00 PM

Sage and Social

29335 S. Beaver Creek Rd., Mulino, OR, 97042

Attire: Dressy Casual



N&D



NICOLE & DAMIAN

OCTOBER 7, 2023 • MULINO, OR

OCTOBER
7, 2023

MULINO
OR

EXHIBIT F PAGE 4 OF 4



Citation No.: 2300214 - 1

Case No.: V0021423

ADMINISTRATIVE CITATION

Date Issued: October 30, 2023

Name and Address of Person(s) Cited:

Name: Philip Jacob & Staci Dalton
Mailing Address: 29335 S Beaver creek Rd.
City, State, Zip: Mulino, OR 97042

Date Violation(s) Confirmed: October 23, 2023, the person(s) cited committed or allowed to be committed, the violation(s) of law described below, at the following address:

Address of Violation(s): 29335 S Beaver creek Rd., Mulino, OR 97042

Legal Description: T4S, R3E SECTION 31, Tax Lot 00608

Law(s) Violated

Title 12 and 13 of CCC Zoning and Development Ordinance, Section 12.407.04

Description of the violation(s):

- 1) Hosting events, most specifically weddings, without Land Use Approval

Maximum Civil Penalty \$2,500.00

Fine \$400.00

You may avoid paying the civil penalty by abating the violation(s) and paying a total fine of \$400.00. If you have questions regarding how to abate the violation(s) contact Clackamas County Code Enforcement at the number listed below. Please be advised a \$75.00 monthly administrative fee is being assessed.

I hereby certify under penalties provided by ORS 153.990 that I have reasonable grounds to and do believe that the above person(s) committed or allowed to be committed the violation(s) described on this form.

Citation Issued by: Shane Potter
Telephone No.: 503-742-4465

Date: October 30, 2023
Department Initiating Enforcement Action: Code Enforcement

PLEASE READ CAREFULLY!

You have been cited for the violation(s) of law stated on the front of this form. You MUST exercise ONE of the following options within fifteen calendar days of the date of this citation.

If you fail to exercise one of these options within fifteen calendar days of the citation date, the County may request a hearing before the Code Enforcement Hearings Officer following which you may be ordered to pay the maximum civil penalty and abate the violation.

Options:

1. Abate the violation and pay the fine. Sign the statement of Understanding below and deliver or mail this form, together with a check or money order payable to Clackamas County in the amount of the fine to:
Clackamas County Code Enforcement Section
150 Beaver Creek Rd.
Oregon City, OR 97045
2. Request a hearing in writing. You may request a hearing to contest the violation(s) alleged. A written request for a hearing must be mailed to Clackamas County at the address listed above or sent to codeenforcement@clackamas.us.

A request for hearing must contain all of the following information:

- a. Your name and address;
- b. A copy of the citation or the Citation No. and Case No.; and,
- c. The description of the relief you are requesting.

At the hearing, an administrative fee may be assessed by the Hearings Officer in addition to civil penalty(ies) if the Hearings Officer concludes you are responsible for the violation. If a civil penalty is imposed the amount will likely exceed the fine amount on this citation.

STATEMENT OF UNDERSTANDING

I, the undersigned, do hereby acknowledge that I understand the following:

1. By paying the fine I admit the existence of the violation(s) alleged on this citation and my responsibility for it.
2. Paying the fine does not relieve me of my responsibility to correct the violation and to comply with all applicable laws.
3. Additional citations may be issued to me if I fail to correct the violation or violate other applicable laws.

Signature: _____ Date: _____

Address: _____

City, State, Zip

Contact Number: _____ Email: _____

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

Regarding an application by Devyn Petersen and Staci Dalton) **FINAL ORDER**
for approval of a conditional use permit to operate a home)
occupation to host weddings and events on a 19.6-acre parcel) **Case No. Z0123-23-C**
at 29335 S. Beaver Creek Road in Clackamas County, Oregon) **(Sage and Social)**

I. SUMMARY

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

a. The applicants propose to operate the facility on a 19.6-acre parcel located at 29335 S. Beaver Creek Road; also known as tax lot 608, Section 27, Township 4 South, Range 3 East, of the Willamette Meridian, in Clackamas County (the “site”). The site and most abutting properties are zoned AG/F (Agriculture/Forest). The property abutting the northwest corner of the site is zoned TBR (Timber). S. Beaver Creek Road abuts the south boundary of the site. A private driveway provides access to the residence on site. The site is currently developed with a single-family residence and a 3,000 square foot ag-exempt barn with a covered patio on the west side (the “barn”). The barn and residence are located in the northern portion of the site. The remainder of the site is currently used for agriculture: nine-acres of Christmas trees¹ on the east side of the site and a one-acre flower farm south of the event venue.

b. The applicants propose to conduct up to 36 events per year with a maximum 150 guests per event, with an average of 100 guests per event. The applicants initially proposed to conduct events in the existing barn and a proposed 1,400 square foot building with two bathrooms with showers, a kitchen, and bride and groom changing rooms (the “dressing building”). The applicants proposed to locate the dressing building north of the barn with a 40- x 60-foot concrete surfaced outdoor gathering area in between. The applicants also propose an outdoor ceremony area southwest of the barn, two storage containers, a temporary food truck parking space, a 70 space parking lot, and roughly three-acres of landscaping. The applicants propose to plant a hedge between the outdoor ceremony area and the storage containers and parking lot. Additional overflow parking is proposed in an 80- x 40-foot gravel surfaced area north of the house and east of the dressing building. Applicants propose to conduct event management and business operations in the existing residence.

c. County staff initially recommended the hearings officer approve the original application subject to conditions. See the Staff Report to the Hearings Officer dated July 6, 2023 (Exhibit 1, the “Staff Report”). Staff subsequently changed their recommendation to denial, arguing that since the existing barn on the site was approved as an agricultural building that is exempt from building code compliance, ORS 215.760(2) prohibits the

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

conversion of an agricultural building to another use. See the Addendum to the Staff Report to the Hearings Officer dated December 6, 2023 (Exhibit 12, the “Addendum”).

d. The applicants modified the application in response to the Addendum, proposing to construct a new 2,400 square foot accessory structure similar to the existing barn, located north of the proposed parking lot and southwest of the existing barn (the “reception building”). In addition, the applicants proposed to hold events in an 800 square foot temporary tent while the new barn is under construction. (Exhibit 34). Staff recommended the hearings officer approve the revised application subject to conditions. See the County’s “Response To New Evidence Following The Open-Record Period.” (Exhibit 47).

2. Clackamas County Hearings Officer Joe Turner (the "hearings officer") held two public hearings about this application. The applicants and their attorney testified in support of the application. Three persons testified orally in support of the application. Three other persons testified orally in in opposition to the application. Other persons testified in writing, in opposition and in support of the proposal. The principal contested issues in the case include the following:

a. Whether the proposed use is listed as a conditional use in the EFU zone, ZDO 1203.03(A);

b. Whether the characteristics of the site are suitable for the proposed use, ZDO 1203.03(B), including:

i. Whether ORS 215.760(2) precludes the applicants from using the existing barn on the site events; and

ii. Whether a water right is needed to support the proposed use;

c. Whether the transportation system is safe and adequate to serve the proposed development (ZDO 1203.01(C) and 1007);

d. Whether operation of the proposed use will “[a]lter the character of the surrounding area in a manner that substantially limits, impairs or precludes the use of surrounding properties for the primary uses allowed in the underlying zoning district,” ZDO 1203.01(D), specifically due to the following impacts:

i. Noise;

ii. Increased traffic and speeding on S. Beaver Creek Road; and

iii. Hazards for pedestrians and cyclists on S. Beaver Creek Road;

iv. Increasing the potential for drunk drivers on area road; and

v. On-site lighting;

e. Whether the proposed use complies with applicable requirements of ZDO 1000. ZDO 806.02(F);

f. Whether the applicants will operate the home occupation “[s]ubstantially in the operator’s dwelling or other buildings normally associated with uses permitted in the buildings normally associated with uses permitted in the [AG/F] zoning district.” ZDO 806.02(C);

g. Whether the applicants will operate the facility in compliance with the noise level limits of ZDO 806.02(J).

3. The hearings officer concludes that the applicants sustained the burden of proof that the proposed use does or can comply with the relevant approval standards of the Clackamas County Zoning and Development Ordinance (the “ZDO”), provided the applicants comply with conditions of approval recommended by County staff or warranted by the facts and law to ensure the proposed use complies in fact with those standards. Therefore the hearings officer approves the application subject to the conditions at the end of this final order, based on the findings and conclusions in this final order.

II. HEARING AND RECORD HIGHLIGHTS

1. The Hearings Officer received testimony at a public hearing about this application on December 14, 2023.² All exhibits and records of testimony are filed at Clackamas County Department of Transportation and Development. At the beginning of the hearing, the Hearings Officer made the declaration required by ORS 197.763. The Hearings Officer disclaimed any *ex parte* contacts, bias or conflicts of interest. The following is a summary by the hearings officer of selected testimony at the public hearing.

2. County planner Melissa Lord summarized the Staff Report, the Addendum (Exhibit 12), and her PowerPoint presentation (Exhibit 35).

a. She noted that the applicants initially proposes to operate an event facility on the site utilizing the existing 3,000 square foot barn and a proposed 1,400 square foot accessory structure with a kitchen, changing rooms, and four restrooms (two with showers). However, the County concluded that because the existing barn was approved as an ag-exempt structure the applicants cannot change the barn to a non-agricultural use. Therefore, the applicants modified the proposal, proposing to construct and utilize a new 2, 400 square foot accessory building (the “reception building”) located southwest of the existing barn and the previously proposed 1,400 square foot accessory structure north of

² The application was originally scheduled for a hearing on July 13, 2023. No one testified at the initial hearing, other than the applicants requesting a continuance. The hearings officer orally continued the hearing to January 11, 2024. The County subsequently rescheduled the continued hearing to December 14, 2023.

the barn. The applicants proposed to provide 75 off-street parking spaces in a gravel surfaced parking lot south of the existing barn. Roughly nine acres of the site was planted in Christmas trees and one acre is planted with flowers. The applicants proposed to hold events inside an 800 square foot temporary tent on the site while the reception building is being constructed.

b. S. Beaver Creek Road abuts the south boundary of the site. Under existing conditions this road carries roughly 2,315 Average Daily Trips (“ADT”). Although the use will generate higher traffic volumes on event days, the annual traffic generated by the proposed use is equivalent to that generated by one to two new single family dwellings. There is no posted speed limit on this section of S. Beaver Creek Road. Therefore, this road is subject to the “basic rule” speed limit of 55 mph. There is a horizontal curve on S. Beaver Creek Road southwest of the site driveway with a posted 40 mph advisory speed. County transportation engineering staff determined that the applicants must provide a minimum 555 feet of intersection sight distance to the southwest of the intersection of the site driveway and S. Beaver Creek Road and 610 feet to the northeast of the intersection.

c. The applicants constructed the existing barn on the site as an agricultural building that is exempt from building permits. Therefore, this structure is subject to ORS 215.760(2), which prohibits conversion of the structure to another non-agricultural or forestry use. The applicants cannot use the existing barn to host events on the site, as that would change the use of the structure.

d. She requested the hearings officer modify proposed Condition 9 to allow a maximum seven events per week between April and October, five events per week between November and March, and a 52 events per year, as proposed in the application.

e. She argued that it is not unusual for the County approve multiple restrooms and showers in accessory structures.

3. County planning manager Lindsey Nesbitt testified that County legal counsel concluded that ORS 215.760(2) prohibits changing the use of an agricultural building that was constructed pursuant to ORS 215.760(1); once it is constructed as an agricultural building, it must remain an agricultural building.

4. Attorney Damien Hall and applicants Devyn Petersen and Staci Dalton appeared in support of the application.

a. Mr. Hall summarized his written testimony (Exhibit 34) and PowerPoint presentation (Exhibit 36).

i. He agreed with the majority of the findings and conditions in the Staff Report. However, he disagreed with the Addendum finding that ORS 215.760(2) prohibits use of the existing barn on the site for events.

(A) ORS 215.760 is not an approval criterion for this application and there is no precedent for denial of the application on this basis.

(B) The building will remain available for use as an agricultural building when events are not occurring on the site, which is the vast majority of the time. The majority of the acreage on the site is used for agriculture. The site was previously used to raise Christmas trees. The applicants intend to grow pumpkins on the site in 2024.

(C) Requiring the applicants to demolish the existing building and rebuild it on the site would result in an absurd outcome.

ii. In the event the hearings officer agrees with staff, the applicants are proposing to construct a new accessory building, the reception building, southwest of the existing barn, as an alternative design. The applicants also propose to conduct events in an 800 square foot temporary tent while the reception building is being constructed.

iii. He agreed with Ms. Lord that restrooms and showers are commonly allowed in accessory buildings in the County's AG/F zone.

iv. If necessary, the applicants can modify the lighting on the site to comply with ZDO 806.02.I and 1005.04(A). The nearest offsite residence is located 800 feet west of the barn and there is a dense grove of trees between the site and that residence. The photographs in Exhibit 11 were taken from a point south of the residence on the adjacent property, where there is a break in the tree buffer.

v. The applicants can comply with the noise limitations of ZDO 806.02.J. The DJ and dance floor will be located within the enclosed building, either the barn or reception building, and the speakers will be aimed inside the building, away from the doors.

vi. He requested the hearings officer adopt the following changes to recommended conditions of approval in the Staff Report:

(A) Condition 13 should be deleted, as it merely repeats condition 4.

(B) Condition 9 should be modified to allow up to 52 events per year. The applicants will accept limiting the use to a maximum five events per week year-round.

(C) Add a condition allowing use of a temporary tent while the reception building is being constructed.

vii. State law supports agri-tourism activities, including this type of event facility, on rural lands, as such uses provide additional income for farmers.

b. Ms. Dalton testified that they currently utilize portable restrooms on the site as an interim measure until the permanent restrooms in the proposed dressing building are completed.

c. Ms. Petersen testified that they utilize three portable restrooms - one ADA accessible unit and two standard units – which are located in the northeast corner of the parking lot, directly south of the barn.

i. The concrete surfaced outdoor gathering area located between the barn and the proposed dressing building can be used for ceremonies, dancing, gathering, or “whatever the client wants.”

ii. The storage containers on the north edge of the parking lot are intended to separate the parking area from the event space and provide some visual and noise screening. They also plan to plant a hedge north of the containers to further screen and buffer the event space.

iii. They inform DJs and wedding planners about the noise restrictions of the Code prior to events. They require that announcement of the “last dance” by 9:50 p.m. and turn off the music by 10:00 p.m.

5. Christina Menchinie testified that she lives south of the site, on the other side of S. Beaver creek Road, where she runs Campfire Farms. She testified that it can be difficult to make a living from farming and she is interested in agri-tourism. She has never heard music or other noise when events are occurring on the site.

6. Julie Ann Harrison testified that she lives east of the site. The site was part of her property until four or five years ago. She agreed with Ms. Menchinie that the applicants’ facility enriches the local area. She has not observed any issues with traffic from events on the site and noise and lighting on the site has not interfered with her use of her property.

7. Malia Kupillas testified that she and her husband pasture their horses on the property west of the site during the summer. She took the photos of events on the site included in Exhibit 11. She use a noise meter to measure sound levels at various locations around the site. The photo of the sound meter (photo 7 of Exhibit 11) shows sound levels measured at S. Beaver creek Road abutting the site when there was no traffic on the roadway. They live 1,120 feet west of the site and can still hear noise from events on the site inside their home when the windows are open. Noise from the events tends to increase as the parties progress.

8. Lonnie Hester testified that music from the site is clearly audible from his residence on Valley Vista Road, southwest of the site. There are sharp curves on the section of S. Beaver creek Road southwest of the site, near Valley Vista Road. He has seen 37 accidents on that section of road in the 12 years he has lived in the area.

Additional traffic from events on the site will increase the risk of accidents on this section of road.

9. Greg Kupillas noted that the applicants have been holding events on the site without required permits throughout the summer of 2023. They can hear music from the site inside their residence when the windows are open and the noise interferes with their quiet enjoyment of their property. Given the applicants' history of operating illegally, there is no guarantee that they will comply with any conditions of approval imposed by the County.

10. Mike Early testified that his residence is located 1/8th of a mile from the site and he can only hear noise from events on the site when the wind is blowing from the west. Event traffic has not created any issues on Beaver Creek Road.

11. At the end of the public hearing, the hearings officer held the record open for four weeks to allow all parties an opportunity to submit additional testimony and evidence, subject to the following schedule:

a. For two weeks, until 4:00 p.m. on December 28, 2023, for all parties to submit additional testimony and evidence;

b. For a third week, until 4:00 p.m. on January 4, 2024, for all parties to respond to the whatever was submitted during the first weeks; and

c. For a fourth week, until 4:00 p.m. on January 11, 2024, for the applicants to submit a final argument.

12. Exhibits 38 through 48 were submitted during the open record period.

13. By order dated January 18, 2024, (Exhibit 49) the hearings officer reopened the record for the limited purpose of accepting additional testimony and evidence addressing whether the “[s]afety of the transportation system is adequate to serve the proposed use” (ZDO 1203.03(C)) is met, considering the historic crash rate on the section of S. Beaver Creek Road between mileposts 1.1 and 1.5, near the intersection of Beaver Creek Road and Valley Vista Road. Exhibits 50 through 56 were submitted during the reopened record period.

III. RECORD ISSUES

1. As stated in the Order Re-Opening the Record (Exhibit 49) the hearings officer reopened the record solely to address the crash rate on the section of S. Beaver Creek Road between mileposts 1.1 and 1.5, near the intersection of Beaver Creek Road and Valley Vista Road. Evidence regarding sight distance included in Exhibits 52 and 54 exceeds the limited scope of the open record period and those portions of these exhibits must be excluded from the record in this case.

2. In addition, the first open record period was for the submittal of new testimony and evidence. The second open record period was limited to responses to evidence submitted during the first period. The applicants submitted expert testimony and evidence from their traffic engineers (Exhibit 55) during the second open record period. That evidence should have been submitted during the first open record period to allow other parties to review and respond to it during the second open record period. Exhibit 55 was not in response to anything submitted during the first open record period. Therefore, Exhibit 55 must be excluded from the record in this case as it also exceeds the limited scope of the open record period.

IV. DISCUSSION

1. ZDO Section 1203.02 CONDITIONAL USES

1203.02: SUBMITTAL REQUIREMENTS

Finding: This application includes a completed land use application form, site plan, application fee, and completed supplemental application addressing the criteria in ZDO Section 1203. The application also includes a description of the proposed use and vicinity map. All the submittal requirements under Subsection 1203.02 are included in the application. The application was submitted on March 28, 2023 and additional materials received were on April 20 and May 10, 2023. Following submission of additional requested information, the application was deemed complete on May 16, 2023.

The submittal requirements of Subsection 1203.02 are met.

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

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

Finding: The site is located in the AG/Forest (AG/F) district. ZDO Section 407, Table 407-1 of the ZDO controls land uses in the underlying AG/F district. “*Home occupation to host events, subject to Section 806*”, is listed as a conditional use. This criterion is met.

Some neighbors argued that this type of event facility should not be allowed in the AG/F zone. However, section 407 expressly allows such this type of use in the AG/F zone, provided the use complies with all of applicable approval criteria. State law expressly authorizes the county to allow such uses in the AG/F zone. *See* ORS 215.448. The decision to allow this type of use in the AG/F zone was a policy choice by the Board of County Commissioners, which the hearings officer has no authority to review or reconsider in this proceeding.

OAR 350-081-0108, cited in Exhibit 41, is inapplicable to this application. OAR 350-081 only applies to land uses in the Columbia River Gorge Scenic Area.

This criterion is met.

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

Finding: The site is approximately 19.6 acres in size and is gently sloped. At the southern tip of the property, near the intersection of S. Beaver Creek Road and S. Valley Vista Road, there are a number of large trees lining the street. There are additional smaller trees along the remainder of the south boundary, abutting S. Beaver Creek Road. The event facility is located more than 500 feet away from S. Beaver Creek Road. The trees function as a visual barrier which, combined with distance, prevents visible evidence of the home occupation from the street.

The nearest dwellings, on the properties immediately to the east and west of the site, are approximately 800 feet away from the proposed event area. To the north of the site is over 500 acres of land owned by a lumber company and harvested for timber. The large size of the property provides separation between the proposed use and the improvements on surrounding properties. Combined with size, the shape of the property does not present any significant limitation to the proposed use of the site. There are no mapped protected natural features on the property.

There is an existing barn on the site, which the applicants propose to utilize for the home occupation event facility. The barn was constructed without building permits as an exempt “agricultural building” as defined by ORS 455.315(2)(a)(A).³ There is a dispute as to whether the applicants can use of the existing barn for the proposed event facility.

³ ORS 455.315(2)(a)(A) provides:

As used in this section:

- (a)(A) “Agricultural building” means a structure located on a farm or forest operation and used for:
- (i) Storage, maintenance or repair of farm or forestry machinery and equipment;
 - (ii) The raising, harvesting and selling of crops or forest products;
 - (iii) The feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees;
 - (iv) Dairying and the sale of dairy products; or
 - (v) Any other agricultural, forestry or horticultural use or animal husbandry, or any combination thereof, including the preparation and storage of the produce raised on the farm for human use and animal use, the preparation and storage of forest products and the disposal, by marketing or otherwise, of farm produce or forest products.
- (B) “Agricultural building” does not mean:
- (i) A dwelling;
 - (ii) A structure used for a purpose other than growing plants in which 10 or more persons are present at any one time;
 - (iii) A structure regulated by the State Fire Marshal pursuant to ORS chapter 476;
 - (iv) A structure used by the public; or
 - (v) A structure subject to sections 4001 to 4127, title 42, United States Code (the National Flood Insurance Act of 1968) as amended, and regulations promulgated thereunder.

The County argues that the applicants cannot utilize the barn for events because it was approved as an exempt agricultural building in the AG/F zone pursuant to ORS 215.760(1). Therefore, the building is subject to ORS 215.760(2), which prohibits conversion of agricultural buildings authorized by ORS 215.760(1) to another use. (See Exhibits 12, 39, and 40).

The applicants argue that ORS 215.760(2) is not an applicable approval criterion, because they intend to upgrade the building to comply with the structural code for event use. Therefore, the building will no longer be “approved pursuant to this section” [ORS 215.760(2)]. The applicants further argue that the County’s interpretation of the statute will yield an absurd result, as the applicants could tear down the existing barn, rebuild it in the exact same location and configuration as a non-agricultural accessory building outside the scope of ORS 215.760(1), and then use the building as part of their proposed event facility. (Exhibits 34, 36, and 48).

In reviewing a statute the hearings officer must interpret the language of the statute to give effect to the intent of the legislature, using the step-by-step methodology established by the Oregon Supreme Court in *PGE v. Bureau of Labor and Industries*, 317 Or. 606, 859 P.2d 1143 (1993). The hearings officer must begin by reviewing the text of the statute itself and the context of the statute and related statutes without inserting what has been omitted or omitting what has been inserted. *Id.* at 610-611, 859 P.2d 1146. “If the legislature’s intent is clear from the above-described inquiry into text and context, further inquiry is unnecessary.” Consideration of legislative history is permitted “If, but only if, the intent of the legislature is not clear from the text and context inquiry... *Id.* at 611, 859 P.2d 1146. The hearings officer may only resort to general maxims of statutory construction if the intent of the legislature remains unclear after consideration of text, context, and legislative history of the statute. *Id.* at 612, 859 P.2d 1146.

In this case the hearings officer finds that the text and context of the ORS 215.760(2) is ambiguous, as there is clear disagreement as to the meaning of the phrase “[a]gricultural building authorized by ORS 215.760(1)...” The County cites to legislative history, noting that “[t]he prohibition on conversion in ORS 215.760(2) was cited specifically to allay legislators’ concerns that the agricultural buildings allowed under ORS 215.760(1) would eventually become ‘condos.’” (p 3 of Exhibit 39). However, the hearings officer finds that the legislative history does not resolve the ambiguity. ORS 215.760(2) clearly prohibits conversion of “[a]n agricultural building authorized by this section to another use”, including “condos.” But it does not define what is meant by “[a]n agricultural building authorized by this section...” Therefore, the hearings officer may resort to general maxims of statutory construction because the statute remains ambiguous after review of the text, context, and legislative history of ORS 215.760. Such maxims include the “absurd result” maxim, “In construing a statute, courts must refuse to give literal application to language when to do so would produce an absurd or unreasonable result.” *McKean-Coffman v. Employment Div.*, 824 P.2d 410, 312 Or. 543 (Or. 1992).

The hearings officer would agree with the County's interpretation that ORS 215.760(2) clearly prohibits any non-agriculture or timber use of the existing barn if ORS 215.760(1) were the only way to legally construct the existing barn on the site. That would presumably be the case if the site did not contain and was not eligible for a residence pursuant to ZDO 407.04(C), i.e., if the predominant use of the site was forestry on January 1, 1993, and the site did not qualify for a dwelling pursuant to ZDO 406.05(D) or if the predominant use of the site was agriculture on January 1, 1993, and the site did not qualify for a dwelling pursuant to ZDO 401.05(C). In that case the applicants could only construct the existing barn as "[a]n agricultural building authorized by this section..." ORS 215.760(2).

However, that is not the case here. The site contains an existing residence and the applicants could have constructed the existing barn as an accessory structure subject to building permit approval. Such a building would not be "authorized by" ORS 215.760(1). If the existing barn had been constructed prior to the effective date of ORS 215.760 the applicants could convert the existing barn to a non-agricultural accessory structure by obtaining an after the fact building permit for the structure. See *Kaplowitz v. Lane County*, 74 Or LUBA 386 (2016), aff'd, 2854 Or App 764, 398 P3d 478 (2017). To construe ORS 215.760 to prohibit changing the use of the existing barn solely because it was constructed without a building permit after the effective date of ORS 215.760 is an absurd result as it would force the applicants to cease all non-agricultural use of the existing barn and construct a new building on the site. If the applicants obtain an after the fact building permit for the existing barn it will no longer constitute "[a]n agricultural building authorized by [ORS 215.760(1)]..." and ORS 215.760(2) would not apply to prohibit converting the building to another use.

The County argues that ORS 215.760 "[i]s tied only to the definition of "agricultural building" in ORS 455.315⁴ and not to whether an agricultural building is approved under an exemption from the Oregon Structural Specialty Code or under a building permit." (p. 1 of Exhibit 39). However, they failed to provide any support for this argument.

Based on the plain language of the statute, ORS 215.760(2) does not apply to all agricultural buildings as defined by ORS 455.315. It only applies to "[a]gricultural building *authorized by this section...*" The hearings officer must construe the statute to give meaning to the text of the statute, without inserting or omitting words. *PGE* at 610-611, 859 P.2d 1146. ORS 455.315(2)(a)(A) defines "agricultural building" based on the use of the building not how the building was "authorized." Therefore, under the County's interpretation, any accessory building located on land zoned for forest use or mixed farm and forest use that is used for agricultural purposes would be subject to ORS 215.760(2), regardless of whether the building were constructed pursuant to a building permit or as an exempt structure.

The County's interpretation is also inconsistent with the plain language of ORS 455.315(1), which exempts agricultural buildings from "[t]he application of a state structural specialty code..." If the applicants obtain an after the fact building permit for

⁴ Mistakenly cited as ORS 415.355 in Exhibit 39.

the existing barn it would be subject to the state structural specialty code and therefore, would no longer constitute an agricultural building.

The only interpretation that gives meaning to all the full text of ORS 215.760 is to limit ORS 215.760(2) to buildings constructed without a building permit and to allow such buildings to be converted to a non-agricultural use by obtaining an after the fact building permit, as such buildings would no longer constitute “[a]n agricultural building authorized by [ORS 215.760(1)]...” Therefore, the hearings officer finds that the applicants can use the existing barn on the site for the proposed event facility, provided they obtain an after the fact building permit for the structure and any additional approvals necessary to allow weddings and other events and public gatherings inside the building. A condition of approval is warranted to that effect.

In addition, the site is large enough to accommodate the applicants’ alternative proposal to construct a new 2,400 square foot reception building north of the proposed parking lot and southwest of the existing barn.

The fact that the site does not appear to include a water right is irrelevant. Neighbors argued that the applicants’ irrigated landscaping exceeds the scope of the water right exemption provided by ORS 537.545. Assuming that is accurate, the applicants can reduce the area of irrigated landscaping to comply with state law. Reducing the amount of landscaping on the site would not preclude the proposed use. Assertions that the applicants require a water right for their future pumpkin crop is also irrelevant, as raising pumpkins is not proposed as part of the event facility use. Regardless, this is an enforcement issue for the Oregon Water Resources Department. The hearings officer has no jurisdiction to interpret and apply ORS 537.545 in this proceeding.

This criterion is met.

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

Finding: As discussed below, this application for a home occupation to host events is exempt from the concurrency requirements of ZDO 1007.07.

The hearings officer that the safety of the transportation system is adequate to serve the proposed use, based on the expert testimony of County transportation staff. (Exhibits 6 and 53). Neighbor’s concerns are not sufficient to overcome the expert testimony of County transportation staff.

Several crashes have been reported on the curved sections of S. Beaver Creek Road southwest of the site. (Exhibit 46). This development will increase the volume of traffic on that section of road, which will increase the risk of accidents. However, increased traffic alone does not make the road “unsafe;” any increase in traffic volume will increase the risk of accidents and roads with higher traffic volumes will generate more accidents within a given period of time. The issue is whether the crash rate, the number of crashes compared to the total traffic volume, is higher than would otherwise be expected for this road segment and if so, whether that is due to the design or physical condition of the

roadway or other engineering issues. The hearings officer acknowledges that the crash history may not reflect all of the crashes on this road segment. Some crashes are not reported. However the determination of whether further analysis is needed is based on reported crashes. There is no substantial evidence that this location experiences an unusually high number of unreported crashes. The hearings officer finds that the reported crash history is the best evidence available regarding the crash history for this area.

In this case, as transportation staff noted, the majority of crashes reported on this road segment were lane departure crashes where excessive speed is often a contributing factor. Neighbors noted that “[c]ar clubs and motorcycle groups... like to drive these curves fast...” Drivers speeding through these curves is an existing issue that the applicants cannot be required to remedy. However, there is no evidence that this use will generate a disproportionate share of speeding traffic. Guests of the facility are driving on this road segment to attend and event at the site, not for the pleasure of driving through this curving road segment.

In addition, the County plans to review this and other road segments in the County during the summer of 2024 and, if necessary, install additional signage, markings, and other safety measures to further reduce the crash rate on this road segment. (Exhibit 53). Opponents questioned the effectiveness of such additional measures, but they failed to provide any evidence to contradict the expert testimony of County transportation staff. In addition, based on staff’s testimony, such measures are not necessary to ensure that the transportation system can safely accommodate the additional traffic from this use. The County intends to analyze and possibly improve this road segment whether or not this use is approved. (Exhibit 53).

This use will increase the volume of traffic on roads in the area, primarily S. Beaver Creek Road. However, based on the expert testimony of County transportation staff, that additional traffic will not exceed the capacity of area roads or create, or exacerbate existing, hazards. The total increase in traffic volume generated by this use represents a small proportion of the existing traffic volumes on this road. As staff noted, total traffic from this use generate roughly the same traffic volume as one to two single family homes. (Exhibit 6). Event traffic will be concentrated into limited time periods, before and after events. But there is no evidence that such higher concentrations of traffic during these times will create a hazard. To the contrary, temporary higher traffic volumes may create congestion that will force all drivers to slow down.

Any increase in traffic will pose an increased risk for drivers, cyclists and pedestrians in the area. Higher vehicular traffic volume creates a marginally higher risk for pedestrians and bicyclists. It may well warrant a heightened degree of attentiveness to traffic when driving, cycling or walking in the neighborhood. But it will not substantially limit, impair or preclude the use of surrounding properties for permitted uses. Reasonably prudent drivers will observe the posted speed limit and further reduce their speed to accommodate road conditions such as narrow pavement, curves, or the presence of farm equipment, pedestrians and animals. Unfortunately, not all drivers are prudent. However, there is no evidence that the development proposed in this application will contribute a disproportionate share of imprudent drivers.

The applicants can regulate alcohol use on the site. Some attendees may bring their own alcohol or otherwise consume excessive amounts, which could create a hazard, especially if those attendees attempt to drive home. However, the applicants will have a strong interest in monitoring and enforcing limits on alcohol consumption and stopping intoxicated patrons from driving, in order to avoid legal liability. There is no evidence that this use will generate a significantly higher risk of drunk drivers than any other business that serves alcohol.

The applicant's analysis demonstrates that adequate sight distance can be provided at the site entrance onto S. Beaver Creek Road. The applicants should be required to demonstrate that adequate sight distance is actually provided prior to final approval of this application. A condition of approval is warranted to that effect. Opponents noted sight distance limitations at existing road and driveway intersections on S. Beaver Creek Road. However, based on the crash history data for this road (Exhibit 53), those intersections do not pose an unusual traffic hazard.

This criterion is met.

D. The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs or precludes the use of surrounding properties for the primary uses allowed in the zoning district(s) in which surrounding properties are located.

Finding: The site is in the Ag/Forest (AG/F) districts and is surrounded by other properties in AG/F and Timber (TBR) zoning districts. Primary uses of the AG/F district are listed in ZDO Section 407, and primary uses of the TBR district are in ZDO Section 406.

Pursuant to Subsection 806.02(E), the evaluation of compliance with Subsection 1203.03(D) shall include consideration of impacts on dwellings even though dwellings are not primary uses in these zoning districts.

Lands in the surrounding area are in farm and forest use along with rural residential home-sites. Properties in the surrounding area are primarily developed with a dwelling and accessory buildings and are sited on large acreage (approximately five to 20+ acres).

This criterion does not require that the use have no impacts at all. Any new use or development will alter the character of the area to some extent by modifying existing views, generating additional traffic, installing new light sources, increasing noise, etc. The Code only prohibits impacts that *substantially* limit, impair or preclude the use of surrounding properties for the allowed primary uses, e.g. farm and forest activities. (Emphasis added). The Code does not define the word "substantially." Therefore, the hearings officer must look to the plain and ordinary meaning of that term. *Sarti v. City of Lake Oswego*, 106 Or. App. 594, 597, 809 P.2d 701 (1991). Random House Unabridged Dictionary defines "substantial" as "by an ample or considerable amount; quite a lot." "Substantial." In Dictionary.com, Retrieved March 12, 2023, from <https://www.dictionary.com/browse/substantially>.

The hearings officer finds that noise generated by the proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs or precludes the use of surrounding properties. The board adopted standards limiting noise from this type of use, ZDO 806.02.J. Although noise in compliance with this standard may be detectable on adjacent properties, the hearings officer finds that compliance with those adopted standards will ensure that the impacts will not substantially limit, impair or preclude the use of surrounding properties for permitted uses.

Head v. Lane Co., LUBA 2015-045 (2015) cited in Exhibit 42, is distinguishable from this case. The Lane County Code that was at issue in *Head*, did not include noise standards for this type of home occupation event facilities. In addition, the Lane County Code includes a different standard, requiring a finding that the use will not “unreasonably interfere” with permitted uses on nearby lands. The Lane County Hearings Officer concluded that noise in compliance with the County’s general noise regulations and DEQ standards could “unreasonably interfere” with permitted uses on nearby lands.

Section 806 of the Clackamas County Code includes specific noise limits for home occupation event facilities and requires a finding that the use will not “substantially limit, impair or preclude” the use of surrounding properties for permitted uses. The hearings officer finds that the inclusion of specific noise limits in the regulations for home occupation event facilities is evidence that the Board considered the issue of noise and concluded that noise that complies with the standard in the Code would not substantially limit, impair or precludes the use of surrounding properties for permitted uses.

The hearings officer finds that it is feasible to comply with the noise limits in ZDO 806.02.J, based on the findings below. The proposed events will take place primarily within two buildings onsite. The nearest dwellings are 800 feet or more away from the event area and screened by existing and proposed vegetation (i.e. the proposed hedge on the north edge of the parking lots, retained fir trees along the site’s S. Beaver Creek Road frontage, and natural growth trees on the west boundary of the site). The hearings officer finds that the size of the site (nearly 20 acres), the location of proposed events (primarily inside buildings located some distance from adjacent properties), combined with the dense trees will inhibit sounds traveling to adjoining properties making it feasible to comply with applicable noise standards.

The hearings officer finds that traffic generated by the proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs or precludes the use of surrounding properties. The proposed use will generate traffic immediately after events on the site. However, that additional traffic will not exceed the capacity of area roads or create or exacerbate existing hazards. In addition, most event traffic is likely to occur during off-peak hours, when background traffic volumes and congestion are lower.

S. Beaver Creek Road is a paved public road and the site is accessed by an existing driveway. A condition of approval will require that the applicants pave the first 20 feet of the driveway, and after that it will be a gravel driveway with a width of 20 feet. The 20-foot paved section will limit impacts from dust or dirt generated by vehicles entering and

leaving the site. The proposed events will occur a maximum of 52 times per year and will host up to 150 guests per event. The property will include a gravel parking area, suitable to accommodate up to 73 vehicles.

As discussed below, the applicants can modify the existing lighting on the site to comply with the standards of ZDO 806.02(I) and 1005.04(A).

The fact that the applicants are currently holding events on the site without approval is relevant to the applicable approval criteria for this application, as those uses/activities are not proposed as part of this application. The applicants' past behavior does not show that they cannot or will not operate the use in a manner that complies with the ZDO. If the applicants sustain the burden of proof that the application complies with the approval standards, or if it can comply provided certain conditions are imposed, the hearings officer must as a matter of law approve the application subject to those conditions, ORS 197.522(4).

The use must comply with the conditions of approval, and it is in the applicants' best interest to do so. Failure to comply with the conditions can be a basis for enforcement and for modification or revocation of the CUP. The County will monitor and enforce the permit. The County's Code Enforcement Division exists for the purpose of identifying, responding to, and remedying alleged violations of County land use decisions and codes. Neighboring residents can assist in the enforcement process by reporting any violations they observe. If the applicant fails to comply with the conditions of approval, i.e., by exceeding the hours of operation, guest limits, maximum noise levels, or otherwise expanding or changing the use, the planning director may initiate proceedings to revoke the permit. But the hearings officer cannot assume that the applicants will not comply and deny the application on that basis.

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

Several proposed conditions of approval require the applicants to comply "prior to initiation of event hosting." However, the applicants are currently conducting events on the site. Therefore, the hearings officer finds that the applicants should be required to comply with those conditions within six months from the effective date of this Final Order.

This criterion is met as conditioned.

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

Finding: The applicants do not directly address the Comprehensive Plan, although the submitted narrative touches on a few points. The subject properties are designated Forest on the Comprehensive Plan map. The AG/Forest (AG/F) zoning district implements the goals and policies of the Forest plan designation. Staff highlighted the following Comprehensive Plan provisions:

i. *Chapter 4, Land Use: Forest Polices – 4.OO*

4.OO.1: The following areas shall be designated Forest:

4.OO.1.1 Lands suitable for forest use;

4.OO.1.2 Lands predominantly capable of generating at least 85 cubic feet of timber per acre per year;

4.OO.1.3 Areas generally in forest use;

Finding: The site consists primarily of Jory silty clay loam soils, and is capable of producing 164 cubic feet of timber per acre per year. The property is approximately 20 acres in size. As discussed under ZDO 407 below, the siting of the proposed use will not interfere with agricultural practices on surrounding lands. The applicants propose to locate the event facility in a previously developed portion of the site, leaving the majority of the site undeveloped and available for the continued operation of farming practices on the site. However, neither the Comprehensive Plan nor the Code require the applicants' to farm the site.

This criterion is met.

ii. *Chapter 5, Transportation – Access Standard Policies – 5.Q*

5.Q.5 Access Standards shall be implemented through the Zoning and Development Ordinance and the County Roadway Standards. Where access management standards are adopted by the County in Special Transportation Plans, those standards shall apply.

Finding: As specified under ZDO 1007, development applications are required to provide adequate access in compliance with current county standards, which may include right-of-way dedication, frontage improvements, on-site access, and parking. S. Beavercreek Road is a rural minor arterial roadway, located within a 60-foot wide public right-of-way, with an improved width of approximately 24 feet in the vicinity of the project site. S. Beavercreek Road currently carries approximately 2,315 average daily vehicle trips. Events such as weddings generate a larger number of vehicles on days when an event occurs. However, depending how many attendees travel together, the average number of vehicle trips over the course of the entire year would be approximately 4,500, and is equivalent to the vehicle trips generated by approximately one to two single family homes. Based on the limited number of annual trips generated by the event use, the existing right-of-way and roadway are adequate to support the proposed event use.

The existing driveway approach from S. Beavercreek Road is constructed with a gravel surface. The applicants will be required to improve the existing approach to current standards, paving the first 20 feet from the edge of S. Beavercreek Road to a minimum width of 20 feet, per Roadway Standards Drawing D500. Beyond the paved approach, the applicants will be required to provide a 20-foot wide gravel road to the event parking

area, consistent with Roadway Standards Drawing R100. A condition of approval is warranted to ensure compliance with this criterion.

This criterion is met as conditioned.

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

Finding: As noted above, the proposed home occupation event facility is allowed as a conditional use in the AG/F zone, subject to the criteria in ZDO 806, which are addressed below. Pursuant to ZDO 407.07, development in the AG/F District is subject to the development standards for the TBR District, ZDO 406.08. The development standards for the TBR District are limited to fire siting standards for new structures. The County will ensure compliance with those standards through the building permit review process. The site is not subject to an overlay zone. Compliance with applicable sections of ZDO Section 1000 Development Standards is addressed below.

This criterion is met.

2. ZDO SECTION 1000 DEVELOPMENT STANDARDS

ZDO 1203.03(F) requires compliance with “[a]ny applicable requirements of ... Section 1000 Development Standards.” The Hearings Officer finds that the applicable sections of Section 1000 are limited to ZDO 1005.04(A), 1007.07, and 1015, as these are the only criteria mentioned in ZDO 806 or 1203.03.

ZDO 806.02(I) provides:

Lighting: All lighting used during events shall comply with Subsection 1005.04(A).

ZDO 806.02(K) provides:

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

ZDO 1203.03(C) provides:

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

a. 1005.04 OUTDOOR LIGHTING

A. *Outdoor lighting devices:*

1. *Shall be architecturally integrated with the character of the associated structures, site design, and landscape.*

2. *Shall not direct light skyward.*
3. *Shall direct downward and shield light; or direct light specifically toward walls, landscape elements, or other similar features, so that light is directed within the boundaries of the subject property;*
4. *Shall be suitable for the use they serve (e.g. bollard lights along walkways, pole mounted lights for parking lots);*
5. *Shall be compatible with the scale and intensity of uses they are serving. The height of pole-mounted fixtures shall not exceed 25 feet or the height of the tallest structure onsite, whichever is less; and*
6. *At entrances, shall be glare-free. Entrance lighting may not exceed a height of 12 feet and must be directed downward.*

Finding: Based on the photos and videos in the record (Exhibits 11 [Photos 6, 13, 14, 16, and 18-25], 43b, 43c, and 43g), the majority of the existing lighting on the site complies with these criteria, with most of the lights located inside buildings that prevent the lights from shining skyward or onto adjacent properties. The lights are compatible with the scale and intensity of the event facility use. The pole mounted lights are shorter than the tallest structure on the site and do not appear to exceed 25 feet. No entrance lighting is provided or proposed.

However, the existing outdoor lights do not appear to comply with the Code. The applicants have installed strings of bare light bulbs between poles around the perimeter of the event area. These lights are not aimed or shielded to direct light downwards or towards walls, landscape elements, or other similar features to prevent the light from being directed skyward. But it is feasible for the applicants to modify or replace these lights to comply with the requirements of the Code. A condition of approval is warranted to require that all lighting on the site comply with ZDO 1005.04(A).

The lighting standards of Section 1005.04(A) are met as conditioned.

b. **1007.07 TRANSPORTATION FACILITIES CONCURRENCY**

- A. *Subsection 1007.07 shall apply to the following development applications: design review, subdivisions, partitions, and conditional uses.*
- B. *Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner. The following shall be exempt from this requirement:*

...

(5) *Home occupations to host events, which are approved pursuant to Section 806.*

...

Finding: The applicants are applying for a conditional use permit to operate a Home Occupation to Host Events which is a conditional use in the AG/F zoning district. Under ZDO Section 1007.07(B)(5) home occupations host events are exempt from the concurrency requirements.

This criterion is inapplicable, as the use is exempt from concurrency requirements.

c. **1010 SIGNS**

Finding: Pursuant to Section 806.02(M), any signage associated with the Home Occupation to Host Events is subject to the applicable standards of Section 1010.

The applicants currently have one permanent sign installed near the intersection of the driveway and S. Beaver Creek Road. (Photos 1, 8, and 11 of Exhibit 11). This sign is subject to the permit requirement of ZDO 1010.02(A) and the specific requirements for commercial signs in natural resource districts set out in ZDO 1010.07(A). The applicants should be required to obtain a permit for this sign or remove the sign. A condition of approval is warranted to that effect.

The hearings officer finds that the specific requirements for temporary signs set out in ZDO 806.02(M) control over the general requirements of ZDO 1010.013. Therefore, ZDO 1010.13 is inapplicable in this case. Any temporary signs shall comply with ZDO 806.02(M) and applicable portions of ZDO 1010. A condition of approval is warranted to ensure compliance with this criterion.

This criterion is met as conditioned.

d. **1015 PARKING AND LOADING**

i. **1015.01 GENERAL STANDARDS**

Findings: The site is located outside the UGB. Therefore, ZDO 1015.01(A) is inapplicable and the proposed gravel surfaced parking is allowed by ZDO 1015.01(B).

ZDO 1015.01(C) sets out parking and loading requirements for uses and structures not specifically listed in Tables 1015-1 through 1015-4. The proposed use, a Home Occupation to Host Events, is listed in these Tables. Therefore, ZDO 1015.01(C) is inapplicable.

Bicycle parking and loading areas are not required for this use. Therefore, ZDO 1015.01(D) is inapplicable.

The applicants did not propose to rent, lease, or assign parking on the site, use parking for storage, or for conducting business activities. A condition of approval is warranted to that effect to ensure compliance with ZDO 1015.01(E).

This criterion is met as conditioned.

iii. 1015.02 MOTOR VEHICLE PARKING AREA STANDARDS

Findings: The applicants' existing parking areas appear to meet the standards of ZDO 1015.02(A). Vehicle parking is located in a clearly defined area of the site, south of the barn and event space (1015.02(A)(1)). Based on the applicants' site plan (Exhibit 2a at 5) all parking spaces measure nine feet wide and 18 feet long, exceeding the dimensional requirements of the Code (1015.02(A)(2)). No compact parking spaces are proposed (1015.02(A)(3)). All of the parking spaces are oriented at 90 degrees to the access aisles and the majority are double-loaded (1015.02(A)(4) and (5)). The County can confirm compliance with the dimensional standards and the remaining parking requirements through the future development permit process required by proposed condition of approval 18, subject to the requirements of conditions of approval 21 and 24 of the Staff Report.

ZDO Table 1015-1 requires a minimum one parking space per three guests and one additional parking space for each employee for the proposed Home Occupations to Host Events facility. There is no parking maximum for this type of use. The applicants propose to allow up to 150 guests per event and up to five employees. Therefore, a minimum 55 parking space are required. The applicants proposed to provide 82 parking spaces, including three ADA accessible parking spaces, which exceeds the requirements of the Code.

Bicycle parking and loading berths are not required for this use. ZDO Tables 1015-3 and 1015-4.

This criterion is met as conditioned.

iv. 1021 SOLID WASTE AND RECYCLABLE MATERIAL COLLECTION

Finding: This Code section is not listed as an applicable section of Section 1000 in ZDO 1203.03(F) or 806.

This criterion is inapplicable.

2. ZDO SECTION 806 HOME OCCUPATIONS TO HOST EVENTS

a. 806.02 STANDARDS

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

Finding: The applicants state that the home occupation operators will be Devyn Petersen and Staci Dalton, both of whom reside full-time on the site. The existing dwelling on the site was established with building permit number B0001019 in early 2020 pursuant to a State Ballot Measure 49 Claim. A condition of approval is warranted to ensure compliance with this criterion.

This criterion is met as conditioned.

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

Finding: The definition of “Employee” under Section 806.01(A) is “Any on-site person, whether they work full-time or part-time in the home occupation business, including, but not limited to, the operator, partners, assistants, and any other persons or family members participating in the operation of the business. Except in the EFU, TBR, and AG/F Districts, this definition does not apply to persons employed by contract to provide services for a single event, such as caterers, photographers, and florists.”

The applicants propose to have no more than five (5) employees, which is within the permissible number of employees allowed for a home occupation. The site is located within the AG/F zoning district. Therefore, persons employed by contract to provide services for an event are considered “employees”, including caterers, photographers, and florists. A condition of approval is warranted to ensure compliance with this criterion.

This criterion is met as conditioned.

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

Finding: The site is within the AG/F district. The events will not take place within the operator’s dwelling. The applicants propose that the events will occur within two buildings, the existing barn and the proposed dressing building.

The proposed dressing building will be used on non-event days to support the existing agricultural uses on the site by providing space for break rooms, storage rooms, bathrooms and a kitchen area for lunch breaks. During event days, the building will be used to provide changing areas for the wedding party and a food storage area. Accessory buildings in the AG/F zoning district are typically permitted to have bathrooms and changing rooms. The proposed building will be designed to match the same aesthetic as the existing barn, thereby keeping the same visual characteristics of the site. Both the existing barn and the proposed dressing building are designed to appear and function as agricultural buildings similar to those existing on surrounding properties in the area.

The applicants also proposed, as an alternative in the event use of the existing barn is prohibited, to construct a new accessory building - the proposed “reception building”

located southwest of the existing barn. However, there is no need to address the revised proposal, as the hearings officer approved use of the existing barn, based on the discussion above.

This criterion is met as conditioned.

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

1. *In the AG/F, EFU, and TBR Districts, temporary tents are permitted to the extent consistent with Subsection 806.02(C).*
2. *In a zoning district other than AG/F, EFU, and TBR, one temporary tent is permitted, and additional temporary tents may be permitted if consistent with Subsection 1203.03.*
3. *Temporary tents may be placed on the subject property no more than 24 hours before the event and must be removed no more than 24 hours after the event.*

Finding: The site is within the AG/F district. The applicants propose to use tents on a temporary basis for the events, and states that they will be compliant with this criterion. The temporary tent(s) will be erected no more than 24 hours before the event and will be removed no more than 24 hours after the event. A condition of approval is warranted to ensure compliance with this criterion.

This criterion is met as conditioned.

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

Finding: The site is within the AG/F district. The evaluation of compliance with Subsection 1203.03(D) is provided earlier in this Final Order. For the reasons provided above, this criterion is met.

This criterion is met.

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

Finding: The application materials do not specify the hours of operation for events; however, this criterion can be met with a condition of approval requiring compliance with the hours of operation set out in the Code.

This criterion is met as conditioned.

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

Finding: The applicants state that they will host no more than one event per day, no more than five events per week, and a maximum total of 52-events per year. A condition of approval is warranted to ensure compliance with this criterion.

This criterion is met as conditioned.

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

Finding: The applicants are proposing to host events with a maximum of 150 guests, per event, with an average of 100 guests per event which is less than the maximum number of guests allowed by this subsection. The potential impacts of the events such as noise and the traffic analysis were evaluated with the based on the applicants' proposal that there will be up to 150 event attendees at a time. This criterion is met, but a condition of approval is warranted limiting the maximum number of event attendees to no more than 150.

This criterion is met as conditioned.

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

Finding: The lighting standards of Subsection 1005.04(A) are addressed earlier in this Final Order. As discussed above, it is feasible to modify the existing lighting on the site to comply with this criterion.

This criterion is met as conditioned.

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

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

- a. *Noise generated by vehicles entering or exiting the site, but not by idling vehicles, shall be exempt from Subsection 806.02(J)(1).*
 - b. *Subsection 806.02(J)(1) shall not apply to noise detectable on public rights-of-way and railroad rights-of-way.*
2. *A noise study may be required to demonstrate compliance with Subsection 806.02(J)(1). If a noise study is required, measurements shall be made with a sound level meter. The sound level meter shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter, as specified in ANSI Standard 1.4-1971. The sound level meter shall contain at least an A-weighted scale, and both fast and slow meter response capability. Personnel making measurements shall have completed training in the use of the sound level meter, and measurement procedures consistent with that training shall be followed.*

Finding: The hearings officer finds that it is feasible to comply with these criteria. The proposed events will take place predominantly indoors, within the existing and proposed buildings, or in outdoor areas surrounding these buildings. Based on the applicants’ sound level readings, the average peak sound pressure level at the property lines of the site did not exceed 60 dB with the sound system playing music at full volume within the existing barn with the doors open and on the outdoor patio north of the existing barn. (Attachments B through D of Exhibit 43, Exhibits 43 through 43h, and Exhibit 48). This is consistent with the Kupillas’ noise measurements measured at the site’s Beavercreek Road frontage. The applicants’ and the Kupillas’ measurements both showed noise spikes in excess of 60 dB and noise from events is audible on some surrounding properties, based on neighbors’ testimony. However, the Code does not prohibit such impacts. Noise limits are based on the average noise level, do not include a maximum limit, and do not prohibit noise that is audible from offsite. Future activities on the site must comply with these noise limits and it is in the applicants’ best interest to do so, as violations may result in enforcement action by the County, including potential revocation of this approval.

This criterion is met as conditioned.

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

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

Finding: The applicants’ existing parking lot provides sufficient on-site parking to accommodate the largest events proposed (maximum 150 guests and five employees). Additional parking is available in the “80 x 40 gravel turnaround and venue parking” area shown on the site plan (p. 5 of Exhibit 20). There is no need for guests or employees to

park on the street. A condition of approval is warranted to ensure compliance with this criterion.

This criterion is met as conditioned.

2. *An alternative to the parking area surface required pursuant to Subsection 1015.01(B) may be approved based on the following criteria:*
 - a. *It is appropriate considering season, duration, and intensity of use.*
 - b. *It shall be surfaced with hardy grasses, wood chips, or other similar organic materials sufficient to adequately stabilize the ground surface for parking.*
 - c. *In order to minimize tracking of soil onto the roadway, a driveway surfaced with screened gravel or better must extend a minimum of 200 feet in length from the interior edge of the roadway that provides access to the site. A traffic management plan must direct all vehicular traffic along the required driveway prior to such traffic entering the roadway.*

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

These criteria are inapplicable.

L. Portable restroom facilities shall:

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

Finding: The applicants propose to use portable restroom facilities in addition to four permanent restrooms in the proposed dressing building. The portable restrooms are located in the northeast corner of the parking lot, directly south of the barn (Petersen testimony and p. 5 of Exhibit 20). Based on the scale shown in the site plan, the portable restrooms are located more than 50 feet from all lot lines. However, the restrooms are

portable. Therefore, a condition of approval is warranted to ensure continued compliance with this criterion.

This criterion is met as conditioned.

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

Finding: Compliance with ZDO Section 1010 is addressed earlier in this report. The applicants state that a temporary eight square foot event sign will be placed outside during the day of the event and will be removed no more than 24 hours after the event. The sign will be secured in order to comply with this standard. No information was provided in the application pertaining to the location of the sign and so a condition of approval is recommended to ensure the sign is located on private property and not within the right-of-way.

This criterion is met as conditioned.

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

Finding: The applicants state that all equipment and goods will be stored indoors on non-event days. This criterion can be met with a condition of approval.

This criterion is met as conditioned.

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

Finding: The applicants state that they will comply with this criterion. The event area is not visible from the public rights of way or surrounding properties due to the location of the event area within the site and the presence of existing vegetation.

This criterion can be met with a condition of approval.

4. ZDO SECTION 407 AG/FOREST DISTRICT

- a. 407.04 Uses Permitted. Table 407-1 lists “Home Occupation to Host Events, subject to Section 806”.

Finding: As established in Table 407-1, a Home Occupation to Host Events is a Conditional Use and is subject to Subsection 406.05(A)(1), (2), (5) and 406.05(E)(1).

- b. 406.05(A)(1): The use may be allowed provided that: (1) The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands, and (2) the proposed use will not significantly increase the fire hazard or significantly increase fire suppression costs or significantly increase fire suppression personnel.

Finding: The applicants’ narrative does not specifically address this criterion, however the narrative does speak to how their proposal will limit potential impacts on surrounding neighbors by providing adequate parking and onsite circulation, by providing an indoor venue to limit noise from the events, and by locating the event area more than 800 feet away from the nearest adjacent dwelling and using distance and trees to help buffer any potential visual and audible impacts of the event area.

The site is predominantly surrounded by farm uses (including Christmas tree farms), timber uses, and dwellings. The site is in the AG/F zoning district and is surrounded by other properties in the same zone and in the Timber (TBR) district. The site is 19.63 acres and is currently developed with a dwelling and a barn. Approximately half of the property is used for farm use: nine acres of the property is currently used for a Christmas tree farm and one acre for a cut flower farm. The applicants are proposing to use an existing 60-foot by 48-foot barn to host events, and proposes to build a 70-foot by 36-foot accessory building to be used for the events and to support the commercial farm on non-event days. Both buildings that will be used on event days will also support the existing commercial farm operation on site.

The applicants have chosen to provide a gravel parking area, rather than a grass or wood-chipped parking area, in order to reduce risk of fire. Additionally, all of the structures on the property are clustered together which is another technique used to limit fire suppression cost and personnel.

The hearings officer finds that the materials submitted by the applicants demonstrate that the proposed use will not force a significant change in, or significantly increase the cost of the accepted farming or forest practices.

This criterion is met.

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

Finding: There is no evidence that a statement recognizing this criterion has been recorded with the deed or written contract with the County. A condition of approval is warranted to ensure this compliance with this standard.

This criterion is met as conditioned.

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

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

This criterion is not applicable.

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

Finding: The applicants are not requesting a zone change. The proposed home occupation will not unreasonably interfere with other permitted uses in the AG/F zone. Any potential impacts to surrounding properties (including concerns of traffic, noise and lights) are discussed at length throughout this Final Order, and have either been met, or can be met with recommended conditions of approval. The site is predominantly surrounded by farm uses (including Christmas tree farms), timber uses, and dwellings. While there will undoubtedly be impacts to surrounding properties, none of the potential impacts were found to be unreasonable or a barrier to conducting uses permitted in the AG/F zone. The site is already in use as a commercial farm (Christmas trees) and the applicants can continue to operate their farm business on site without interference from the proposed events. This criterion is met.

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

Finding: The minimum setback standards in the AG/F zone are applicable to the proposed accessory building. Buildings must be a minimum of:

30 feet from the front (south) property line which runs along S. Beaver Creek Road

10 feet from the side property lines (east and west)

30 feet from the rear property line, 10 feet for accessory structures (north)

These dimensional standards for the proposed new accessory building are met as shown on the applicants' site plan.

This criterion is met.

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

Finding: Fuel-free break standards for fire-siting shall be provided surrounding the new 70-foot by 36-foot building. The applicants did not address these fire-siting standards in their application. However, the hearings officer finds it is feasible to do so. A condition of approval is warranted to ensure compliance with this standard.

This criterion is met as conditioned.

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

Finding: Currently, the property is a mix of treed area and cleared/open land. The accessory structure proposed on the applicants' plot plan is located within 800 feet (approximately) of S. Beaver Creek Road, in the north portion of the site, directly adjacent to an existing access driveway and clustered near the existing dwelling and existing barn. The access driveway is proposed to be widened to 20 feet and paved within the first 20 feet. The risks associated with wildfire can be minimized through the upkeep of fuel-free fire breaks and the access to S. Beaver Creek Road. The proposed event area would be located close to the existing access driveway and within approximately 100 feet of other structures on the site. Based on the soil type and topography of the land, the entire property is suitable for growing trees or producing farm crops. Siting the event area within 100 feet from the existing buildings on the property (dwelling and accessory building) as shown in the applicants' site plan, will cluster development and act to minimize the potential impacts on the remaining property. The event buildings and parking lot location will continue to allow the large majority of the property to be available for farm or forest use while minimizing the amount of land necessary to establish an access road to the event area. This criterion can be met with the upkeep of fuel-free fire breaks that are required in ZDO Section 406.08(A).

This criterion is met as conditioned.

V. CONCLUSION

Based on the findings and discussion provided or incorporated herein, the hearings officer approves the application, Case No. Z0123-23-C (Sage and Social), subject to conditions of approval.

VI. DECISION

Based on the findings, discussion and conclusions provided or incorporated herein and the public record in this case, the hearings officer hereby approves Case No. Z0123-23-C (Sage and Social) subject to the following conditions:

1. Approval of this land use permit is based on the submitted written narrative and plan(s) filed with the County on March 28, 2023 and additional materials received on April 20 and May 10, 2023. No work shall occur under this permit other than which is specified within these documents, unless otherwise required or specified in the conditions below. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of any approval resulting from the decision described herein.
2. The conditional use approval is valid for four (4) years from the date of the final written decision (ZDO 1203.05). During this four year period, the approval shall be implemented, or the approval will become void. “Implemented” means all major development permits shall be obtained and maintained for the approved conditional use, or if no major development permits are required to complete the development contemplated by the approved conditional use, “implemented” means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A “major development permit” is:
 - a. A building permit for a new primary structure that was part of the conditional use approval, or
 - b. A permit issued by the County Engineering Division for parking lot or road improvements required by the conditional use approval
3. Within six months from the effective date of this Final Order the applicants shall modify the existing outdoor lighting on the site so that it does not shine onto adjacent properties, upwards or in rights-of-way.
4. Within six months from the effective date of this Final Order the applicants shall obtain a building permit to convert the existing ag-exempt barn to a facility that is subject to public use and access for the proposed events or cease use of the barn for events and prohibit public access to the existing barn.
5. All signs shall comply with ZDO Section 1010.02, 1010.07, and 806.02(M). One temporary sign shall be allowed in addition to signs permitted pursuant to Section

1010. The temporary sign shall not exceed eight square feet in area; shall be placed on private property on the day of the event; shall be removed no more than 24 hours after the event; and shall be physically attached to the premises in a manner which both prevents the sign from being moved or blown from its location, and allows the prompt removal of the sign. The applicants shall obtain a sign permit for the existing permanent sign or remove this sign.
6. Use of on-site sewage disposal facilities, if proposed, shall be subject to approval by Septic & Onsite Wastewater System Programs.
 7. The Operator of this home occupation shall reside full time in the dwelling on site, and be majority owner in the business and responsible for day-to-day operations [ZDO 806.01(C) and 806.02(A)]
 8. The home occupation shall have no more than five full-time or part-time employees on site, including persons employed by contract to provide services for a single event, such as caterers, photographers, and florists. [ZDO 806.02(B)]
 9. During the months of November through March, no event shall take place outside the hours of 9:00 a.m. to 10:00 p.m. During the months of April through October, no event shall take place outside the hours of 8:00 a.m. to 10:00 p.m. These time restrictions do not apply to persons involved in the set-up or clean-up of the facilities [ZDO 806.02(F)]
 10. There shall be no more than one event per day throughout the entire year and no more than 5 events per week. The Conditional Use approval authorizes a maximum total of 52-events per year, with a maximum of 100 people per event. [ZDO 806.02(G)]
 11. Temporary tents may be allowed, though the events shall be operated substantially in the operator's dwelling or other buildings normally associated with uses permitted in the AG/F District. Temporary tents may be placed on the site no more than 24 hours before the event and must be removed no more than 24 hours after the event. [ZDO 806.02(D)]
 12. Noise shall be regulated as follows [ZDO 806.02(J)]:

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

 - a. Noise generated by vehicles entering or exiting the site, but not by idling vehicles, shall be exempt from Subsection 806.02(J)(1)
 - b. Subsection 806.02(J)(1) shall not apply to noise detectable on public rights-of-way and railroad rights-of-way.
 13. Restroom facilities shall be regulated as follows [ZDO 806.02(L)]:

- a. Portable restroom facilities shall include hand-sanitizing or hand-washing facilities.
 - b. Portable restroom facilities shall be subject to the standards of the service provider and the County Septic & Onsite Wastewater System Programs.
 - c. Portable restroom facilities shall be screened from adjacent properties and rights-of-way by sight-obscuring fences or plantings (existing can satisfy) and
 - d. Shall be located a minimum of 50 feet from all lot lines.
14. On non-event days, the use shall not take an outward appearance nor manifest any characteristics of a business or operation of a service commercial nature, except for those characteristics normally associated with or allowed for a use identified as “allowed” by Table 407-1, Permitted Uses in the AG/F District. [806.02(O)]
15. Fuel-free break standards shall be provided surrounding the new 70-foot by 36-foot structure. A primary fuel-free break area shall be maintained surrounding any new structure. The primary safety zone is a fire fuel break extending a minimum distance around structures. The minimum distance is established by Table 406-2, Minimum Primary Safety Zone and Figure 406-1, Example of Primary Safety Zone. The goal within the primary safety zone is to remove fuels that will produce flame lengths in excess of one foot. The fuel-free break standards shall be completed and approved prior to issuance of any septic, building, or manufactured dwelling permits and within six months from the effective date of this Final Order. Maintenance of the fuel-free breaks shall be the continuing responsibility of the property owner. [406.08(A)]
- Within six months from the effective date of this Final Order the applicants shall, sign a notarized Fuel-Free Break Standards Compliance form and return a copy to the Planning and Zoning division.
16. Within six months from the effective date of this Final Order, the applicants shall record a written irrevocable statement in the deed records of the County binding upon the landowner, and the landowner's successors in interest, acknowledging the right of adjacent and nearby farm and forest operators to employ accepted farm and forest management practices and prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under Oregon Revised Statutes (ORS) 30.936 or 30.937. Impacts from farming and forest practices may include, but are not limited to: noise, dust, spray, smoke, vibrations, and visual impacts. [ZDO 406.05(A)(2)]
17. All frontage improvements in, or adjacent to Clackamas County right-of-way, and all on-site access improvements, shall be constructed in compliance with the Clackamas County Roadway Standards.
18. The applicants shall obtain a Development Permit from Clackamas County Department of Transportation and Development prior to the initiation of any construction activities associated with the project. The required access and parking improvements shall be completed within six months from the effective date of this Final Order.

19. The driveway approach serving the event site on S. Beaver Creek Road shall be paved to a minimum width of 20 feet and length of 20 feet, per Standard Drawing D500.
20. Minimum intersection sight distance of 555 feet to the southwest, and 610 feet to the northeast shall be provided at the proposed driveways serving the event site on S. Beaver Creek Road. Intersection sight distance shall be measured 14.5 feet back from the edge of pavement at a height of 3.5 feet to an object height of 3.5 feet in the center of the oncoming travel lane.
21. The applicants shall provide adequate on site circulation for the parking and maneuvering of all vehicles anticipated to use site, as follows:
 - a. Parking spaces and drive aisles shall meet that standards of ZDO Section 1015 and Roadway Standards Drawings P100/P200. Each parking space will be required to meet minimum width and length of 8.5 feet by 16 feet, with a 24 foot drive isle width.
 - b. The main access road providing access the event facility site shall be surfaced with screened gravel or better and no less than 20 feet in width. Roads and parking areas shall be con-structed per Standard Drawing R100.
 - c. Parking spaces shall be adequately delineated. For paved surfaces, parking spaces shall be striped. For a gravel surface, wheel stops or a similar physical features shall be provided to delineate each gravel parking space.
 - d. The applicants shall provide a dimensioned site plan indicating each parking space and drive aisles.
 - e. Handicapped (ADA) parking spaces and adjacent accessible areas shall be paved with asphalt concrete or an equivalent approved by Clackamas County Engineering staff, as required by the Building Department.
 - f. Drainage facilities shall be designed and constructed in conformance with Clackamas County Roadway Standards Chapter 4, providing water quality treatment and conveyance to a suitable outfall.
22. Prior to the issuance of a building permit and/or site development and within six months from the effective date of this Final Order, the applicants shall submit to Clackamas County Engineering Office:
 - a. Written approval from the Clackamas Fire District #1 for the planned access, circulation, fire lanes and water source supply. The approval shall be in the form of site and utility plans stamped and signed by the Fire Marshal.
 - b. Written approval from the Clackamas County Engineering for surface water management facilities and erosion control measures.
 - c. A set of street and site improvement construction plans, in conformance with Clackamas County Roadway Standards Section 140, to Clackamas County's Engineering Office and obtain written approval, in the form of a Development Permit.

- i. The permit will be for driveway, drainage, parking and maneuvering areas, and other site improvements.
 - ii. The minimum fee deposit is required upon submission of plans for the Development Permit. The fee will be calculated based on 8.83% of the public improvements and 5% of the onsite transportation improvements, according to the current fee schedule.
 - iii. The applicants shall have an Engineer, registered in the state of Oregon, design and stamp construction plans for all required improvements, or provide alternative plans acceptable to the Engineering Division.
23. Within six months from the effective date of this Final Order, the applicants shall submit a plan to the Planning and Zoning Division showing satisfaction of requirements from Section 1021 of the Zoning and Development Ordinance regarding trash/recycling, or a plan suitable to meet the standard residential pick-up service provided by the trash hauler. Detailed information, including ZDO 1021, is available on the county web site www.clackamas.us under “Garbage & Recycling.”
24. A minimum of 55 parking spaces are required (50 for guests, 5 for employees), and must meet the parking area design standards of ZDO Section 1015.02. [ZDO 1015, Table 1015-1]. Parking spaces on the site shall not be rented, leased, or assigned, or used for storage or for conducting business activities.

DATED this 4th day of March 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).

1 BEFORE THE LAND USE BOARD OF APPEALS
2 OF THE STATE OF OREGON

3
4 GREG KUPILLAS and MALIA KUPILLAS,
5 *Petitioners,*

6
7 vs.

8
9 CLACKAMAS COUNTY,
10 *Respondent,*

11
12 and

13
14 SAGE AND SOCIAL LLC,
15 *Intervenor-Respondent.*

16
17 LUBA No. 2024-015

18
19 FINAL OPINION
20 AND ORDER

21
22 Appeal from Clackamas County.

23
24 Micheal M. Reeder filed the petition for review and reply brief and argued
25 on behalf of petitioners.

26
27 No appearance by Clackamas County.

28
29 Nikesh J. Patel filed the intervenor-respondent's brief and argued on behalf
30 of intervenor-respondent. Also on the brief were Damien R. Hall and Dunn
31 Carney LLP.

32
33 ZAMUDIO, Board Member; RYAN, Board Chair; RUDD, Board
34 Member, participated in the decision.

35
36
37 REMANDED

07/19/2024

1 You are entitled to judicial review of this Order. Judicial review is
2 governed by the provisions of ORS 197.850.

2 **NATURE OF THE DECISION**

3 Petitioners appeal a hearings officer decision approving a conditional use
4 permit (CUP) for a home occupation event business on land zoned AG/Forest
5 (AG/F), a mixed farm and forest use zone.

6 **FACTS**

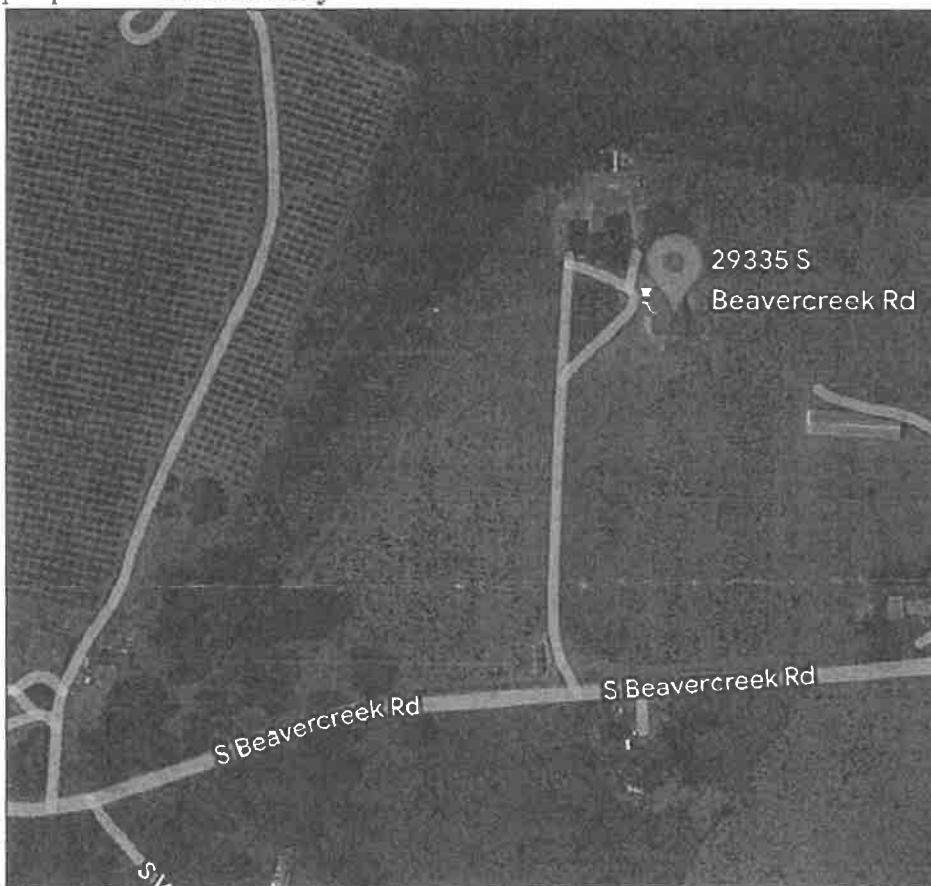
7 The subject property is approximately 20 acres. The property is developed
8 with a single-family dwelling and a 3,000-square-foot barn. The barn was
9 authorized in 2020 as an agricultural structure that is allowed outright in the AG/F
10 zone under ORS 215.760 and ORS 455.315 and is exempt from the application
11 of the Oregon Structural Specialty Code (OSSC). The dwelling and barn are
12 located on the northern portion of the site. A portion of the property was used to
13 grow Christmas trees in the past, and the application states that intervenor will
14 continue to grow Christmas trees and add a flower farm.¹ Record 378, 387.²

15 Intervenor applied for approval for a home occupation event business to
16 host events such as wedding receptions and ceremonies. The property abuts and

¹ Petitioners argue in their summary of facts and reply brief that intervenor's assertions that the property is in agricultural use are not supported by evidence. Petition for Review 6-7; Reply Brief 1. However, petitioners do not assign error to any finding concerning agricultural use of the subject property or develop any argument in the petition for review related to whether the subject property is in agricultural use. Accordingly, that factual dispute is not before us for resolution in this appeal.

² All record citations in this opinion are to the Amended Record.

1 is accessed from South Beavercreck Road. The proposed event area is accessed
2 via a gravel driveway that is over 500 feet long from the road to the parking area.
3 At the southern tip of the property, near the intersection of South Beavercreek
4 Road and South Valley Vista Road, there are several large trees lining the road.
5 There are additional smaller trees along the remainder of the south boundary,
6 abutting South Beavercreek Road. To the north of the site is over 500 acres of
7 land owned by a lumber company and managed for timber harvest. The nearest
8 dwellings are approximately 800 feet away from the proposed event area on the
9 properties immediately to the east and west of the site.



10
11 Record 388.

Page 4

SITE PLAN

NOTE:

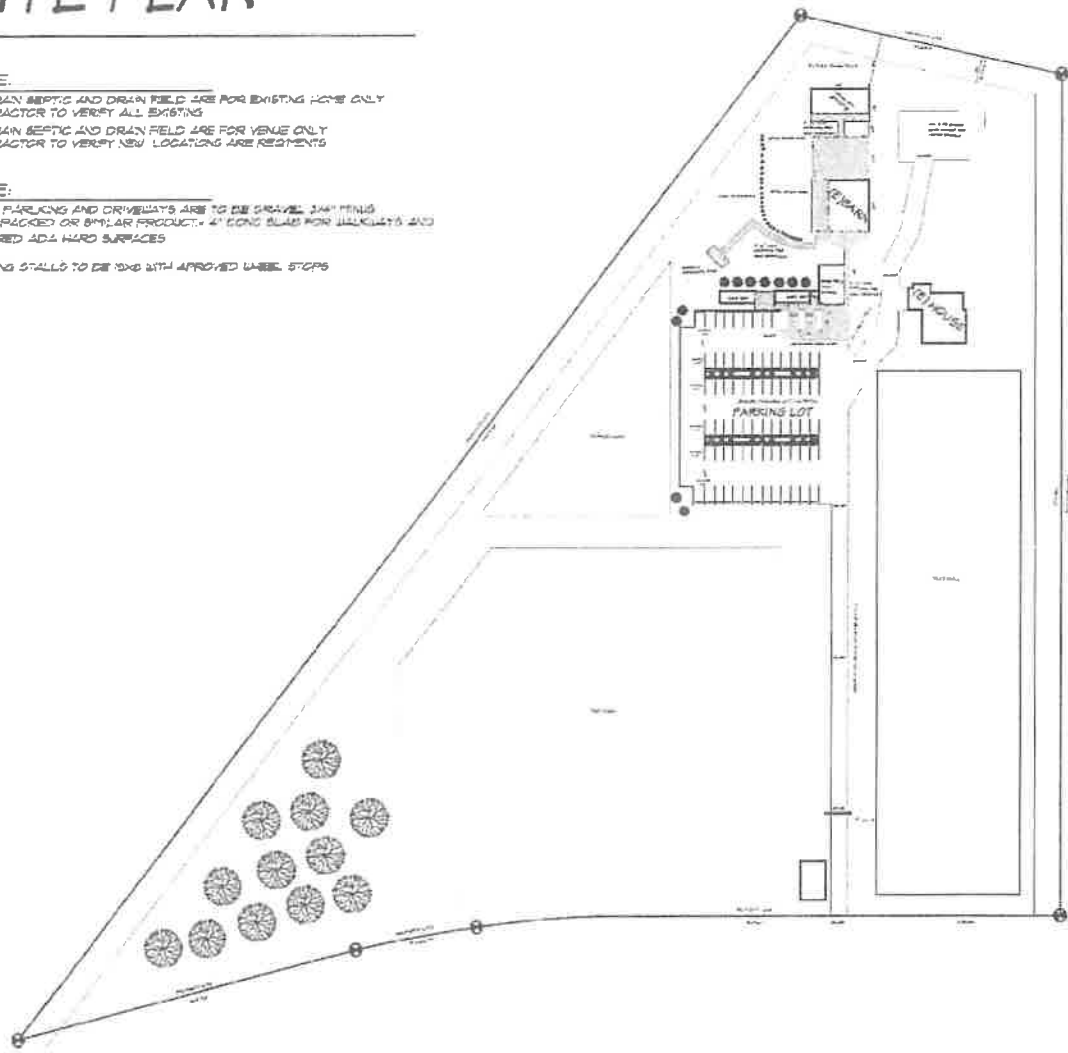
(E) DRAIN SEPTIC AND DRAIN FIELD ARE FOR EXISTING HOME ONLY
CONTRACTOR TO VERIFY ALL EXISTING

(N) DRAIN SEPTIC AND DRAIN FIELD ARE FOR VENUE ONLY
CONTRACTOR TO VERIFY NEW LOCATIONS ARE REQUIRED

NOTE:

VENUE PARKING AND DRIVEWAYS ARE TO BE GRAVEL 3/4" MINUS
HAND PACKED OR SIMILAR PRODUCT. 4" CONC SLAB FOR WALKWAYS AND
REQUIRED ADA HARD SURFACES

PARKING STALLS TO BE 10'x20' WITH APPROVED LABEL STOPS



1

2 Record 387.

3 Intervenor proposed to use the barn and to construct a 1,400-square-foot
4 “dressing building” north of the barn with four bathrooms, two showers, a
5 kitchen, and two changing rooms with a 40 by 60-foot concrete surfaced outdoor
6 gathering area between the barn and the dressing building. Record 398 (dressing
7 building floor plan). Intervenor also proposed an outdoor ceremony area

1 southwest of the barn, two storage containers, a temporary food truck parking
2 space, a 70-space parking lot, and roughly three acres of landscaping. Intervenor
3 requested approval to use temporary tents for the events and to host up to 36
4 events per year with an average of 100 guests per event, up to a maximum of 150
5 guests at any given event.³

6 County planning staff recommended denial based on a determination that
7 intervenor may not use the barn for event purposes. Intervenor appealed. After a
8 hearing, the hearings officer issued a decision concluding that intervenor may use
9 the barn, the dressing building, and temporary tents for event purposes. The
10 hearings officer approved the CUP, with conditions, including a maximum of 52
11 events per year, with a maximum of 100 people per event. Record 33 (Condition
12 of Approval 10). This appeal followed.

13 **FIRST ASSIGNMENT OF ERROR**

14 Petitioners argue that the hearings officer misconstrued ORS 215.760 in
15 concluding that the barn can be converted to be used as an event facility, if
16 intervenor obtains a building permit for that use. ORS 215.760 provides:

17 “(1) An agricultural building, as defined in ORS 455.315,
18 customarily provided in conjunction with farm use or forest
19 use is an authorized use on land zoned for forest use or for
20 mixed farm and forest use.

³ Intervenor initially requested approval for up to 36 events per year. Record 384. Intervenor later requested approval for up to 52 events per year. Record 86. The decision approves up to 52 events per year. Record 33.

1 “(2) A person may not convert an agricultural building authorized
2 by this section to another use.”

3 ORS 455.315, in turn, provides, in part:

4 “(2) As used in this section:

5 “(a)(A) ‘Agricultural building’ means a structure located on a
6 farm or forest operation and used for:

7 “(i) Storage, maintenance or repair of farm or
8 forestry machinery and equipment;

9 “(ii) The raising, harvesting and selling of crops or
10 forest products;

11 “(iii) The feeding, breeding, management and sale of,
12 or the produce of, livestock, poultry, fur-bearing
13 animals or honeybees;

14 “(iv) Dairying and the sale of dairy products; or

15 “(v) Any other agricultural, forestry or horticultural
16 use or animal husbandry, or any combination
17 thereof, including the preparation and storage of
18 the produce raised on the farm for human use
19 and animal use, the preparation and storage of
20 forest products and the disposal, by marketing or
21 otherwise, of farm produce or forest products.

22 “(B) ‘Agricultural building’ does not mean:

23 “(i) A dwelling;

24 “(ii) A structure used for a purpose other than
25 growing plants in which 10 or more persons are
26 present at any one time;

27 “(iii) A structure regulated by the State Fire Marshal
28 pursuant to ORS chapter 476; [or]

29 “(iv) A structure used by the public[.]

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“* * * * *

“(4) An agricultural building may be used for uses in addition to the uses listed in subsection (2)(a)(A) of this section if the additional uses:

“(a) Are incidental and accessory to the uses listed in subsection (2)(a)(A) of this section;

“(b) Are personal to the farm owner and the farm owner’s immediate family or household; and

“(c) Do not pose a greater hazard to persons or property than the uses listed in subsection (2)(a)(A) of this section.”

The hearings officer found that the meaning of the phrase “an agricultural building authorized by this section” in ORS 215.760(2) is ambiguous. The hearings officer reasoned that ORS 215.760(2) would prohibit converting the barn to commercial event home occupation uses if the site did not contain and was not eligible for a dwelling. Record 12. The hearing officer found:

“To construe ORS 215.760 to prohibit changing the use of the existing barn solely because it was constructed without a building permit after the effective date of ORS 215.760 is an absurd result as it would force [intervenor] to cease all non-agricultural use of the existing barn and construct a new building on the site. If [intervenor] obtain[s] an after the fact building permit for the existing barn it will no longer constitute ‘an agricultural building authorized by [ORS 215.760(1)] * * *’ and ORS 215.760(2) would not apply to prohibit converting the building to another use.

“* * * * *

“* * * If [intervenor] obtain[s] an after the fact building permit for the existing barn it would be subject to the state structural specialty code and therefore, would no longer constitute an agricultural

1 building.

2 “The only interpretation that gives meaning to all the full text of
3 ORS 215.760 is to limit ORS 215.760(2) to buildings constructed
4 without a building permit and to allow such buildings to be
5 converted to a non-agricultural use by obtaining an after the fact
6 building permit, as such buildings would no longer constitute ‘an
7 agricultural building authorized by [ORS 215.760(1)] * * *.’
8 Therefore, the hearings officer finds that [intervenor] can use the
9 existing barn on the site for the proposed event facility, provided [it]
10 obtain an after the fact building permit for the structure and any
11 additional approvals necessary to allow weddings and other events
12 and public gatherings inside the building. * * *” Record 12-13.⁴

13 Petitioners argue that the hearings officer misconstrued ORS 215.760.
14 Intervenor responds that the hearings officer correctly construed that statute. We
15 agree with petitioners for the reasons explained below.

16 In interpreting a statute, we examine the statutory text, context, and
17 legislative history with the goal of discerning the enacting legislature’s intent.
18 *State v. Gaines*, 346 Or 160, 171-72, 206 P3d 1042 (2009); *PGE v. Bureau of*
19 *Labor and Industries*, 317 Or 606, 610-12, 859 P2d 1143 (1993). We are
20 independently responsible for correctly construing statutes. *See* ORS 197.805
21 (providing the legislative directive that LUBA “decisions be made consistently

⁴ Condition of Approval 4 provides:

“Within six months from the effective date of this Final Order the applicants shall obtain a building permit to convert the existing ag-exempt barn to a facility that is subject to public use and access for the proposed events or cease use of the barn for events and prohibit public access to the existing barn.” Record 32.

1 with sound principles governing judicial review”); *Gunderson, LLC v. City of*
2 *Portland*, 352 Or 648, 662, 290 P3d 803 (2012) (“In construing statutes and
3 administrative rules, we are obliged to determine the correct interpretation,
4 regardless of the nature of the parties’ arguments or the quality of the information
5 that they supply to the court.” (Citing *Dept. of Human Services v. J. R. F.*, 351
6 Or 570, 579, 273 P3d 87 (2012); *Stull v. Hoke*, 326 Or 72, 77, 948 P2d 722
7 (1997).)).

8 **A. Text and Context**

9 When considering the text and context, we begin by analyzing the words
10 in dispute, then consider those words in the immediate context, and then expand
11 the analysis to consider the broader context of other statutes concerning the same
12 subject. Again, ORS 215.760(2) provides that “[a] person may not convert an
13 agricultural building authorized by this section to another use.” We agree with
14 petitioners that that phrase is unambiguous. An “agricultural building” is a
15 building as defined in ORS 455.315. “Authorized” is a past participle of the verb
16 “authorize” and is used as an adjective describing an agricultural building.
17 “Authorized” means “sanctioned by authority.” *Webster’s Third New Int’l*
18 *Dictionary* 147 (unabridged ed 2022). Thus, “[a]uthorized by this section” means
19 authorized by ORS 215.760(1). ORS 215.760(2) provides that such buildings
20 may not be converted to another use. “Convert” means “to change from one form
21 or function to another.” *Webster’s* at 499.

1 The hearings officer’s interpretation—that a building that is authorized by
2 ORS 215.760 and constructed pursuant to that authorization is no longer
3 “authorized by” that section if a person later obtains a building permit for another
4 use—impermissibly inserts a qualifier into the statute where the legislature did
5 not. *See* ORS 174.010 (providing that, in the construction of a statute, we shall
6 not “insert what has been omitted”). The hearings officer’s interpretation
7 construes the statute as “a person may not convert an agricultural building
8 authorized by ORS 215.760 to another use, *unless a person later obtains building*
9 *permit approval for another use.*” We cannot and do not construe the statute in
10 that manner.

11 **B. Legislative History**

12 The legislative history supports our conclusion from the text in context that
13 the legislature intended to prohibit conversion of an agricultural building
14 authorized by ORS 215.760 to any other nonresource uses. ORS 215.760 was
15 enacted in 2013 in House Bill (HB) 2441 and became effective in 2014. Or Laws
16 2013, ch 73, § 2.

17 Since at least 1969, counties have been required to allow on agricultural
18 land “buildings customarily provided in conjunction with farm use.” ORS
19 215.283(1)(e); *see Brentmar v. Jackson County*, 321 Or 481, 496, 900 P2d 1030
20 (1995) (uses authorized in ORS 215.283(1) are allowed “as of right”); Or Laws

1 1969, ch 258, § 1 (adding “other buildings customarily provided in conjunction
2 with farm use” to the list of allowed nonfarm uses in ORS 215.213).⁵

3 In 1975, the legislature first exempted from OSSC regulation agricultural
4 buildings “located on a farm.” *Former* ORS 456.758 (1975), Or Laws 1975, ch
5 646, § 2, *renumbered as* ORS 455.315 (1987).

6 Prior to HB 2441, structures used for storage, maintenance or repair of
7 farm or forestry equipment and the preparation and storage of farm or forest
8 products were not authorized as of right in forest and mixed farm and forest
9 zones. Neither were such structures exempt from the OSSC. Prior to HB 2441,
10 structures such as pole barns located in forest zones were not considered exempt
11 “agricultural buildings.” This made siting pole barns on woodlots more difficult

⁵ A former statutory definition of “farm use,” included “the construction and use of dwellings and other buildings customarily provided in conjunction with the farm use.” *Former* ORS 215.203(2) (1963); Or Laws 1963, ch 577, § 2 and ch 619, § 3. Thus, at that time, construction and use of buildings customarily provided in conjunction with the farm use was permissible under the statute as a “farm use.” In 1967, ORS 215.203(2) was amended to provide that “farm use” “does not include * * * the construction and use of dwellings and other buildings customarily provided in conjunction with the farm use,” but there was no concurrent amendment to add such buildings to the list of other allowed uses in ORS chapter 215. Or Laws 1967, ch 386, § 1. In 1969, “other buildings customarily provided in conjunction with farm use” was added to the list of allowed nonfarm uses in *former* ORS 215.213(6) (1969), which was prior to the 1983 marginal lands bifurcation and enactment of ORS 215.283. Or Laws 1969, ch 258, § 1.

1 than siting pole barns on farms because siting such structures required land use
2 and building permit review and approval.

3 Oregon Small Woodlands Association (OSWA) requested that the
4 legislature adopt HB 2441 to authorize structures in forest and mixed farm and
5 forest zones for resource uses. The legislature intended to exempt such structures
6 from land use authorization and building permit requirements, in parity with
7 agriculture buildings on agricultural land. HB 2441 Section 3 redefined
8 “agricultural building” under ORS 455.315(2)(a), in relevant part, to include
9 structures “located on a farm *or forest operation*.” (Emphasis added.) HB 2441
10 Section 2 enacted what is now ORS 215.760. ORS 215.760(1) requires counties
11 to allow “agricultural buildings * * * customarily provided in conjunction with
12 farm use or forest use” outright in forest and mixed farm and forest zones.
13 Accordingly, just as counties must allow pole barns in EFU zones under ORS
14 215.283(1)(e), so too must they allow pole barns in forest and mixed farm and
15 forest zones under ORS 215.760(1).

16 Roger Beyer represented OSWA and testified to the purposes of HB 2441:

17 “What we are asking for is parity with ag buildings. * * * [P]arity is
18 if you are going to put any sort of electrical or plumbing into these
19 buildings, these agricultural buildings, that gets you out of the
20 exempt status. If you are going to put electricity or plumbing in the
21 buildings, you have to go get permits for that. That’s for the public
22 safety issues and human health safety issues. So, this mirrors that
23 identically. So, what these buildings are for * * * it’s about forest
24 landowners who have pieces of equipment that they typically want
25 to leave on their woodlot. Many forest landowners don’t live on their
26 small woodlots. They live somewhere else, and they commute to

1 their woods when they do some stuff. And if they've got a CAT or
2 a, you know, excavator, or an ATV or something like that, they use
3 in their forest management activities, many times you have to truck
4 these back and forth with them because of vandalism problems and
5 things like that. Another common use for these buildings would be
6 fire trucks. Many forest landowners want to have a fire truck on the
7 property, but it just, it doesn't work many times with our neighbors
8 in the forest to leave pieces of equipment like fire trucks out in the
9 open where people can get to them. If you can lock them into a metal
10 building, it would, they would be secure, and you could, you leave
11 them there. So that's basically the bill." Audio Recording, House
12 Committee on Land Use, HB 2441, Feb 7, 2013, at 17:15.

13 The HB 2441-1 amendments added that the structure must be one that is
14 "customarily provided in conjunction with farm use or forest use." House
15 Committee on Land Use Chair Brian Clem explained that limitation was so "that
16 the buildings wouldn't be used for non-farm or forest related things." Audio
17 Recording, House Committee on Land Use, HB 2441, Feb 19, 2013, at 2:15.

18 Representative Mark Johnson, the bill sponsor, explained:

19 "[R]eally all we're asking for here in this bill is that those folks who
20 are owners of forest land, not farmland, who use their land for
21 production, if you will, it's about raising trees. Yes, it's about
22 harvesting timber and so forth, have the same ability to just construct
23 accessory buildings that can be helpful for them and their practice
24 of forestry. So again, they have to go through the same hoops if, in
25 fact, they're going to have electricity in there or any sort of other
26 mechanical needs, they'd have to have separate inspections for that
27 by the state to make sure that those things are installed successfully.
28 But this is certainly not about creating condos in isolated forest
29 settings." Audio Recording, Senate Committee on Rural
30 Communities and Economic Development, HB 2441, Apr 23, 2013,
31 at 38:10.

1 Senator Ginny Burdick expressed concern that such structures might be
2 converted to another, nonresource use: “I could see a situation where you start
3 out with one type of building, then end up with another use that is not
4 contemplated. What protections are there in there to keep it from coming
5 becoming a condo?” Representative Johnson responded:

6 “[T]he intent is strictly to have it for that need that’s specific to the
7 practice. I’m just referring from farm buildings that I’ve worked on
8 where, yes, there could be electricity in them. Some do have, you
9 know, water, because they’re mixing spray and that kind of thing.
10 So, it fits in with farm practices and so forth. I can’t speak to the
11 exact specifics of how the forest practices would dovetail with that.
12 But again, there’s no habitation at all. It’s not for occupation
13 whatsoever. It has to be expressly targeted towards that forest use.”
14 *Id.* at 39:30.

15 Ian Tolleson, Oregon Farm Bureau, testifying in support of the bill, stated:
16 “A lot of our own members have cross purposes that it would be helpful to use a
17 building like this for storage and I think that goes to really the heart of the bill.
18 We certainly don’t envision this to have any kind of habitation or any other use
19 beyond that.” *Id.* at 42:00.

20 Roger Beyer, OSWA, clarified:

21 “To Senator Burdick’s question, Senator, lines nine and 10 of the
22 printed bill, I think, answer that question. We added this on the
23 House side: ‘A person may not convert an agricultural building
24 authorized by this section to another use.’ So, if a building is built,
25 and my understanding, that means if a person wants to convert it to
26 another use, they can’t, but if they even want to apply, particularly,
27 they’d have to go back to the land use process. But I think this is
28 pretty clear that it wouldn’t be allowed.” *Id.* at 43:40.

1 Senator Burdick replied: “Thank you. And I just wanted to get that on the record.
2 That was certainly the tone of our conversation before, and I was just a little
3 thrown off by some of the comments. Thank you.” *Id.*

4 ORS 215.760(2) prohibits a person from converting an agricultural
5 building authorized by ORS 215.760(1) to another use—that is, a use that is not
6 described in ORS 455.315.⁶ ORS 455.315(2)(a)(B)(ii) and (iv) expressly provide
7 that “agricultural building” does not mean “[a] structure used for a purpose other
8 than growing plants in which 10 or more persons are present at any one time” or
9 “[a] structure used by the public.” That prohibits use of the building for use as a
10 commercial event venue.⁷ The legislative history reveals that the legislature
11 intended to limit the use of structures authorized by ORS 215.760(1) to uses that
12 support resource practices and to prohibit those structures from being converted
13 to another use.

14 The hearings officer reasoned that intervenor could avoid the conversion
15 prohibition by obtaining building permits for the event business use. That
16 reasoning is inconsistent with the legislature’s intent that is demonstrated in the
17 plain language of the statute and supported by the legislative history.

⁶ There is no equivalent prohibition for agricultural buildings authorized on farmland.

⁷ An agricultural building may be used for purposes that are “incidental and accessory” to the uses in ORS 455.315(2)(a)(A) and that “[a]re personal to the farm owner and the farm owner’s immediate family.” ORS 455.315(4).

1 **C. Conflicting Statutory Provisions**

2 The parties and the challenged decision do not address the apparent
3 statutory conflict at the heart of this appeal. However, because we are
4 independently obligated to correctly construe ORS 215.760(2), we address it.

5 The Home Occupation Statute, ORS 215.448, authorizes a county to allow
6 home occupations “in any zone,” including “an exclusive farm use zone, forest
7 zone or a mixed farm and forest zone that allows residential uses.” ORS
8 215.448(1). Statutory restrictions apply to home occupations in resource zones.
9 A home occupation located in a resource zone must “be operated substantially in
10 [t]he dwelling[] or [o]ther buildings normally associated with uses permitted in
11 the zone in which the property is located[.]” ORS 215.448(1)(c). “Nothing in
12 [ORS 215.448(1)] authorizes the governing body or its designate to permit
13 construction of any structure that would not otherwise be allowed in the zone in
14 which the home occupation is to be established.” ORS 215.448(3). There is no
15 dispute that the barn is a building normally associated with uses permitted in the
16 AG/F zone.

17 The Home Occupation Statute, and the language quoted above, was
18 enacted in 1983, 30 years prior to the 2013 enactment of HB 2441. We presume
19 that the 2013 legislature that enacted HB 2441 was aware that the Home
20 Occupation Statute permitted the use of other structures normally associated with
21 permitted uses in forest and mixed farm and forest zones for home occupations.
22 *See Coates v. Marion County*, 96 Or 334, 339, 189 P 903 (1920) (explaining

1 presumption that the legislature enacts statutes “with full knowledge of the
2 existing condition of the law and with reference to it”).

3 When confronted with multiple applicable statutes that appear to conflict,
4 we are obligated to engage in a two-part analysis. First, we must determine
5 whether there is any way to reconcile the apparent conflict without exceeding the
6 bounds of the reasonable construction of the wording of the statutes. *Powers v.*
7 *Quigley*, 345 Or 432, 438, 198 P3d 919 (2008). “[W]hen one statute deals with a
8 subject in general terms and another deals with the same subject in a more minute
9 and definite way, the two should be read together and harmonized, if possible,
10 while giving effect to a consistent legislative policy.” *State v. Guzek*, 322 Or 245,
11 268, 906 P2d 272 (1995). Whenever possible, we construe statutes to be
12 consistent with one another. *See* ORS 174.010 (“[W]here there are several
13 provisions or particulars such construction is, if possible, to be adopted as will
14 give effect to all.”); *see also Force v. Dept. of Rev.*, 350 Or 179, 190, 252 P3d
15 306 (2011) (“Statutory provisions, however, must be construed, if possible, in a
16 manner that ‘will give effect to all’ of them.”). Second, if such harmonizing is
17 not possible, then we must apply established rules of construction that give
18 precedence to one of the conflicting statutes over the other. “When a general
19 statute and a specific statute both purport to control an area of law, this court
20 considers the specific statute to take precedence over an inconsistent general
21 statute related to the same subject.” *State ex rel Juv. Dept. v. M. T.*, 321 Or 419,

1 426, 899 P2d 1192 (1995). *See Preble v. Centennial Sch. Dist. No. 287*, 298 Or
2 App 357, 364, 447 P3d 42 (2019) (setting out and applying two-step inquiry).

3 ORS 215.448 is a general statute that applies in all zones, including mixed
4 farm and forest zones, and would appear to allow the county to authorize in the
5 AG/F zone the use of an agricultural building for home occupation events. ORS
6 215.760 is a specific statute that applies to “land zoned for forest use or for mixed
7 farm and forest use.” Accordingly, the conversion prohibition in ORS 215.760(2)
8 must take precedence over the general allowance in ORS 215.448(1)(c)(B).

9 The text of ORS 215.760(2) does not permit any exception for conversion
10 of agricultural buildings to home occupations uses, even if those uses require
11 separate and after-the-fact land use and building permit approvals. The legislative
12 history of ORS 215.760 does not demonstrate that the legislature considered the
13 potential of converting an agricultural building authorized under ORS 215.760 to
14 a home occupation use. There is no indication that the legislature intended to
15 permit such conversion. Instead, the legislative history demonstrates that the
16 legislature intended to prohibit the conversion to any use other than those uses
17 listed in ORS 455.315. While we are required to attempt to harmonize conflicting
18 statutory provisions, the hearings officer’s construction of ORS 215.760(2)
19 exceeds the bounds of the reasonable construction of the wording of that
20 provision, especially as illuminated by the legislative history.

21 Intervenor argues that the hearings officer correctly found that a literal
22 application of the conversion prohibition in ORS 215.760(2) would lead to an

1 absurd result in this case because intervenor cannot convert the barn to be used
2 for home occupation event purposes, but could (perhaps) construct a new barn,
3 not authorized by ORS 215.760(1), to use for event purposes. Petitioner argues,
4 and we agree, that while that result is unfortunate for intervenor’s business plans,
5 ORS 215.760(2) reflects the legislature’s policy choice to require agricultural
6 buildings in forest and mixed farm and forest zones to be used only for the
7 purposes listed in ORS 455.315.

8 The first assignment of error is sustained.

9 **SECOND ASSIGNMENT OF ERROR**

10 As explained above, a home occupation located in a resource zone must
11 “be operated substantially in [t]he dwelling[] or [o]ther buildings normally
12 associated with uses permitted in the zone in which the property is located[.]”
13 ORS 215.448(1)(c). “Nothing in [ORS 215.448(1)] authorizes the governing
14 body or its designate to permit construction of any structure that would not
15 otherwise be allowed in the zone in which the home occupation is to be
16 established.” ORS 215.448(3). Clackamas County Zoning and Development
17 Ordinance (ZDO) Section 806 regulates home occupations to host events. ZDO
18 806.02(C) implements ORS 215.448(1)(c) and provides: “the home occupation
19 shall be operated substantially in the operator’s dwelling or other buildings
20 normally associated with uses permitted in the applicable zoning district.”
21 Petitioners argue that the hearings officer misconstrued the law and made
22 findings not based on substantial evidence in concluding that the dressing

1 building is a structure that is “normally associated with uses permitted in the
2 zone.”

3 The hearings officer found:

4 “The proposed dressing building will be used on non-event days to
5 support the existing agricultural uses on the site by providing space
6 for break rooms, storage rooms, bathrooms and a kitchen area for
7 lunch breaks. During event days, the building will be used to provide
8 changing areas for the wedding party and a food storage area.
9 Accessory buildings in the AG/F zoning district are typically
10 permitted to have bathrooms and changing rooms. The proposed
11 building will be designed to match the same aesthetic as the existing
12 barn, thereby keeping the same visual characteristics of the site.
13 Both the existing barn and the proposed dressing building are
14 designed to appear and function as agricultural buildings similar to
15 those existing on surrounding properties in the area.” Record 23.

16 Petitioners argue that there is no evidence in the record that other
17 agricultural buildings in the AG/F zone contain multiple bathrooms, showers, and
18 kitchens, and are connected to septic systems capable of serving up to 150 people.

19 Intervenor responds that the hearings officer’s findings correctly construe
20 the applicable law, are adequate, and are supported by substantial evidence.

21 Intervenor points to the following materials in the record: (1) application
22 materials explaining the operations and use of the dressing building, how it
23 supports the existing agricultural uses on the site, and providing site plans for the
24 dressing building; (2) Staff Report dated July 6, 2023; and (3) Second Addendum
25 to Staff Report.

26 The Second Addendum to Staff Report states simply that “[t]he design of

1 the building is similar to buildings that are normally associated with uses
2 permitted in the Ag/F zoning district.” Record 99. That conclusory statement is
3 not substantial evidence. Differently, in *North Hideaway Hills Neighbors v. Lane*
4 *County*, we concluded that county staff testimony describing the characteristics
5 of buildings normally associated with uses in the zone constituted substantial
6 evidence. ___ Or LUBA ___ (LUBA Nos 2023-081/083, May 20, 2024) (slip op
7 at 22). There, the county staff generated a table of comparable structures and
8 explained both their research methods and reasoning behind their conclusion that
9 the proposed structure exceeded the average size of similar structures normally
10 associated with uses permitted in the applicable zone. *Id.* (slip op at 19-20).

11 The Staff Report dated July 6, 2023, states:

12 “The proposed [dressing] building will be used on non-event days
13 to support the existing Christmas tree farm business on site by
14 providing space for break rooms, storage rooms, bathrooms and a
15 kitchen area for lunch breaks. During event days, the building will
16 be used to provide changing areas for the wedding party and a food
17 storage area. Accessory buildings in the AG/F zoning district are
18 typically permitted to have bathrooms and changing rooms. The
19 proposed building will be designed to match the same aesthetic of
20 the existing barn, thereby keeping the same visual characteristics of
21 the site.” Record 358.

22 That statement may support a finding that “accessory buildings in the
23 AG/F zoning district are typically permitted to have bathrooms and changing
24 rooms.” However, that statement does not provide evidence that the dressing
25 building is a “building[] normally associated with uses permitted in the zone.”

26 The application materials provide:

1 “In the near future, an additional structure will be built to
2 accompany both businesses, Windmill Ridge Farms (Tree Farm)
3 and Sage Social (Event Venue) and serve as a dual-purpose
4 building. The building will be a 20x70 office space with a break
5 room, storage rooms (dressing rooms) and bathrooms. The building
6 will be constructed to mirror the image of the barn, thus keeping the
7 characteristics of this area’s AG/F zoning. The office space will
8 provide a much-needed room for business meetings, staff meetings,
9 restrooms, a kitchen area for lunches and breaks, as well as a place
10 to refrigerate drinks and homemade lunches for the onsite Tree Farm
11 workers that work long shifts during tree harvesting and planting
12 seasons. Serving as a dual purpose, it will also be utilized on non-
13 tree farming days, for the event venue services. The kitchen area will
14 be used to store food (if needed) for the event, such as cake in the
15 fridge, especially on warm days. As well as a place to get dressed
16 for the event, which will also serve as storage rooms. In the event
17 that the venue is no longer an active business this building will
18 continue to serve as office space, break room and restroom for onsite
19 workers as well as storage unit instead of dressing rooms.

20 “*Local Example: Clackamas County, Redland Tree Farm and
21 Event Venue, currently have and are building additional structures
22 to be used as suites, kitchen, for indoor and outdoor events, similar
23 to our property. * * *” Record 379.

24 Generally, application materials and applicant testimony may be
25 considered substantial evidence to support a decision. *Devin Oil Co., Inc. v.*
26 *Morrow County*, 60 Or LUBA 336, 348-49, *aff’d*, 236 Or App 164, 235 P3d 705
27 (2010). However, the testimony that the dressing building will be used for
28 agricultural purposes is insufficient to establish that the building is normally
29 associated with uses permitted in the zone. The “local example” of other
30 accessory buildings that have been constructed for event purposes—without any
31 description of those structures and evidence that those structures are normally

1 associated with uses permitted in AG/F zone—is similarly insufficient to
2 demonstrate that the dressing building satisfies that requirement.

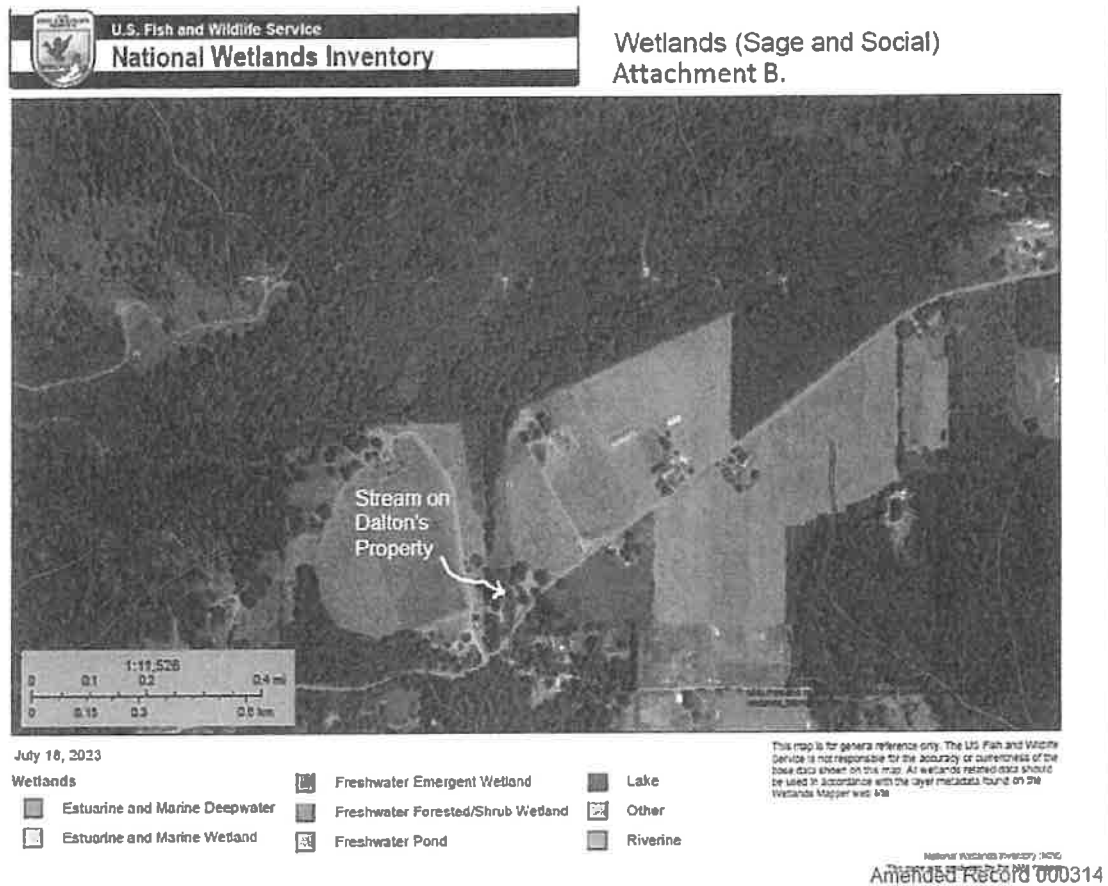
3 The second assignment of error is sustained.

4 **THIRD ASSIGNMENT OF ERROR**

5 Conditional use approval criterion ZDO 1203.03(B) requires the county to
6 determine that “[t]he characteristics of the site are suitable for the proposed use
7 considering size, shape, location, topography, existence of improvements and
8 natural features.” Petitioners argue that the hearings officer erred in finding the
9 criterion was met based on a failure to review existing natural features, which
10 resulted in the hearings officer improperly failing to apply ZDO 1002.04, which
11 requires preservation of river and stream corridors. Petitioners argue that the
12 hearings officer’s conclusion that ZDO 1203.03(B) is satisfied is not supported
13 by adequate findings or substantial evidence.

14 Petitioners assert that there are springs and a small stream in the area where
15 the oak trees are located on their property, which we understand to mean the
16 southern tip of the property where trees are depicted on the site plan reproduced
17 above. The hearings officer found that “[t]here are no mapped protected natural
18 features on the property.” Record 10. Petitioners argue that finding fails to
19 address petitioners’ evidence and argument raised below that a stream exists on
20 the property. *See Norvell v. Portland Area LGBC*, 43 Or App 849, 853, 604 P2d
21 896 (1979) (findings must address and respond to specific issues relevant to
22 compliance with applicable approval standards that were raised in the

1 proceedings below). For example, petitioner submitted a US Fish and Wildlife
2 Service National Wetland Inventory map showing a stream located on the
3 property.



Record 314.

Intervenor responds, and we agree, that even if the hearings officer erred in failing to address petitioner's argument and evidence regarding the disputed stream, that error is harmless because the stream is located on the southwestern corner of the property which is distant from the proposed event area and access and there is no evidence that the stream would affect the proposed use or vice

1 versa. Likewise, there is no evidence that the stream would make the site
2 unsuitable for the proposed use or that the proposed use will impact the stream
3 corridor.

4 The third assignment of error is denied.

5 **FOURTH ASSIGNMENT OF ERROR**

6 Petitioners argue that the hearings officer's findings related to noise
7 impacts are inadequate and not based on substantial evidence in the record. ZDO
8 806.02(J) regulates noise for home occupation event businesses and provides, in
9 part:

10 "Noise: Noise shall be regulated as follows:

11 "1. From 7:00 a.m. until 10:00 p.m. on Friday and Saturday and
12 until 9:00 p.m. on all other days of the week, the average peak
13 sound pressure level, when measured off the subject property,
14 of noise created by the home occupation shall not exceed the
15 greater of 60 dB(A) or the ambient noise level. During all
16 other hours, the average peak sound pressure level, when
17 measured off the subject property, of noise created by the
18 home occupation shall not exceed the greater of 50 dB(A) or
19 the ambient noise level.

20 "* * * * *

21 "2. A noise study may be required to demonstrate compliance
22 with Subsection 806.02(J)(1). If a noise study is required,
23 measurements shall be made with a sound level meter. The
24 sound level meter shall be an instrument in good operating
25 condition, meeting the requirements of a Type I or Type II
26 meter, as specified in ANSI Standard 1.4-1971. The sound
27 level meter shall contain at least an A-weighted scale, and
28 both fast and slow meter response capability. Personnel
29 making measurements shall have completed training in the

1 use of the sound level meter, and measurement procedures
2 consistent with that training shall be followed.”

3 The county did not require and intervenor did not submit a noise study.
4 Intervenor submitted evidence of decibel readings that ranged from 35.5 to 54.2
5 measured from the property boundary with amplified music inside the barn with
6 all doors open and amplified music on the patio north of the barn. Record 104,
7 106-112.

8 Petitioners submitted evidence of decibel readings measured from the
9 property boundary next to South Beaver creek Road that showed an average of
10 under 55 and maximum of 81. Record 126, 127, 149, 309.

11 The hearings officer found

12 “that it is feasible to comply with [ZDO 806.02(J)]. The proposed
13 events will take place predominantly indoors, within the existing
14 and proposed buildings, or in outdoor areas surrounding these
15 buildings. Based on [intervenor’s] sound level readings, the average
16 peak sound pressure level at the property lines of the site did not
17 exceed 60 dB with the sound system playing music at full volume
18 within the existing barn with the doors open and on the outdoor patio
19 north of the existing barn. (Attachments B through D of Exhibit 43,
20 Exhibits 43 through 43h, and Exhibit 48). This is consistent with
21 [petitioners’] noise measurements measured at the site’s
22 Beaver creek Road frontage. [Intervenor’s] and [petitioners’]
23 measurements both showed noise spikes in excess of 60 dB and
24 noise from events is audible on some surrounding properties, based
25 on neighbors’ testimony. However, the Code does not prohibit such
26 impacts. Noise limits are based on the average noise level, do not
27 include a maximum limit, and do not prohibit noise that is audible
28 from offsite. Future activities on the site must comply with these
29 noise limits and it is in [intervenor’s] best interest to do so, as
30 violations may result in enforcement action by the County, including
31 potential revocation of this approval.” Record 26.

1 The hearings officer relied on similar findings to reject petitioners’
2 arguments that noise generated by the event use will cause the use to “alter the
3 character of the surrounding area in a manner that substantially limits, impairs or
4 precludes the use of surrounding properties for the primary uses allowed in the
5 zoning district(s) in which surrounding properties are located,” in violation of
6 ZDO 1203.03(D). Record 16. With respect to that criterion and disputed noise
7 impacts, the hearings officer found

8 “that it is feasible to comply with the noise limits in ZDO 806.02.J,
9 based on the findings below. The proposed events will take place
10 primarily within two buildings onsite. The nearest dwellings are 800
11 feet or more away from the event area and screened by existing and
12 proposed vegetation (i.e. the proposed hedge on the north edge of
13 the parking lots, retained fir trees along the site’s S. Beaver creek
14 Road frontage, and natural growth trees on the west boundary of the
15 site). The hearings officer finds that the size of the site (nearly 20
16 acres), the location of proposed events (primarily inside buildings
17 located some distance from adjacent properties), combined with the
18 dense trees will inhibit sounds traveling to adjoining properties
19 making it feasible to comply with applicable noise standards.”
20 Record 16.

21 Petitioners argue that the hearings officer erred by not requiring a noise
22 study. Intervenor respond, and we agree, that ZDO 806.02(J) does not mandate
23 a noise study and, instead, provides the county discretion to require a noise study.
24 Petitioners have not demonstrated that the county’s discretionary decision to not
25 require a noise study provides a basis for remand.

26 Petitioners argue that the hearings officer’s findings are not supported by
27 substantial evidence because there is no evidence that the majority of the event

1 activities will occur indoors and there is no evidence quantifying how much noise
2 existing vegetation attenuates, especially because the prior tree farm Christmas
3 trees have been removed.

4 Intervenor responds, and we agree, that intervenor’s decibel readings are
5 evidence that a reasonable person would rely upon to find that the noise criterion
6 is satisfied. That evidence includes a map of the location of the decibel readings
7 that shows some vegetation between the barn and patio area and the reading
8 location. Record 122. Moreover, petitioners’ decibel readings do not
9 conclusively demonstrate that the proposed home occupation use causes an
10 “average peak sound pressure level, when measured off the subject property,”
11 exceeding 60 dB(A).

12 The decision does not rely on Christmas trees to attenuate the noise.
13 Instead, the decision acknowledges that “[t]he majority of the Christmas trees
14 have been removed from the site.” Record 2, n 1. The decision relies on “the
15 proposed hedge on the north edge of the parking lots, retained fir trees along the
16 site’s S. Beaver creek Road frontage, and natural growth trees on the west
17 boundary of the site.” Record 16. Accordingly, petitioner’s argument that there
18 is no evidence that Christmas trees will attenuate the noise provides no basis for
19 remand.

20 The fourth assignment of error is denied.

1 **FIFTH ASSIGNMENT OF ERROR**

2 Petitioners argue that the hearings officer’s findings related to traffic
3 impacts are inadequate and not based on substantial evidence in the record.
4 Intervenor was required to establish that the “safety of the transportation system
5 is adequate to serve the proposed use.” ZDO 1203.03(C). With respect to that
6 CUP criterion, the hearings officer found that that the safety of the transportation
7 system is adequate to serve the proposed use, based on the expert testimony of
8 county transportation staff, and reasoned that neighbors’ concerns were
9 insufficient to overcome that expert testimony. Record 13.

10 The hearings officer observed that several crashes have been reported on
11 the curved sections of South Beaver Creek Road southwest of the site and that the
12 event business “will increase the volume of traffic on that section of road, which
13 will increase the risk of accidents.” *Id.* The hearings officer reasoned that while
14 “any increase in traffic volume will increase the risk of accidents and roads with
15 higher traffic volumes will generate more accidents within a given period of
16 time,” the existing transportation system can safely accommodate the additional
17 traffic from the event use because additional traffic generated by the use “will
18 not exceed the capacity of area roads or create, or exacerbate existing hazards.”
19 Record 14-16.

20 Petitioners argue that the county transportation staff analysis upon which
21 the hearings officer relied assumed only up to 36 events per year, while the
22 hearings officer approved up to 52 events per year. Thus, petitioners argue, a

1 reasonable person would not rely on the county transportation staff's opinions to
2 find that that the "safety of the transportation system is adequate to serve the
3 proposed use." ZDO 1203.03(C). Petitioners contend that the record does not
4 include any traffic analysis for up to 52 events per year.⁸

5 Intervenor points to county transportation and engineering comments after
6 the proposal was changed to host up to 52 events per year. A January 4, 2024,
7 staff response to new evidence following the open record period acknowledges
8 that the initial application requested up to 36 events per year and that the updated
9 proposal requested up to 52 events per year. Record 97. That same staff report
10 quoted the following analysis from the county transportation engineering
11 division:

12 "Despite the elevated crash risk, the addition of a small number of
13 trips from the proposed development would not trigger the
14 requirement that [intervenor] provide mitigation, based on the
15 principle of rough proportionality of traffic impacts to required
16 improvements. Beaver Creek Rd carries [Average Daily Trips] of
17 about 2,400 vehicles per day. The proposed development would not
18 add appreciable vehicle trips commensurate with the improvements
19 suggested by the crash data." Record 98.

20 Similarly, a February 2, 2024, joint memorandum from a senior planner
21 and a senior traffic engineer stated:

22 "The County estimates that the trip distribution to and from the

⁸ Intervenor submitted a traffic report that analyzed 52 events. However, the hearings officer rejected it because it violated the open record period restrictions. Record 9.

1 event site will be 50 percent from the north and 50 percent from the
2 south. Based on the limited number of vehicle trips added to the
3 curves southwest of the site, relative to the average daily vehicle
4 trips on S Beavercreek Road, the vehicle trips would not create or
5 exacerbate a safety hazard. In addition, as discussed above, signage
6 in the curves meet current nominal safety standards. Therefore, the
7 County finds that the safety of the transportation system is adequate
8 to support the event hosting use.” Record 61.

9 We agree with intervenor that this evidence is evidence upon which a
10 reasonable person could rely to find that the traffic safety criterion was met,
11 particularly because there is no contrary expert traffic evidence in the record that
12 contradicts the county staffs’ expert opinions.

13 In response to concerns that the events will increase the number of
14 intoxicated drivers on the road, the hearings officer found:

15 “[Intervenor] can regulate alcohol use on the site. Some attendees
16 may bring their own alcohol or otherwise consume excessive
17 amounts, which could create a hazard, especially if those attendees
18 attempt to drive home. However, [intervenor] will have a strong
19 interest in monitoring and enforcing limits on alcohol consumption
20 and stopping intoxicated patrons from driving, in order to avoid
21 legal liability. There is no evidence that this use will generate a
22 significantly higher risk of drunk drivers than any other business that
23 serves alcohol.” Record 15.

24 Petitioners argue that there is no evidence that there are other businesses
25 in the area that serve alcohol, so this finding is not supported by substantial
26 evidence. Intervenor responds, and we agree, that the disputed finding
27 demonstrates that the hearings officer considered alcohol risk as it relates to the
28 proposed use and reasonably determined that it does not pose a significant safety

1 issue. The finding and the hearings officer's reasoning is not dependent on the
2 existence of other businesses in the area that serve alcohol.

3 The fifth assignment of error is denied.

4 **SIXTH ASSIGNMENT OF ERROR**

5 Petitioners argue that the hearings officer's findings with respect to
6 intervenor's alternative proposal to construct a new "reception building" and use
7 an 800-square foot temporary tent to host receptions are internally inconsistent
8 and not supported by adequate findings. Intervenor responds that the challenged
9 decision only approves the primary proposal and the hearings officer did not rely
10 upon the alternative proposal when reaching the decision. Thus, the sixth
11 assignment of error provides no basis for remand.

12 We tend to agree with petitioners that the hearings officer's decision is
13 unclear with respect to the alternative proposal. The hearings officer found "there
14 is no need to address the revised proposal, as the hearings officer approved use
15 of the existing barn, based on the discussion above." Record 24. The hearings
16 officer also found that "the site is large enough to accommodate [intervenor's]
17 alternative proposal to construct a new 2,400 square foot reception building north
18 of the proposed parking lot and southwest of the existing barn." Record 13.
19 However, as petitioners point out, the decision does not analyze the applicable
20 criteria with respect to a new reception building. Ultimately, we agree with
21 intervenor that the decision does not approve construction or use of a new

1 reception building for home occupation event business purposes. Accordingly,
2 the sixth assignment of error provides no basis for remand.⁹

3 The sixth assignment of error is denied.

4 The county's decision is remanded.

⁹ We sustain the first assignment of error and conclude that ORS 215.760(2) prohibits use of the barn for the home occupation event business. Accordingly, the hearings officer will likely consider the alternative proposal on remand and adopt new findings regarding that proposal.

Certificate of Mailing

I hereby certify that I served the foregoing Final Opinion and Order for LUBA No. 2024-015 on July 19, 2024, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

Caleb J. N. Huegel
Assistant County Counsel
Clackamas County Counsel
2051 Kaen Rd.
Oregon City, OR 97045

Damien R. Hall
Dunn Carney, LLP
851 SW Sixth Avenue, Suite 1500
Portland, OR 97204

Michael M. Reeder
Law Office of Mike Reeder
375 W. 4th Avenue, Suite 205
Eugene, OR 97401

Dated this 19th day of July, 2024.

Erin Pence
Executive Support Specialist



Hannah Barkemeyer Baker
Executive Support Specialist

IN THE COURT OF APPEALS OF THE STATE OF OREGON

GREG AND MALIA KUPILLAS,)	Land Use Board of Appeals No.
)	2024-015
Petitioners,)	
)	Court of Appeals No. _____
v.)	
)	EXPEDITED PROCEEDING
CLACKAMAS COUNTY,)	UNDER ORS 197.850 AND
)	197.855
Respondent,)	
)	
and)	
)	
SAGE AND SOCIAL LLC)	
)	
Intervenor-Respondent.)	
)	

PETITION FOR JUDICIAL REVIEW

1.

Intervenor-Respondent Sage and Social, LLC seeks judicial review of the Final Opinion and Order issued July 19, 2024 by the Land Use Board of Appeals in case 2024-015.

2.

The parties to this review are:

Petitioner:

Respondent:

Greg and Malia Kupillas

Clackamas County

Intervenor-Respondent:

Sage and Social, LLC

3.

The names, bar numbers, addresses, and telephone numbers of the attorneys
for the parties:

Attorneys for Intervenor-Respondent

Damien R. Hall, OSB No. 083465
dhall@dunncarney.com
Nikesh J. Patel, OSB No. 181524
npatel@dunncarney.com
Dunn Carney Allen Higgins & Tongue LLP
851 S.W. Sixth Avenue, Suite 1500
Portland, OR 97204
(503) 224-6440

Attorney for Petitioner

Michael M. Reeder, OSB No. 043969
mreeder@oregonlanduse.com
Law Office of Mike Reeder
375 W. 4th Avenue, Suite 205
Eugene, OR 97401
(541) 225-8777

Attorneys for Respondent

Caleb J. N. Huegel, OSB No. 205173
chuegel@clackamas.us
Stephen L. Madkour, OSB No. 941091
smadkour@clackamas.us
Clackamas County Counsel
2051 Kaen Road
Oregon City, OR 97045
(503) 665-8362

4.

Attached to this Petition for Judicial Review is a copy of the Final Opinion and Order for which review is sought.

5.

Intervenor-Respondent has standing because it was a party to the proceeding before LUBA, ORS 197.850(1).

6.

Intervenor-Respondent is not willing to stipulate that the agency record be shortened.

DATED this 5th day of August, 2024.

DUNN CARNEY ALLEN HIGGINS &
TONGUE LLP

s/ Damien R. Hall

Damien R. Hall, OSB No. 083465

dhall@dunncarney.com

Nikesh J. Patel, OSB No. 181524

npatel@dunncarney.com

851 SW Sixth Avenue, Suite 1500

Portland, OR 97204

(503) 224-6440

Attorneys for Intervenor-Respondent
Sage and Social, LLC

CERTIFICATE OF FILING AND SERVICE

I hereby certify that, on this date, I caused the foregoing **PETITION FOR JUDICIAL REVIEW** to be electronically filed with the Appellate Court Administrator, Appellate Records Section, by using the court's electronic filing system.

At the same time I served a true and correct copy thereof by U.S. Postal Service, Certified Mail, Return Receipt Requested on the following:

Attorney for Petitioner

Michael M. Reeder, OSB No. 043969
mreeder@oregonlanduse.com
Law Office of Mike Reeder
375 W. 4th Avenue, Suite 205
Eugene, OR 97401
(541) 225-8777

Attorneys for Respondent

Caleb J. N. Huegel, OSB No. 205173
chuegel@clackamas.us
Stephen L. Madkour, OSB No. 941091
smadkour@clackamas.us
Clackamas County Counsel
2051 Kaen Road
Oregon City, OR 97045
(503) 665-8362

Attorney General of the State of Oregon
Office of the Solicitor General
400 Justice Building
1162 Court Street NE
Salem, OR 97301-4096

Land Use Board of Appeals
775 Summer Street NE, Suite 330
Salem, OR 97301

** With postage prepaid and deposited in Portland, Oregon.

DATED this 5th day of August, 2024.

DUNN CARNEY ALLEN HIGGINS &
TONGUE LLP

s/ Damien R. Hall

Damien R. Hall, OSB No. 083465

dhall@dunncarney.com

Nikesh J. Patel, OSB No. 181524

npatel@dunncarney.com

851 SW Sixth Avenue, Suite 1500

Portland, OR 97204

(503) 224-6440

Attorneys for Intervenor-Respondent
Sage and Social, LLC



DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

September 23, 2024

Violation No.:V0021423

Philip Jacob & Staci Dalton
29335 S Beaver Creek Rd.
Mulino, OR 97042

RE: CLACKAMAS COUNTY VIOLATION NO. V0021423

CLACKAMAS COUNTY CODE SECTIONS VIOLATED:

1. CLACKAMAS COUNTY CODE TITLE 12: ZONING AND DEVELOPMENT ORDINANCE – SECTION 407.04: USES PERMITTED

SITE ADDRESS: 29335 S Beaver Creek Rd., Mulino, OR 97042
LEGAL DESCRIPTION T4S, R3E, SECTION 31, TAX LOT 00608

Dear Philip & Staci Dalton,

A previous Violation Letter was mailed on September 20, 2023. The Violation Letter stated our conclusion that commercial activities (holding events) taking place on the property constitute a violation, and it listed options for abating the violation, including obtaining land use approval. We have concluded that the use continues on the property and that, while you have begun the land use process, you do not currently have land use approval. Therefore, the violation continues. Due to a change in County practice, we will continue with the enforcement of this file unless you abate the violation **NO LATER THAN: October 9, 2024**. You must complete the following to comply:

1. Move the use to an approved parcel;
2. Obtain land use approval; or
3. Pause the use until you obtain land use approval.

If you have questions concerning permit requirements, the online submittal process, or land use process, please contact the department listed below at the phone number or email listed, or stop by the offices located at 150 Beaver Creek Rd., Oregon City, OR 97045, Monday through Thursday between the hours of 8:00 a.m. and 4:00 p.m. The offices are closed on Fridays


CONTACT INFORMATION

Building Codes Division (Permitting)	503-742-4240
Planning and Zoning	503-742-4500
Shane Potter, Code Enforcement	503-742-4465

bldservice@clackamas.us
zoninginfo@clackamas.us
spotter@clackamas.us

ITEMS INCLUDED IN THIS PACKET

- Violation Letter
- Required Notice of Fines and Penalties

A handwritten signature in black ink that reads "Shane Potter". The signature is written in a cursive style with a large, looping initial "S" and a distinct "P" for "Potter".

Shane Potter
Code Enforcement Specialist
Clackamas County Code Enforcement
Phone: 503-742-4465
spotter@clackamas.us

Important Notices

1. **Administrative Compliance Fees.** It is important that you contact the Code Enforcement Section to resolve the violations described in the enclosed letter. **An administration compliance fee of \$75 will now be assessed monthly until the violations are abated.**
2. **Failure to resolve those violations may result in one or more of the following:** (1) a citation and fine, and (2) referral of this matter to the County Compliance Hearings Officer.
3. **Request for a Hearing:** If you dispute the existence of the violations described in the enclosed letter, you may request a hearing before the Hearings Officer by sending a written request for a hearing, including your name and address, to Code Enforcement Section, 150 Beaver Creek Rd., Oregon City, OR 97045, or at codeenforcement@clackamas.us.
4. **Potential Fines and Penalties:** The Clackamas County Code provides for citation fine amounts of up to \$500 and additional civil penalties imposed by the Hearings Officer of up to \$3,500 for each day the County verifies the noncompliance. Fine amounts and civil penalties may be assessed for each cited violation and may be assessed separately against each named party. In addition, the Hearings Officer may order the violation to be abated by the County at the expense of the property owner(s) and responsible parties.
5. **Voluntary Compliance:** Clackamas County encourages parties to voluntarily come into compliance with the code to support a safe and healthy community for all. Please note that, when a property owner works cooperatively with the County to resolve a confirmed code violation, the County may, in its discretion waive all or part of the \$75 per month administrative compliance fee.
6. **Non-compliance may result in a lien upon your property:** Fines, penalties, and fees are payable upon the effective date of the final order imposing them. Such fines, penalties, and fees are a debt owing to the County, pursuant to ORS 30.460, and may be collected in the same manner as any other debt. If fines, penalties, and fees are not paid within 60 days after payment is ordered, the County may file and record the order for payment in the County Clerk Lien Record.
7. **Final Order may be enforced in Circuit Court:** Also, be advised that non-compliance with a Hearings Officer's order may result in the matter being referred to County Counsel for legal action in Circuit Court, which may result in additional penalties or other sanctions.
8. **Recurrences will result in additional citations:** Finally, recurrences of abated violations may result in the issuance of a citation without prior notice.

















Sage and Social

HOME TEAM SERVICES AMENITIES PRICING FAQs VENDORS GALLERY EVENTS



WELCOME

Sage and Social is a modern farmhouse venue located in Mulino, Oregon. We renovated our 3,000 sqft barn into a dreamy venue and creative space! The barn, which is climate controlled for events year-round, doubles as a ceremony site/and or a reception space. It's nestled among other scenic scapes on the property, including wooded backdrops, manicured lawns and patios, firepits and plenty more spaces for capturing Instagram-worthy photos. Get to know our on-site



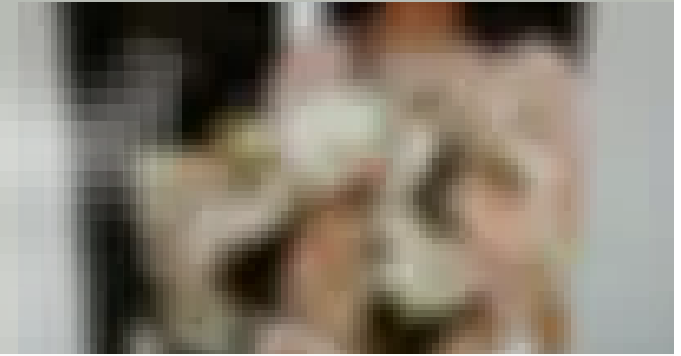
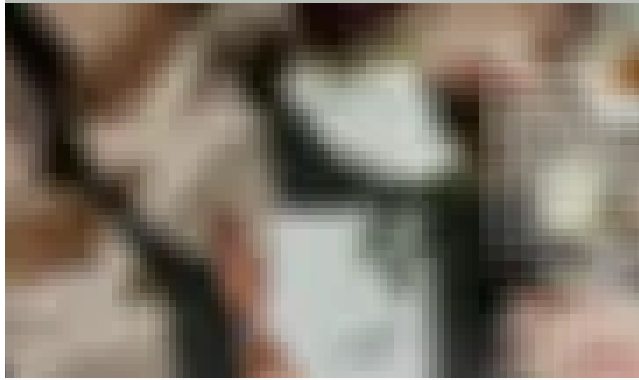
designer, who specializes in creating custom design and decor packages for all events.

We're a mother-daughter duo, who with the help of our husbands, are chasing big dreams and loving it every step of the way! What started as a small, creative idea blossomed into the search for the perfect event venue.

While the idea came to us easily, finding our perfect property proved to be a little more challenging. After a few years, and countless property walkthroughs, we finally found "The One." It has taken us almost a year to build our vision, but in touring our property, you'll see that every light fixture, color, pattern, layout, plant—you name it—has been meticulously designed by our family. We take immense pride in creating this dream (for you and us) from the ground up, and we're committed to continually evolving and enhancing the amenities we provide!

We can't wait to meet you!

[CONTACT US](#)

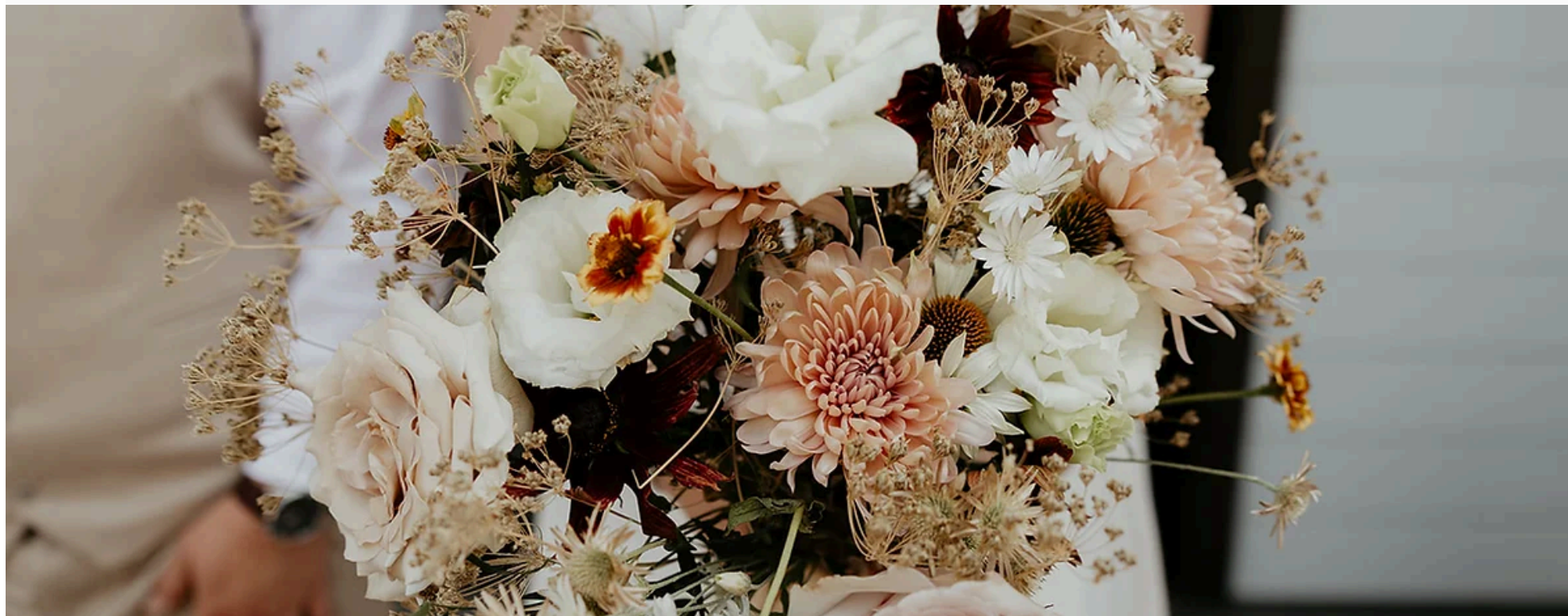


[vfitz Photos](#)

SAGE+SOCIAL
DEVYN PETERSEN and STACI DALTON
29555 S. BEAVERCREEK RD.
MULINO, OR. 97042
P: 503 560 4876
E: SAGEANDSOCIAL.VENUE@GMAIL.COM

Sage and Social

HOME TEAM SERVICES AMENITIES PRICING FAQS VENDORS GALLERY EVENTS



2024 - 2025 AMENITIES

CLIMATE CONTROLLED BARN:

- 4000 sqft Modern Farmhouse Barn
- White and Black Shiplap
- Dimmable Lights

GETTING READY:

- 3 Luxury Trailer Restrooms
- *One ADA*
- 2 areas for couples to get ready

VENUE GROUNDS

+ EXTERIOR:

- 20 Acres For Photos
- Multiple grass turf areas
- Landscaped grounds

MISCELLANEOUS INFORMATION

- ADA Accessible
- Open Vendor Policy

EXHIBIT M PAGE 4 OF 28

<ul style="list-style-type: none"> Two 10' Bifold Doors One 6' Bifold Window Two 10' x 10' Rollup Doors Two 10' Ceiling Fans Custom built bar on wheels Black Ceremony Chairs White Black Reception Chairs 10) 8' Custom Wood Tables 10) 6' Custom Wood Tables (6) Tall Bistro Tables (2) Short Bistro Tables -Wifi Connection 	<p style="text-align: center;">PARKING :</p> <ul style="list-style-type: none"> -Concrete ADA Parking Spots -Gravel Parking Lot (71 Spaces) -8' Concrete Path To Venue -Overflow Parking 	<ul style="list-style-type: none"> -Tree Swing In Field -Two Propane firepits -String lights throughout -20' x 60' Covered Patio -40' x 60' Large Back Patio -Four Tall Propane Heaters -Three Outdoor Ceremony Spaces -5 Food/Beverage Truck Hookup Stations 	<p>*With the exception of bartenders, Coordinators-You must choose these vendors from our vendor list-We promise, they're the best! -Insta Worthy Photo Areas -Two 10' x 20' Black Pop-up Tables -Fridge and freezer space -Unlimited Scheduled Site Visits -Designer, Stylist and Event Rental (Additional Fee) -Venue Coordinator On-Site For Event</p>
--	--	---	---

[yfitz Photos](#)

SAGE+SOCIAL
DEVYN PETERSEN and STACI DALTON
29555 S. BEAVERCREEK RD.
MULINO, OR. 97042
P: 503 560 4876
E: SAGEANDSOCIAL.VENUE@GMAIL.COM

Sage and Social

HOME TEAM SERVICES AMENITIES PRICING FAQs VENDORS GALLERY EVENTS



2024 - 2025 PRICING

APRIL - OCTOBER WEDDINGS

# OF PEOPLE	MON-THURS	FRI+SUN	SAT +HOLIDAYS
1-150	No Weddings	\$6,800	\$7,800

EXHIBIT M PAGE 6 OF 28

Extra Hours	No Weddings	\$510	\$600
-------------	-------------	-------	-------

NOVEMBER - MARCH WEDDINGS

# OF PEOPLE	MON - THURS	FRI + SUN	SAT + HOLIDAYS
1-150	No Weddings	\$5,000	\$6,000
Extra Hours	No Weddings	\$375	\$450

Micro Weddings - 50 people or less 40% off above prices

WEDDINGS - KEEP IN MIND:

- Pricing is for a 12 hour period
- Pricing includes all amenities and cleaning
- Setup and pick up needs to be done in this 12 hour period (unless you add on additional hours)
- Available hours 9:00am-11:00pm *We recommend 10:00-10:00 or 11:00-11:00
- Quiet time by 10:00pm

Vitz Photos

SAGE + SOCIAL
 DEVYN PETERSEN and STACI DALTON
 29555 S. BEAVERCREEK RD.
 MULINO, OR. 97042
 P: 503 560 4876
 E: SAGEANDSOCIAL.VENUE@GMAIL.COM

← View more barns and farms in Portland

Pricing

About

FAQs

Reviews

Team 2

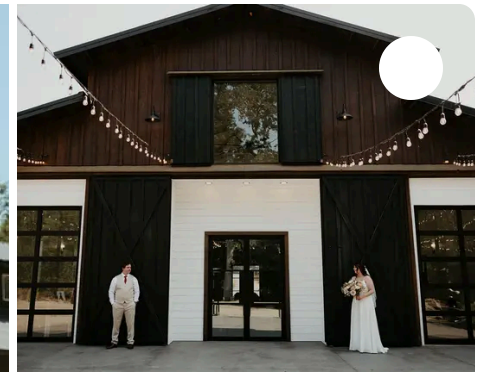
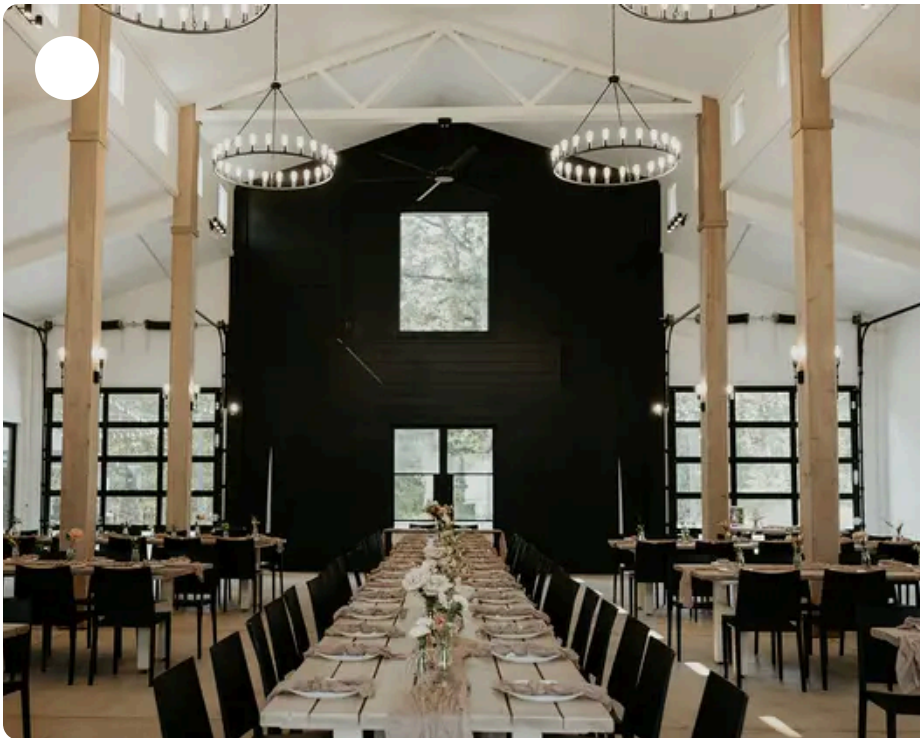
Map

♡ Save

🔍 Barn & Farm Weddings

in Portland

Search



View Photos 79

🔥 This venue is popular with couples. [Start a conversation](#)



Request pricing

← View more barns and farms in Portland

Pricing

About

FAQs

Reviews

Team 2

Map

Pricing information

Peak season

Off-peak season



Price range: \$6,000 - \$7,800

 Reception

\$6,000 starting price

[Get a personalized quote](#)

 Ceremony

\$6,000 starting price

[Get a personalized quote](#)



← View more barns and farms in Portland

Pricing

About

FAQs

Reviews

Team 2

Map

Sage and Social in Mulino, Oregon is ideal. The owners dedicate themselves to curating a one-of-a-kind occasion that is tailored to your vision. The property is run by a mother-and-daughter duo who are helped by their Husbands. Devyn and Staci began the business as a creative idea and after a few years of searching, they found the perfect property. Each detail of the property has been carefully and lovingly considered. Be it a small gathering or a large celebration, this venue can be adapted to bring your dream wedding to life. In addition, get to know their on-site designer, who specializes in creating custom design/decor packages that will bring your wedding to the next level.

Facilities and Capacity

Sage and Social is a modern farmhouse venue. Opening in June 2023, the property will also offer a renovated 3,000-square-foot barn. Climate-controlled for year-round events, the barn can be used for ceremonies and receptions. It has a classic barn-style shape

Read more

Woman-owned

Follow Sage and Social on 

Frequently asked questions

Do you have a site fee for wedding receptions at your venue?

Yes



← View more barns and farms in Portland

- Pricing
- About
- FAQs
- Reviews
- Team 2
- Map

Yes


View more FAQs




Any other questions?

Message vendor

Reviews of Sage and Social

 **Weddingwire**
0/5 0 reviews

 **Google**
5/5 31 reviews

 **Melissa Eberhardt**

 **Kaitlin Berquist**

 **Annie Huffman**



← View more barns and farms in Portland

Pricing

About

FAQs

Reviews

Team 2

Map

care of things created such a sense of relief in the midst of trying to plan our wedding. This team genuinely cares about making... [Read more](#)

were really taken care of on our family wedding day, and Devyn and Staci were so kind, helpful, and communicative. Would highly recommend to anyone!

are so genuine and sweet. Every one lovely people to be interacting with. I highly recommend hiring Devyn for design as well. I did, and it was... [Read more](#)

 See all reviews →

Team





Find a couple

Log in

Sign up

Planning Tools

Vendors

Wedding Website

Invitations

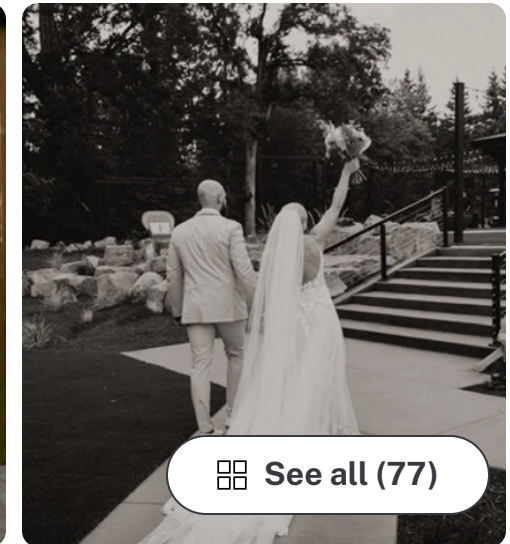
Registry

Attire & Rings

Ideas & Advice

Gifts & Favors

< [Mulino Wedding Venues](#)



See all (77)

Photos

About

Pricing

Amenities

Reviews

Contact

Team

Sage and Social



★★★★★ 5 (7)

OR





101-150 guest capacity

This venue can host up to 150 guests

About this vendor

Welcome!

Congratulations on your engagement! For those looking to celebrate their love and commitment against a countryside backdrop, Sage and Social in Mulino, Oregon is ideal. The owners dedicate themselves to curating a one-of-a-kind occasion that is tailored to your vision. The property is run by a mother-and-daughter duo who are helped by their Husbands. Devyn and Staci began the business as a creative idea and after a few years of searching, they found the perfect property. Each detail of the property has been carefully and lovingly considered. Be it a small gathering or a large celebration, this venue can be adapted to bring your dream wedding to life. In addition, get to know their on-site designer, who specializes in...

[Read more](#)

Pricing details

Starting prices



Reception:

Contact for price



Ceremony:

Contact for price



Bar services:

Contact for price



Catering:

Contact for price

Starting prices don't include service fees, taxes, gratuity, and rental fees. Guest count and seasonality may also affect prices.

[Get a personalized quote](#)



Amenities + details

- ✓ Ceremony Area
- ✓ Dressing Room
- ✓ Indoor Event Space
- ✓ Reception Area
- ✗ Liability Insurance
- ✓ Covered Outdoors Space
- ✓ Handicap Accessible
- ✓ Outdoor Event Space
- ✓ Wireless Internet
- ✗ On-Site Accommodations

Business Attributes

- Woman-owned Business

Guest Capacity

- Up to 150

Ceremony Types

- Commitment Ceremony
- Elopement
- Interfaith Ceremony
- Non-Religious Ceremony
- Religious Ceremony
- Second Wedding

[Read more](#)

Settings

- Barn
- Farm & Ranch
- Trees

Venue Service Offerings

- Bar & Drinks
- Bar Rental
- Rentals & Equipment
- Tents



Reviews

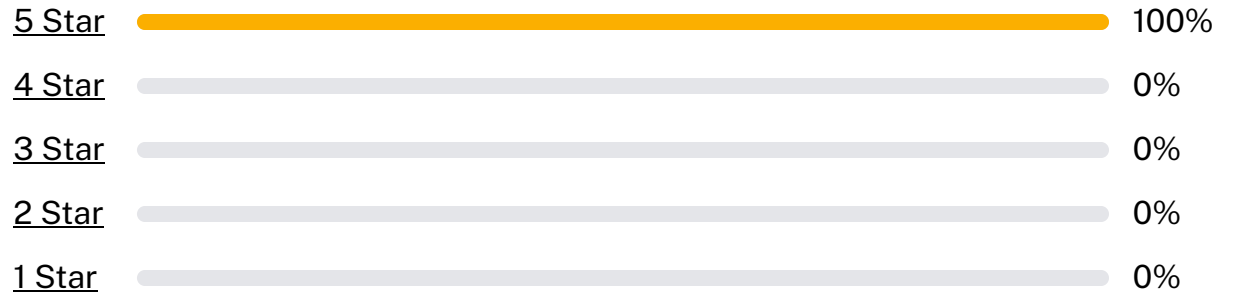
Your trust is our goal. Our community relies on honest reviews to help you make those big decisions with ease.

5 out of 5.0



7 reviews

[Write a review](#)



Review photos



Search reviews WS ▼

Filter by rating

★★★★★ 8/18/2024 · L G

Sage and Social is a STUNNING venue. The owners are amazing, wonderful people who are kind, sweet and genuine. They are always quick to respond, making communication simple. We would even recommend the owner for design since her attention to detail is impeccable. They went above and beyond to make sure our daughter and son-in-law had their dream...

[Read more](#)



★★★★★ 9/27/2023 · Lauren W

Devyn and Stacy are some of the most genuine, hardworking people I've ever met. I could tell immediately that they were going to dedicate themselves to helping my wedding vision come to life. Their venue is beyond incredible. Before it had even finished construction, I knew this would be something special. Everything about the process - from booking to planning to...

[Read more](#)

★★★★★ 8/30/2023 · Keziah H

I had the absolute privilege of celebrating our [REDACTED] I can't say enough about this extraordinary venue run by the dynamic mother-daughter d [REDACTED] beginning, they welcomed us with open arms and made us feel like a part of their extended family. Communication with Devyn and Staci was a breeze. Devyn was...

[Read more](#)



Any questions?

[Start a conversation](#)

★★★★★ 8/29/2023 · Erica K

What can I say besides the fact that this venue is absolutely breathtaking. We got married here on 8/26/23 and I couldn't have imagined getting married anywhere else. Staci and Devyn make such an amazing team and have created a beautiful venue. They both are so gracious and friendly and really helped throughout the entire process from beginning to end. They...

[Read more](#)

★★★★★ 8/16/2023 · Sonya D

We had our wedding at Sage and Social in August 2023 and it really couldn't have been more perfect. The venue was STUNNING, clean, bright, airy... everything we hoped for. Devyn and Staci were a dream to work with every step of the way. They were honest and transparent and always available. I want to do it all over again. The property is beautiful. It's roomy...

[Read more](#)

[View more](#)



Contact

29335 S. Beaver creek Rd., mulino, OR | OR

[\(503\) 560-4876](tel:(503)560-4876)

[Website](#)



Interested?

[Ask about availability](#)

Meet the team



Devyn Petersen

DESIGNER/OWNER

I'm the on-site Designer and one of the owners of Sage and Social! I also own Elevate Design and Rentals. Interior design, event design and working with neutral color pallets is my passion. I've been in the wedding industry for 4 years designing, styling and supplying a curated list of rentals to couples. I love to explore, try new restaurants, find cute coffee shops and support small. I live for gorgeous scenic views and my wonderful family!

KYELI & CHRISTIAN

Friday, August 16, 2024 · Mulino, OR

Home

Photos

Wedding Party

Q + A

Location

Attire

Registry

RSVP



AUGUST
16, 2024

MULINO
OR



RSVP

WEDDING DAY
FRIDAY, AUGUST 16, 2024
4:30 PM–12:00 AM

Attire: Neutral Tones

CEREMONY & RECEPTION
Sage and Social
29335 S Beaver creek Rd Mulino, OR 97042

RECEPTION

5.0 ★★★★★ (53)

Event venue · 🚸

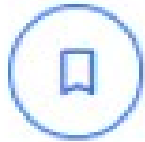
Overview

Reviews

About



Directions



Save



Nearby



Send to
phone



Share



29335 S Beaver creek Rd, Mulino, OR 97042



Open · Closes 6 PM ▾



sageandsocialvenue.com



(503) 560-4876



5GM3+GM Mulino, Oregon



Your Maps activity



Add a label

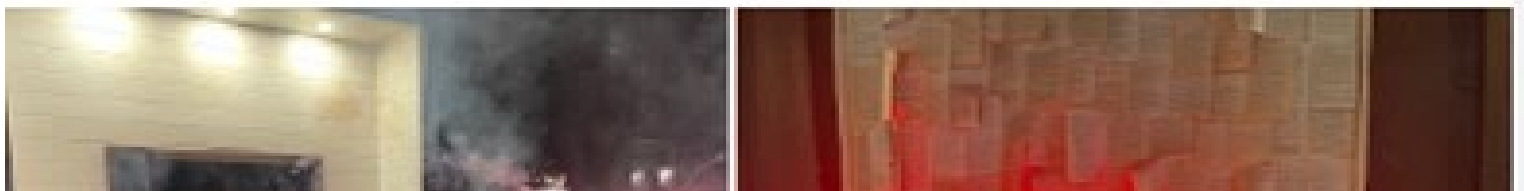


Lauren Stanton
13 reviews · 47 photos



★★★★★ 2 weeks ago **NEW**

What a fantastic experience! We had an incredible wedding in October. From the start, Devyn and Staci were immensely supportive. This venue is absolutely stunning, making it ideal for a Fall wedding. Our guests couldn't stop complimenting the beauty of the space. I truly appreciate their team—so friendly and accommodating, and they played a key role in bringing my dream wedding to life. My family also enjoyed meeting them and collaborating to make the event a success. I highly recommend utilizing their design and layout services as well, which made the planning process much more efficient. If you're searching for the perfect location for a Fall wedding, look no further. You won't regret choosing Sage and Social!



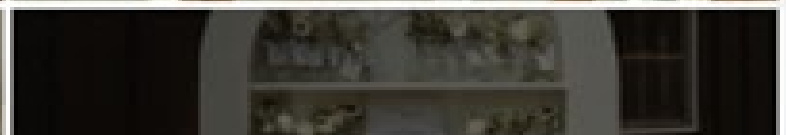


Sophia Ritschard
2 reviews · 15 photos



★★★★★ 2 weeks ago **NEW**

THE PERFECT DAY! I had my wedding back in June, and have been waiting to get some photos back to truly be able to attest to the beauty of this venue! Devyn and Staci truly made this the most remarkable day for us, and they go above and beyond for their clients! The venue was even more beautiful than I could've imagined and completely matched our simplistic color scheme we had hoped for. We couldn't be happier!!





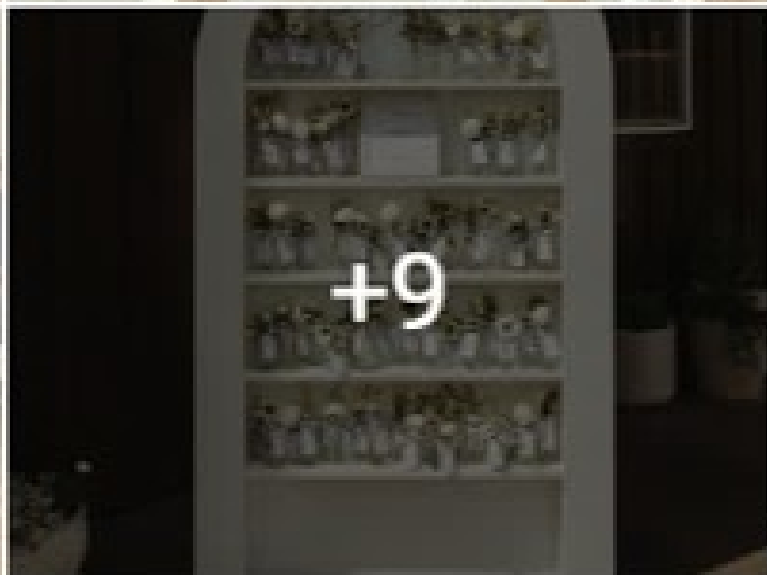
Sage and Social



Overview

Reviews

About



 Like

 Share

Response from the owner 2 weeks ago

Thank you Sophia!! Your wedding was an absolute dream! Staci and I still chat about how much we loved seeing your family gather at rehearsal dinner and enjoy dinner together! Best wishes to you and Brendan!



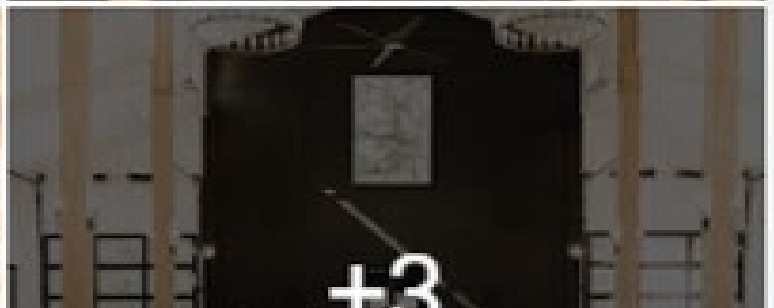
Natalie Bufton

6 reviews · 12 photos



★★★★★ a month ago

It's difficult to put into words just how amazing our experience was with Devyn, Staci, and Sage & Social. We booked the venue when it was still mid-construction, and it was a gamble at the time, but BOY did that gamble pay off. Not only is ... [More](#)





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Response from the owner a month ago

How sweet Natalie, thank you!! Your wedding was one for the books! The games everywhere, music playing, people lounging was a vibe we'd love to see more of! Thank you so much for choosing Sage!!



Neal Garhofer
2 reviews · 3 photos



★★★★★ 2 months ago

Sage and Social is a STUNNING venue. The owners