

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

Regarding an Application for a Conditional Use)	Case File No.
Permit to Operate Commercial Activities in)	Z0418-19-C
Conjunction with Farm Use.)	(Stroupe Family Farms)

A. SUMMARY

1. The owner is Duane Stroupe. The applicant is Stroupe Family Farms.
2. The subject property is located at 20424 Southwest Stafford Road, Tualatin, OR 97062. The legal description is T2S R1E, Section 29A, Tax Lot 1300, W.M. The subject property is approximately 6.52 acres and is zoned RRFF-5 – Rural Residential Farm Forest – 5 Acre Minimum.
3. On November 21, 2019, the Hearings Officer conducted a public hearing to receive testimony and evidence about the application. At the close of the public hearing, the record was closed.

B. HEARING AND RECORD HIGHLIGHTS

1. The Hearings Officer received testimony at the public hearing about this application on November 21, 2019. All exhibits and records of testimony are filed with the Planning Division, Clackamas County Department of Transportation and Development. At the beginning of the hearing, the Hearings Officer made the declaration required by ORS 197.763. The Hearings Officer disclaimed any *ex parte* contacts, bias, or conflicts of interest. The Hearings Officer stated that the only relevant criteria were those identified in the staff report, that participants should direct their comments to those criteria, and failure to raise all arguments may result in waiver of arguments at subsequent appeal forums.
2. At the hearing, county planner Clay Glasgow discussed the staff report and recommended approval of the application.
3. Todd Iselin and Casey Stroupe testified in support of the application.
4. No one testified in opposition to the application.
5. At the conclusion of the public hearing, the Hearings Officer closed the public hearing and closed the record.

C. FACTS

The subject property is an approximately 6.52-acre parcel zoned RRRF-5. The property is located at 20424 Southwest Stafford Road, Tualatin, OR 97062. The property is located along Southwest Stafford Road at the I-205 Freeway interchange. The site is currently vacant, with use limited to vehicle parking associated with property to the west under similar ownership. The area is predominantly rural in nature, with a mix of residential acreage homesites along with small scale agricultural uses. There are a number of schools and churches in the area. The applicant seeks to:

“* * * construct a butcher shop and farm stand with a footprint of approximately 5,600 sq. feet along with associated site improvements. Fresh commodities including produce and eggs from Stroupe Family Farms will be sold at the farm stand along with products including honey, jellies, produce and wines produced by other local farms.

“Beef, pork, lamb and chickens grown by Stroupe Family Farm properties in Clackamas County will be featured in the butcher shop that will custom cut the meat. Processing will include the making of sausage, smoked meats, jerky and curing hams. It is anticipated that at least 85% of the produces will be locally sourced and approximately 80% will come from Stroupe Family Farms in the Aurora and Tualatin. Once the proposed facility is operational, other local farms will be invited to showcase and sell additional items not grown at Stroupe Farms to complement their produce selection.

“The proposed store will also sell incidental amounts (as percentage of total sales) of prepared foods such as deli sandwiches using butcher shop meats and smoothies using local produce and sprouts. Stroupe grown Christmas trees will also be sold seasonally. Hours of operation will be Monday thru Saturday from 8 a.m. to 6 p.m. and Sunday from 10 a.m. to 6 p.m. It is estimated that this operation will attract 80 vehicles a day by the third year of operation.” Staff Report 14-15.

D. DISCUSSION

The staff report thoroughly explains how all of the applicable approval criteria are satisfied. The majority of the findings in the staff report are not challenged. It would be a waste of the County’s money and resources to review and repeat all of the unchallenged findings in the staff report. I have reviewed the findings in the staff report, and I agree with those findings. Therefore, I adopt and incorporate the findings in the staff report in this decision, except as addressed further.

Clackamas Zoning and Development Ordinance (ZDO) 1203.03 provides the approval criteria for conditional uses. ZDO 1203.03(C) provides, “[t]he proposed use is consistent with Subsection 1007.07, and the safety of the transportation system is adequate to serve the proposed use.” ZDO 1007.07(B) provides that 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.” ZDO 1203.03(C) also requires that the safety of the transportation system must be adequate to serve the proposed use. The staff report explains that there is adequate capacity and that the safety of the transportation system is adequate to serve the proposed use:

“The applicant has proposed a Conditional Use for a Butcher Shop and Farm Stand. Currently the property is being used in conjunction with the S&H Logging operation on property adjacent to the east.

“This development has frontage on County road SW Stafford Rd, which is classified as a Major Arterial in the Comprehensive Plan Map 5-4b. Clackamas County Roadway Standards Section 220 restricts private driveways to Arterial Roadways where a lessor classification is available. This development has no other access opportunities and has an existing paved approach on the east side that is directly across SW Stafford Rd from a residential property. This existing approach is greater than 450 feet from the on/off ramp to I-205, measuring centerline-to-centerline. The applicant will be required to maintain access in the existing location.

“The applicant has submitted a Traffic Impact Analysis by ARD Engineering dated September 5th, 2018. The TIA analyzed the intersection of the subject development and SW Stafford Rd about 450 feet north of Interstate 205. The TIA projects the development to generate 5 site trips during morning peak hour, 60 evening peak trips and 784 daily trips. The operational analysis expects that 34% of the site trips will be pass-by trips. The TIA projects the study intersection to operate within County standards through 2020 including trips created by the development. Additionally, the crash data from the last five years show no significant crash trends.

“In conclusion, the TIA suggests no mitigation and or traffic calming or turn lanes. After reviewing the TIA with Traffic Engineering, staff agrees with the analysis. Traffic mitigation will not be required.

“The TIA does references an intersection sight distance obstruction to the north. The existing access will be required to meet Clackamas County Roadway Standards Section 240 intersection sight distance

requirements. SW Stafford Rd has a posted speed limit of 40 MPH to the north which requires 455 feet of intersection sight distance for vehicles stopped at a major road turning left. SW Stafford Rd has a posted speed limit of 45 MPH to the south which requires 430 feet of intersection sight distance for vehicles stopped and crossing maneuver at a major road. Conditions of approval are warranted. As conditioned, this criterion is met.” Staff Report 19.

The local Community Planning Organization (CPO), the Stafford-Lower Tualatin Valley CPO, does not oppose the application, but argues additional traffic measures should be required. The CPO argues that the entrance to the property should be right turn in only going north and to add a left hand turn lane for the entrance of southbound traffic. While I understand that this is a busy area, particularly on Stafford Road in the afternoons, the applicant’s traffic engineer’s recommendations are more persuasive than anecdotal evidence from the CPO. I agree with the traffic engineer, County Traffic and Engineering, and the staff report that no additional mitigation measures are required by the ZDO.

ZDO 1203.03(C) is satisfied.

The applicant has satisfied all of the applicable approval criteria.

E. DECISION

Based on the findings, discussion and conclusions provided or incorporated herein and the public record in this case, the Hearings Officer hereby **APPROVES** application Z0418-19-C, with the following conditions of approval.

F. CONDITIONS OF APPROVAL

A. General Conditions

- 1) Approval of this land use permit is based on the submitted written narrative and plan(s) dated 9/12/19 and deemed complete 9/19/19. No work shall occur under this permit other than that which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of approval described herein.
- 2) **PRIOR TO THE ISSUANCE OF BUILDING PERMITS**, the applicant shall submit a statement of use to Wendi Coryell in the Clackamas County Engineering Division. Wendi Coryell may be contacted at 503-742-4657, or wendicor@co.clackamas.or.us. The statement of use is used to calculate the Transportation System Development charge.

- 3) The conditional use approval is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four year period, the approval shall be implemented, or the approval will become void. "Implemented" means all major development permits shall be obtained and maintained for the approved conditional use, or if no major development permits are required to complete the development contemplated by the approved conditional use, "implemented" means all other necessary County development permits (e.g. grading permit, building permit for an accessory structure) shall be obtained and maintained. A "major development permit" is:
 - a) A building permit for a new primary structure that was part of the conditional use approval; or
 - b) A permit issued by the County Engineering Division for parking lot or road improvements required by the conditional use approval.
- 4) This Conditional Use approval is granted subject to the above and below stated conditions. Failure to comply with any of the conditions of approval constitutes a violation of this permit and may be cause for revocation of this approval.
- 5) The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusions by the county concerning whether the activities allowed will or will not come in conflict with the provisions of the federal Endangered Species Act (ESA). This decision should not be construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the federal agencies responsibility for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

B. Planning and Zoning Conditions

- 1) Development of the subject property is subject to the provisions of ZDO 1203.
- 2) PRIOR TO ISSUANCE OF A BUILDING PERMIT, the applicant shall submit a landscape plan to the County for review and approval prior to planting, illustrating landscape/buffering as required for parking areas. The site shall be landscaped per

the applicable requirements of Section 1009 prior to final Certificate of Occupancy. The applicant will also submit a one year vegetation guarantee to the County, prior to final Certificate of Occupancy.

- 3) PRIOR TO ISSUANCE OF A BUILDING PERMIT, developer to secure approval from Clackamas County Sustainability relative to recycling/trash enclosure.
- 4) PRIOR TO ISSUANCE OF A BUILDING PERMIT, developer to receive approval from SWMACC (through Water Environment Services) relative to surface water management.
- 5) Any signage proposed as part of the facility is required to meet the signage requirements of ZDO Section 1010.
- 6) PRIOR TO ISSUANCE OF A BUILDING PERMIT, The applicant shall submit a written agreement that they will limit their sourcing of farm products to the local agricultural community, including Stroupe Family Farms and other agricultural producers within an average of 20 miles.
- 7) PRIOR TO ISSUANCE OF A BUILDING PERMIT, The applicant shall submit a written agreement that incidental sales of non-farm-related products shall not exceed fifteen-percent (15%) of total gross annual sales.

C. Engineering Division Conditions

- 1) Prior to site improvements: a Development Permit is required from the Engineering Department for review and approval of frontage improvements, erosion control Best Management Practices implemented, sight distances and the driveway improvements. The permit shall be obtained prior to commencement of site work and Certificate of Occupancy. To obtain the permit, the applicant shall submit construction plans prepared and stamped by an Engineer registered in the State of Oregon, or plans acceptable to the Engineering Division, provide a performance guarantee equal to 125% of the estimated cost of the construction and pay a plan review and inspection fee. The fee will be calculated as a percentage of the construction costs if it exceeds the minimum permit fee. The minimum fee and the percentage will be determined by the current fee structure at the time of the Development Permit Application.

- 2) Prior to Building Permit Issuance: Submit approvable construction Plans showing all required improvements. All proposed and required improvements shall be designed, constructed, inspected and approved, or financially guaranteed, pursuant to Clackamas County Roadway Standards:
 - a) Construct SW Stafford Rd to meet Figure 5-2a including a 6 foot bike lane on SW Stafford Rd and 8 foot gravel shoulder. Structural section for SW Stafford Rd shall meet C100 for Major Arterial
 - b) Design and construct private driveway approach intersecting SW Stafford Rd. Private driveway shall be constructed per Standard Drawing R100, with a minimum width of 20 feet with a centerline turning radius of 40 feet.
 - c) Fire apparatus turnaround at or near the end of the shared private driveway per Standard Drawing C350 at a location approved by TVF&R and Engineering staff.
 - d) Construct parking area to meet dimensional requirements in ZDO 1015 and P100 and structural section of R100
 - e) Provide loading zone per 1015.04
 - f) Show number of parking spacing required and proposed
 - g) Construct ADA parking requirements and compliant sidewalk to public entrance of building per Section 320.14.
 - h) Construct bicycle parking requirements per ZDO 1015.3 and minimum parking spaces per Table 1015-2.
- 3) The applicant shall obtain written approval from TVF&R indicating adequate emergency services access and fire suppression is provided.
- 4) The applicant shall obtain any and all Federal and State regulatory permits with regards to the Clean Water Act and National Pollutant Discharge Elimination System.
- 5) Prior to Final Inspection: the applicant shall provide and maintain minimum intersection sight distances at the proposed shared private road intersection with SW Stafford Rd. Intersection sight distance shall restrict plantings at maturity, retaining wall, embankments, trees, fences or any other objects that obstruct

vehicular sight distance. Minimum required intersection sight distance is 455 feet to the north and 430 feet to the south of SW Stafford Rd.

- 6) Prior to Final Inspection: the applicant shall obtain a Utility Placement Permit with the Clackamas County DTD for all utility work within the Right-of-way of SW Stafford Rd. Additional Paving may be required pending utility asphalt cuts with SW Stafford Rd

D. Onsite Wastewater Systems Program Conditions

- 1) With the list of goods/services they plan to offer, the project may require permitting through DEQ for a WPCF permit. More detail will be needed at the time of permitting to make that determination

DATED this 26th day of November, 2019.



Fred Wilson
Clackamas County Hearings Officer

ENDANGERED SPECIES ACT NOTICE

The federal Endangered Species Act (ESA) is not a criterion for approval of this application. The County has reviewed the approval standards in light of the requirements of the ESA, believes that the criteria for approval are consistent with the terms of the ESA and has submitted the Development Ordinances for consideration for a "4(d)" programmatic limitation. However, the analysis included in this decision does not include an evaluation by the County of the applications for consistency with the ESA nor does the decision reach any conclusions concerning that federal law. The applicant are responsible for designing, constructing, operating and maintaining the activities allowed by an approval of this application in a manner that ensures compliance with the ESA. Any question concerning this issue should be directed to the applicant, their consultants and the federal agencies responsible for administration and enforcement of the ESA for the affected species.

APPEAL RIGHTS

ZDO 1307.10(F) provides that, with the exception of an application for an Interpretation, the Land Use Hearings Officer's decision constitutes the County's final decision for purposes of any appeal to the Land Use Board of Appeals (LUBA). State law

and associated administrative rules promulgated by LUBA prescribe the period within which any appeal must be filed and the manner in which such an appeal must be commenced. Presently, ORS 197.830(9) requires that any appeal to LUBA “shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final.” This decision will be “final” for purposes of a LUBA appeal as of the date of mailing (which date appears on the last page herein).