



Oregon

Theodore R. Kubongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

5/4/2010

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Plan Amendment Program Specialist

SUBJECT: Clackamas County Plan Amendment
DLCD File Number 007-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Wednesday, May 19, 2010

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Scott Hoelscher, Clackamas County
Jon Jinings, DLCD Community Services Specialist
Gary Fish, DLCD Regional Representative
Katherine Daniels, DLCD Farm/Forest Specialist

<paa> Y



FORM 2

DLCD

Notice of Adoption

In person electronic mailed

DATE STAMP

DEPT OF

APR 29 2010

LAND CONSERVATION AND DEVELOPMENT
For Office Use Only

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

Jurisdiction: **Clackamas County**

Local file number: **ZDO-221**

Date of Adoption: **April 22, 2010**

Date Mailed: **April 27, 2010**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes No Date: 12/21/09

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

The proposal involves text amendments to Section 806: Home Occupation to Host Events and Section 822: Home Occupations of the Clackamas County Zoning and Development Ordinance (ZDO). The amendments to ZDO Section 806 would allow events in conjunction with historic landmarks in Exclusive Farm Use; Agricultural Forest and Timber zoning districts and consider amendments to other conditional standards. The proposed changes to ZDO Section 822 would amend development standards for home businesses including a requirement that the accessory space used for the home occupation be separated from personal space; exempt vehicles with business logos from the external evidence provision and define the requirements for a noise study. Other conforming amendments to the ZDO will be considered based on changes to Sections 806 and 822.

Does the Adoption differ from proposal?

No

Plan Map Changed from: **N/A**

to: **N/A**

Zone Map Changed from: **N/A**

to: **N/A**

Location: **N/A**

Acres Involved: **N/A**

Specify Density: Previous: **N/A**

New: **N/A**

Applicable statewide planning goals:

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD File No. 007-09 (18013) [16107]

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

None

Local Contact: **Scott Hoelscher**

Phone: **(503) 742-4524** Extension: **N/A**

Address: **150 Beaver Creek Road**

Fax Number: **503-742-4550**

City: **Oregon City**

Zip: **97045**

E-mail Address: **scotthoe@co.clackamas.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)

per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this **Form 2** on light green paper if available.
3. Send this Form 2 and One (1) Complete Paper Copy and One (1) Electronic Digital CD (documents and maps) of the Adopted Amendment to the address in number 6:
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. **DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.** (for submittal instructions, also see # 5)] **MAIL the PAPER COPY and CD of the Adopted Amendment to:**

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615).
10. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of ZDO -221, an Amendment
to The Clackamas County Zoning
and Development Ordinance



ORDER NO. 2010-33

File No.: ZDO – 221: Home Occupation Amendments

This matter coming regularly before the Board of County Commissioners, as a proposed legislative text amendment to Sections 806 and 822 of the Clackamas County Zoning and Development Ordinance; and it appearing that the Clackamas County Planning Commission recommended adoption of the proposed amendments at its February 22nd, 2010 meeting; and

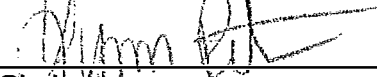
It further appearing that after appropriate notice a public hearing was held before the Board of County Commissioners on April 14, 2010, at which testimony and evidence were presented, and that a preliminary decision was made by the Board on April 14, 2010;

Based upon the evidence and testimony presented, this Board finds that the proposed text amendments are appropriate, and consistent with the applicable provisions of the Clackamas County Comprehensive Plan


NOW, THEREFORE, IT IS HEREBY ORDERED that ZDO – 221 is approved in accordance with the findings in this order, and that the Clackamas County Zoning and Development Ordinance shall be amended as shown in Exhibit A.

DATED this 22nd day of April, 2010

BOARD OF COUNTY COMMISSIONERS



Chair



Recording Secretary

File ZDO-221

EXHIBIT A

Zoning and Development Ordinance Amendment

Text to be added is underlined. Text to be deleted is ~~struck through~~.

806 HOME OCCUPATIONS TO HOST EVENTS

806.01 APPLICABILITY

Section 806~~This section~~ shall apply in the RR, RA-1, RA-2, RRRF-5, FF-10, FU-10, EFU, TBR, and AG/F zoning districts.

806.02 DEFINITIONS

Unless specifically defined in Subsection 806.02, words or phrases used in Section 806 shall be interpreted to give them the same meaning as they have in common usage and to give Section 806 its most reasonable application.
~~For the purposes of this section, the following definitions shall apply:~~

- A. Employee: 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. This definition does not apply to persons employed by contract to provide services for a single event, such as caterers, photographers, and florists.
- B. Events: Weddings, family reunions, class reunions, company picnics, and similar gatherings.
- C. Operator: The person who conducts the home occupation, has majority ownership interest in the business, lives full-time in a dwelling on the subject property and is responsible for strategic decisions and day-to-day operations of the business.

806.03 CONDITIONAL STANDARDS

A home occupation to host events shall comply with the following standards:

- A. The home occupation shall be sited on a lot of record that contains a lawfully established dwelling.
- B. The operator of the home occupation shall be a resident of the property on which the home occupation~~business~~ is located.
- C. The home occupation shall have no more than five full-time or part-time employees on the site.
- D. The home occupation shall be operated substantially in:

1. The dwelling; ~~or~~
 2. Other buildings or areas which are normally associated with uses permitted in the zoning district in which the subject property is located; or
 3. One temporary tent. The tent shall be placed on the subject property no more than 24 hours before the event and removed no more than 24 hours after the event.
- E. ~~This section shall not permit~~ the construction of any structure that would not otherwise be allowed in the zoning district in which the subject property is located shall be prohibited.
- F. In the EFU and AG/F zoning districts, either the subject property, or a portion thereof, shall be located in a Historic Landmark (HL) overlay zoning district, or a winery as defined in Oregon Revised Statutes(ORS) 215.452 shall be present on the subject property prior to the operation of the home occupation. In the TBR zoning district, the subject property, or a portion thereof, shall be located in an HL overlay zoning district.
1. If the subject property is removed from the HL overlay zoning district, or the winery is discontinued for more than one year, the conditional use approval shall become null and void.
 2. If the subject property is wholly or partially within an HL overlay zoning district (and does not otherwise qualify for the home occupation based on the presence of a winery), events shall be confined to the area within 250 feet of a historic landmark structure. However, office activities, parking, onsite sewage disposal, and other similar elements of the home occupation may occur outside this area. The distance from the historic landmark structure may be increased if the applicant provides evidence substantiating that steep slopes, significant natural features, significant existing landscaping, existing structures, other physical improvements, or other similar constraints prevent compliance with this standard.
- G. If the subject property is located in or adjacent to an EFU, TBR, or AG/F zoning district, prior to operating the home occupation, the applicant 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 ~~ORS~~ Oregon Revised Statutes 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.

- H. In the EFU, TBR, and AG/F zoning districts, the evaluation of compliance with Subsection 1203.01(D) shall include consideration of impacts on dwellings even though dwellings are not primary uses in these zoning districts.
- I. 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.
- J. 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.
- K. A maximum of two events shall be allowed per day, and no more than one event shall occur at any one time.
- L. The maximum number of guests for any single event shall not exceed 300. However, a lower limit may be imposed based on site capacity constraints.
- M. All lighting used during events shall be arranged and shielded so as not to shine onto adjacent properties or rights-of-way.
- N. 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 of the noise shall not exceed the greater of 60 dB(A) or the ambient noise level when measured off the subject property. During all other hours~~Between 10:00 p.m. and 7:00 a.m.~~, 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 subject property.
 - a2. Noise generated by ~~passenger vehicles entering or exiting or entering the~~ subject property, but not by idling vehicles, shall be exempt from Subsection 806.03(N)(1)~~the noise standards, and the~~
 - b. Subsection 806.03(N)(1)~~off the property noise standards~~ shall not apply to noise detectable on public rights-of-way and railroad rights-of-way.
 23. A noise study may be required to demonstrate compliance with Subsection 806.03(N)(1)~~the noise standards.~~
 4. ~~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~~

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

making measurements shall have completed training in the use of the sound level meter, and measurement procedures consistent with that training shall be followed.

- ~~5. Outdoor generators and outdoor sound amplification devices or systems shall not be allowed.~~
- O. The home occupation shall comply with Section 1007, except as modified by this subsection.
 1. The minimum parking requirement shall be one space per three guests based on the maximum number of guests permitted for any single event. An additional space shall be provided for each employee.
 2. The minimum parking space requirement for the home occupation shall be in addition to the parking required for other permitted uses on the subject property.
 3. On-street parking shall be prohibited on the day of an event.
- P. Restroom facilities shall be regulated as follows:
 1. Portable restroom facilities shall include hand-sanitizing or hand-washing facilities.
 2. Portable restroom facilities shall be subject to the standards of the service provider and the County Water Environment Services Department~~Soils Division~~.
 3. Portable restroom facilities shall be screened from adjacent properties and rights-of-way by sight-obscuring fences or plantings and shall be located a minimum of 50 feet from all property lines.
 4. Use of on-site sewage disposal facilities shall be subject to approval by the County Water Environment Services Department~~Soils Division~~.
- Q. One temporary sign ~~shall~~ may be allowed in addition to signs permitted pursuant to Section 1010. 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.
- R. Equipment, furniture, goods, and other amenities used for events shall be stored indoors on non-event days. The use shall not take an outward appearance nor manifest any characteristics of a business or operation of a retail or wholesale nature, except for those characteristics normally associated with or allowed for a primary use in the subject zoning district, on non-event days.

CLACKAMAS COUNTY ZONING AND DEVELOPMENT ORDINANCE

- S. The use shall comply with any applicable requirements of the Oregon Liquor Control Commission.

File ZDO-221
Zoning and Development Ordinance Amendment

Text to be added is underlined. Text to be deleted is ~~struck through~~.

| 822 HOME OCCUPATIONS (~~3/24/05~~)

822.01 PURPOSE

| Section 822~~This section~~ is adopted to:

- | A. Encourage economic development in the County by promoting home occupations;
- B. Reduce vehicle miles traveled by providing opportunities for people to work from their homes;
- C. Recognize the differences between residential communities, and provide standards for home occupations consistent with these differences;
- D. Ensure the compatibility of home occupations with other uses permitted in the underlying zoning district;
- E. Maintain and preserve the character of the community and residential neighborhoods; and
- | F. Mitigate noise, traffic, and other possible negative effects of home occupations.

| 822.02 DEFINITIONS

| Unless specifically defined in Subsection 822.02, words or phrases used in Section 822 shall be interpreted to give them the same meaning as they have in common usage and to give Section 822 its most reasonable application.

| ~~For the purposes of this section, the following definitions shall apply:~~

- | A. Abutting Properties: Properties that are contiguous to the property on which the home occupation is proposed, as well as properties directly across any access drive, or private, public, or county road, provided the functional classification of the road is below that of a “collector”.
~~For purposes of this section, “abutting” properties include~~
- | B. Accessory Space: Any building space, other than the dwelling unit, not constructed to residential standards under the State of Oregon One and Two Family Dwelling Code and/or the State of Oregon Structural Specialty Code that is used for the home occupation, including, but not limited to, an attached garage, detached garage, or
~~Any building space, other than the dwelling unit, not constructed to residential standards under the State of Oregon One and Two Family Dwelling Code and/or the State of Oregon Structural Specialty Code that is used for the home occupation, including, but not limited to, an attached garage, detached garage, or~~

pole building. Accessory space does not include manufactured dwellings, residential trailers, or recreational vehicles.

- C. Employee: 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 home occupationbusiness.
- D. Home Occupation: An occupation or business activity which results in a product or service; is conducted, in whole or in part, in a dwelling unit and/or an accessory building normally associated with primary uses allowed in the underlying zoning district; is conducted by at least one resident of~~family member occupying~~ the dwelling unit; and is clearly subordinate to the residential use of the subject property. Home occupations do not include garage sales, yard sales, holiday bazaars, or home parties which are held for the purpose of the sale or distribution of goods or services unless such sales and/or parties are held more than six~~6~~ times in a calendar year or operate in excess of 24 total days in a calendar year. (5/22/03)
- E. Incidental Use: The use of no more than 25% percent of the floor area of a structure or 500 square feet, whichever is less.
- F. Operator: The person who conducts the home occupation, has majority ownership interest in the home occupationbusiness, lives full-time in a dwelling unit on the subject property, and is responsible for strategic decisions and day-to-day operations of the home occupationbusiness.
- G. Property: ~~For purposes of this section, "property" refers to a legal~~ A lot of record as determined by the Planning Division.
- H. Vehicle: Any motorized or non-motorized transportation equipment intended for use on public roads and associated with the home occupation, including, but not limited to, a car, van, pickup, motorcycle, truck, detached trailer, or a truck tractor with no more than one trailer. An exception may be made for a detached trailer or trailers, which may be categorized as equipment if stored within an enclosed building approved for this use through ~~at~~ the home occupation permit. Accessory space utilized for storage of a trailer shall be included in the calculation of total accessory space approved for the home occupation.
- I. Vehicle Trip: A vehicular movement either to or from the subject property by any vehicle used in the home occupation, any delivery vehicle associated with the home occupation, or any customer or client vehicle.

822.03 LEVEL ONE~~1~~— MINOR HOME OCCUPATION

- A. No land use permit is required for a Level 1 Minor Home Occupations, which shall comply with the following standards:

1. ~~Location: Any property in residential use. (5/22/03)~~
2. ~~Scale: A Minor Home Occupation shall be conducted within a dwelling and shall be clearly incidental to the use of the structure as a dwelling. Incidental use of accessory structure space is allowed but is limited to storage purposes only.~~
3. ~~Character: There shall be no visible evidence of the conduct of a Minor Home Occupation from outside the dwelling except as otherwise allowed by this subsection.~~
4. A. EmployeesParticipants: No persons other than residents of the dwelling unit in which the home occupation is locatedmembers of the immediate family residing on the premises shall be employeesemployed in the operation of the Minor hHome oOccupation.
- B. Building Space: The home occupation shall be conducted in a dwelling unit, but is limited to incidental use thereof. In addition, incidental use of accessory space is allowed for storage purposes only.
- C. Noise, Vibration, Glare, Fumes, and Odors: The home occupation shall not create noise, vibration, glare, fumes, or odors detectable to normal sensory perception off the subject property. Vehicles entering or exiting the subject property shall be exempt from this standard, but idling vehicles shall not.
- D. Electrical Interference: The home occupation shall not create visual or audible electrical interference in any radio, television, or other electronic device off the subject property, or cause fluctuations in line voltage off the subject property.
5. E. Storage and Display: There shall be Nno outside storage, display of goods or merchandise visible from outside an enclosed building space, or other external evidence of associated with athe Minor hHome oOccupation shall occur, except as specifically allowed by Subsection 822.03. Notwithstanding this provision, business logos flush-mounted on vehicles used in the daily operations of the home occupation are allowed.
6. ~~Display of Products: There shall be no display of products visible from outside an enclosed building space.~~
- F. Signs: Signs shall be permitted pursuant to Section 1010.
7. G. Traffic:
 - a. ~~A Level 1 Minor Home Occupation shall not involve the use, parking, storage or repair of any vehicle exceeding a gross vehicle weight of 11,000 pounds, except deliveries by parcel post, United Parcel Service or similar in town delivery service trucks. Bulk deliveries, parcel post, or similar in town delivery services shall be limited to no more than one delivery per day.~~

~~b. The home occupation shall not generate more than Customer/client traffic shall be limited to a maximum of 10 ten vehicle trips per day.~~

8. H. Parking: Parking associated with the home occupation shall be regulated as follows:

~~a. 1. No V vehicles associated with the a Minor h Home o Occupation shall not be stored, parked, or repaired on public rights-of-way.~~

~~b. 2. The maximum number of customer or client vehicles that are associated with the a home occupation and located on the subject property shall not exceed two at any time.~~

3. The home occupation shall not involve the use, parking, storage, or repair of any vehicle exceeding a gross vehicle weight of 11,000 pounds, except deliveries by parcel post, United Parcel Service, or similar in-town delivery service trucks. Parcel post, United Parcel Service, or similar in-town delivery services shall be limited to no more than one delivery per day.

~~e. 4. Two parking spaces for customers/clients, in addition to required residential parking, shall be provided in defined areas of the subject property. Such areas shall be located behind the front yard setback and be accessible, usable, designed, and surfaced for parking. The minimum parking space requirement for the home occupation shall be in addition to the parking required for other permitted uses on the subject property.~~

9. ~~Noise, Equipment, and Process Restrictions:~~

~~a. A Minor Home Occupation shall not create noise, vibration, glare, fumes or odor detectable to normal sensory perception off the subject property.~~

~~b. A Minor Home Occupation shall not create visual or audible electrical interference in any radio or television off the subject property or cause fluctuations in line voltage off the subject property.~~

~~B. No land use permit is required to operate a Minor Home Occupation.~~

822.04 LEVEL TWO~~2~~ MAJOR HOME OCCUPATION

A. The Planning Director may approve a Level Two~~2~~ Major Home Occupations, pursuant to Subsection 1305.02, if the applicant provides evidence substantiating compliance shall comply with the following standards:

1. A. Location: The home occupation shall be located on a Any property where the majority of abutting properties are equal to or less than two acres. A renewal

application shall be evaluated on the basis of the parcel size analysis first applied to the home occupation.

2. B. Operator: The operator of the home occupation shall reside in a dwelling unit on the subject property.

3. C. Employees: ~~The home occupation shall have~~ There shall be no more than five full or part time employees.

D. Building Accessory Space: The home occupation may be conducted in a ~~In addition to the incidental use of the dwelling unit, but—except in the case of a bed and breakfast homestay—is limited to incidental use thereof.~~ A maximum of 500 square feet of accessory space may be used for ~~thea Level 2 Major h~~ Home Occupation. If only a portion of an accessory building is authorized for use in the home occupation, a partition wall at least seven feet in height, or a height as required by the County Building Codes Division, whichever is greater, shall separate the home occupation space from the remainder of the building. A partition wall may include a door, capable of being closed, for ingress and egress between the home occupation space and the remainder of the building. In the case of a bed and breakfast homestay, use of the dwelling is not required to be limited to incidental use. (5/22/03)

4. E. Noise: Noise shall be regulated as follows:

1. From ~~Between 8:00 a.m. until and 6:00 p.m., the average peak sound pressure level, when measured off the subject property, of noise created by thea Level 2 Major h~~ Home Occupation shall not create noise that, when measured off the subject property, exceeds the greater of 60 dB(A)dba or the ambient noise level. During all other hours ~~Between 6:00 p.m. and 8:00 a.m., thea Level 2 Major h~~ Home Occupation shall not create noise that is detectable to normal sensory perception off the subject property.

a. Noise generated by ~~passenger vehicles exiting or entering or exiting the~~ subject property, but not by idling vehicles, shall be exempt from Subsection 822.04(E)(1) ~~these standards.~~

b. Subsection 822.04(E)(1) ~~These off the property noise standards 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 822.04(E)(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.

~~6F.~~ Vibration, Glare, Fumes, and Odors~~Equipment and Process Restrictions:~~ TheA Level 2 Major hHome oOccupation shall not create vibration, glare, fumes, or odors detectable to normal sensory perception off the subject property. Vehicles entering or exiting the subject property shall be exempt from this standard, but idling vehicles shall not.

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

~~7H.~~ Outside Storage and Display: No outside storage, display of goods or merchandise visible from outside an enclosed building space, or external evidence of thea Level 2 Major hHome oOccupation shall occur, except as specifically allowed by this Ssubsection 822.04. Notwithstanding this provision, business logos flush-mounted on vehicles used in the daily operations of the home occupation are allowed.

~~8I.~~ Signs: Signs shall be permitted pursuant to Section 1010.

~~9J.~~ Traffic: TheA Level 2 Major hHome oOccupation shall not generate more than 20 vehicle trips per day.

~~10K.~~ Parking: Parking associated with the home occupation shall be regulated as follows:

~~1a.~~ No Vvehicles associated with thea Level 2 Major hHome oOccupation shall not be stored, parked, or repaired on public rights-of-way.

~~2b.~~ The maximum number of vehicles that are associated with thea Level 2 Major hHome oOccupation and located on the subject property shall not exceed four at any time, including, but not limited to, employee vehicles and customer/client vehicles.

~~3e.~~ TheA Level 2 Major hHome oOccupation shall not involve the use, parking, storage, or repair of any vehicle exceeding a gross vehicle weight of 11,000 pounds, except deliveries by parcel post, United Parcel Service, or similar in-town delivery service trucks.

~~4d.~~ Parking spaces needed for employees or customers/clients of thea Level 2 Major hHome oOccupation shall be provided in defined areas of the subject property. Such areas shall be accessible, usable, designed, and surfaced for parking. Parking for the home occupation may be required to comply with Americans with Disabilities Act requirements, as determined by the County Building Codes Division.

~~11L.~~ Change of Occupancy Classification Hazards: If ~~the a Level 2 Major h~~Home ~~o~~Occupation use will alter the occupancy classification of an existing structure as determined by the County Building Codes Division official, then the structure shall be made to conform with the current edition of the State of Oregon Structural Specialty Code and/or the Oregon Residential Specialty One and Two Family Dwelling Code and the requirements of the State Fire Marshal or the local fire district. ~~However, in no case shall:~~

~~a. A use be allowed that requires a structure to be upgraded or built to more restrictive requirements than a S3 occupancy; or~~

~~b. Hazardous material be used or stored on the subject property in quantities not typical of those normally associated with primary uses allowed in the underlying zoning district.~~

~~12M.~~ Prohibited Uses: The following uses shall be prohibited as a ~~Level 2 Major h~~Home ~~o~~Occupation:

1a. Repair of motorized vehicles and equipment, including the painting or repair of automobiles, trucks, trailers, or boats;

2b. Towing and vehicle storage business;

3. Any other use that requires a structure to be upgraded to a more restrictive use, under the current edition of the Oregon Structural Specialty Code, than an automobile repair shop with open flame; and

4. Hazardous materials on the subject property in quantities greater than those normally associated with the primary uses allowed in the underlying zoning district, or in quantities greater than those exempt amounts allowed by the current edition of the Oregon Structural Specialty Code, whichever is less.

~~13N.~~ Access: The subject property ~~shall~~must have frontage on, and direct access from, a constructed public, county, or state road, or take access on an exclusive road or easement serving only the subject property. If property takes access via a private road or easement which also serves other properties, evidence must be provided by the applicant, in the form of a petition, that all other property owners who havewhose property access rights to the private road or easementis affected agree to allow the specific home occupation described in the application. Such evidence shall include any conditions stipulated in the agreement. A new petition shall not be required for a renewal application.

O. If the subject property is located in an EFU, TBR, or AG/F zoning district, only structures otherwise allowed in the zoning district shall be used in the operation of the home occupation.

~~B. A Level 2 Major Home Occupation requires a land use permit pursuant to Subsection 822.08.~~

822.05 LEVEL THREE MAJOR HOME OCCUPATION

~~A. The Planning Director may approve a Level Three Major Home Occupations, pursuant to Subsection 1305.02, if the applicant provides evidence substantiating compliance shall comply with the following standards:~~

- ~~1. A. Location: The home occupation shall be located on aAny property where a minimum of 50 percent of abutting properties are greater than two2 acres in size. A renewal application shall be evaluated on the basis of the parcel size analysis first applied to the home occupation. (5/22/03)~~
- ~~2. B. Operator: The operator of thea Level 3 Major hHome oOccupation shall reside in a dwelling unit on the subject property.~~
- ~~3. C. Employees: The home occupationThere shall have be no more than five full or part time employees.~~
- ~~4. D. Building Accessory Space: The home occupation may be conducted in aIn addition to the incidental use of the dwelling unit, but—except in the case of a bed and breakfast homestay—is limited to incidental use thereof. Aa maximum of 1,500 square feet of accessory space may be used for thea Level 3 Major hHome oOccupation. If only a portion of an accessory building is authorized for use in the home occupation, a partition wall at least seven feet in height, or a height as required by the County Building Codes Division, whichever is greater, shall separate the home occupation space from the remainder of the building. A partition wall may include a door, capable of being closed, for ingress and egress between the home occupation space and the remainder of the building. In the case of a bed and breakfast homestay, use of the dwelling is not required to be limited to incidental use. (5/22/03)~~
- ~~5. E. Noise: Noise shall be regulated as follows:~~
 - ~~1. FromBetween 8:00 a.m. untiland 6:00 p.m., the average peak sound pressure level, when measured off the subject property, of noise created by thea Level 3 Major hHome oOccupation shall not create noise that, when measured off the subject property, exceeds the greater of 60 dB(A)dba or the ambient noise level. During all other hoursBetween 6:00 p.m. and 8:00 a.m., thea home occupation shall not create noise that is detectable to normal sensory perception off the subject property.~~

- a. Noise generated by passenger vehicles exiting or entering or exiting the subject property, but not by idling vehicles, shall be exempt from Subsection 822.05(E)(1) these standards.
 - b. Subsection 822.05(E)(1) These off the property noise standards 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 the noise standards. 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.
6. F. ~~Equipment and Process Restrictions:~~ ~~The A-Level 3 Major hHome oOccupation~~ shall not create vibration, glare, fumes, or odors detectable to normal sensory perception off the subject property. Vehicles entering or exiting the subject property shall be exempt from this standard, but idling vehicles shall not.
- G. ~~Electrical Interference:~~ ~~The A-Level 3 Major hHome oOccupation~~ shall not create visual or audible electrical interference in any radio, television, or other electronic device off the subject property, or cause fluctuations in line voltage off the subject property.
7. H. ~~Outside Storage and Display:~~ No outside storage, display of goods or merchandise visible from outside an enclosed building space, or external evidence of ~~the A-Level 3 Major hHome oOccupation~~ shall occur, except as specifically allowed by ~~this Ssubsection 822.05~~. Notwithstanding this provision, business logos flush-mounted on vehicles used in the daily operations of the home occupation are allowed.
8. I. Signs: Signs shall be permitted pursuant to Section 1010.
9. J. Traffic: ~~The A-Level 3 Major hHome oOccupation~~ shall not generate more than 30 vehicle trips per day.
10. K. ~~Parking:~~ Parking associated with the home occupation shall be regulated as follows:
- a. ~~1. No Vvehicles~~ associated with ~~the A-Level 3 Major hHome oOccupation~~ shall not be stored, parked, or repaired on public rights-of-way.

- b. ~~2.~~ The maximum number of vehicles that are associated with ~~thea Level 3 Major~~ hHome oOccupation and located on the subject property shall not exceed five at any time, including, but not limited to, employee vehicles, customer/client vehicles, and vehicles to be repaired. Vehicles to be repaired shall be located within an enclosed building or in an area not visible from off the subject property.
- e. ~~3.~~ No more than one of the five vehicles permitted to be located on the subject property at one time shall exceed a gross vehicle weight of 11,000 pounds.
- d. ~~4.~~ Parking spaces needed for employees or customers/clients of ~~thea Level 3 Major~~ hHome oOccupation shall be provided in defined areas of the subject property. Such areas shall be accessible, usable, designed, and surfaced for parking. Parking for the home occupation may be required to comply with Americans with Disabilities Act requirements, as determined by the County Building Codes Division.

~~11.~~ L. Change of Occupancy Classification Hazards: If ~~thea Level 3 Major~~ hHome oOccupation use will alter the occupancy classification of an existing structure as determined by the County Bbuilding Codes Division official, then the structure shall be made to conform with the current edition of the State of Oregon Structural Specialty Code and/or the Oregon Residential Specialty One and Two Family Dwelling Code and the requirements of the State Fire Marshal or the local fire district. ~~However, in no case shall:~~

a. ~~— A use be allowed that requires a structure to be upgraded or built to more restrictive requirements than an H-4 or H-5 occupancy, except incidental painting in conjunction with an H-4 or H-5 use; or~~

b. ~~Hazardous materials be used or stored on the subject property in quantities not typical of those normally associated with primary uses allowed in the underlying zoning district.~~

M. Prohibited Uses: The following uses shall be prohibited as a home occupation:

1. Any use that requires a structure to be upgraded to a more restrictive use, under the current edition of the Oregon Structural Specialty Code, than aircraft engine repair; and
2. Hazardous materials on the subject property in quantities greater than those normally associated with the primary uses allowed in the underlying zoning district, or in quantities greater than those exempt amounts allowed by the current edition of the Oregon Structural Specialty Code, whichever is less.

~~12.~~ N. Access: The subject property ~~shall~~ must have frontage on, and direct access from, a constructed public, county, or state road, or take access on an exclusive road or easement serving only the subject property. If property takes access via a private road or easement which also serves other properties, evidence must be provided by the applicant, in the form of a petition, that all other property

owners ~~who have~~ whose property access rights to the private road or easement is affected agree to allow the specific home occupation described in the application. Such evidence shall include any conditions stipulated in the agreement. A new petition shall not be required for a renewal application.

O. If the subject property is located in an EFU, TBR, or AG/F zoning district, only structures otherwise allowed in the zoning district shall be used in the operation of the home occupation.

~~B. A Level 3 Major Home Occupation requires a land use permit pursuant to Subsection 822.08.~~

822.06 EXCEPTIONS

A. The Hearings Officer may approve a Level Two or Level Three Major Home Occupation that includes an exception to any of the standards identified in Subsections 822.04(C) through (M) or 822.05(C) through (M), pursuant to Section 1300, if the applicant provides evidence substantiating the following:

~~A. 1. A Level 2 or Level 3 Major Home Occupation~~ The subject property takes taking direct vehicular access to a road with a functional classification of collector, minor or major arterial, or freeway/expressway as identified on Comprehensive Plan Maps V-2a or V-2b, may exceed any of the standards identified in Subsections 822.04(A)(3) through (12) and 822.05(A)(3) through (11) provided

~~2. The use remains compatible with the area and demonstrates compliance with remaining provisions of this subsection.~~ The following factors shall be considered when determining if a use is compatible with the area:

~~1. a. The number of specific standards identified in Subsections 822.04(C) through (M) or 822.05(C) through (M) provided by this section that will be exceeded; it is presumed that the more standards exceeded, the more difficult it will be to demonstrate compatibility;~~

~~2. b. The character of the neighborhood, including such factors as the presence of other similar uses, proximity of other dwellings, the level of surrounding traffic, the size of accessory buildings, background noise levels, and other outside storage uses; (3/24/05)~~

~~3. c. The ability to mitigate impacts by screening, landscaping, building location, building design, and other property improvements (for example, driveway or road improvements);~~

~~4. d. Potential environmental impacts, including effects on air and water quality; and~~

~~5. e. Provision of adequate and safe access to public, County, or state roads/roadways.~~

~~B. 3. The applicant shall demonstrate the availability of services adequate to serve the proposed use are available, including transportation, public facilities, and other services existing or planned for the area affected by the use. At a minimum, the applicant shall demonstrate compliance with Section 1022 is required.~~

~~C. Process: Exceptions shall be processed in conjunction with the Home Occupation Permit application through the Hearings Officer review process pursuant to ZDO Section 1300.~~

~~D. B. Limitations: The following limitations shall apply to all home occupations: Notwithstanding Subsection 822.06(A):~~

- ~~1. Maximum accessory space for the home occupation shall not exceed 3,000 square feet; and~~
- ~~2. If the subject property is in an EFU, TBR, or AG/F zoning district, the number of employees on property zoned Exclusive Farm Use (EFU), Timber (TBR), or Ag/Forest (AG/F) shall not exceed five total;~~
- ~~3. No structure shall be used in the operation of a home occupation in the Exclusive Farm Use (EFU), Timber (TBR) or Ag/Forest (AG/F) zoning districts not otherwise allowed in the zoning district.~~

822.07 PREEXISTING HOME OCCUPATIONS USES

Home occupations legally established prior to (insert Board Order date) March 14, 2002, which complied with all provisions of this Ordinance then in effect, including appropriate permits if required, are exempt from the requirements of this Section 822. Those preexisting home occupations that were subject to annual permit review shall be reviewed for compliance with the standards in effect at the time of their establishment, on the same schedule as home occupations established under the current provisions of Section 822 ordinance. Home occupations established prior to the requirement for permit application and review are not subject to automatic review, but must continue to comply with the standards in effect at the time of their establishment. Preexisting home occupations may not be transferred to another operator or be enlarged without satisfying all the requirements of this Section 822. (3/14/02)

822.08 APPROVAL PERIOD AND RENEWALS

A. A Major Home Occupation permit shall be valid for three years from the date of the final written decision and may be renewed an unlimited number of times. Renewals also shall be valid for three years from the date of the final written decision.

B. Renewals of Major Home Occupation permits, including those for home occupations with previously approved exceptions under Subsection 822.06, shall be reviewed by the Planning Director pursuant to Subsection 1305.02. However, if the renewal application includes a request for an exception not approved under the prior home occupation permit, the renewal shall be reviewed by the Hearings Officer pursuant to Section 1300.

822.09 SUBMITTAL REQUIREMENTS

An application for a Major Home Occupation permit shall include the following:

- A. A completed land use application on a form provided by the Planning Division; and
- B. A completed home occupation supplemental application on a form provided by the Planning Division.

822.08 PERMIT AND APPLICATION PROCEDURES FOR MAJOR HOME OCCUPATIONS

- A. Application: Application for a Major Home Occupation permit shall be made to the Planning Division on a form provided by the Division and shall be accompanied by the prevailing filing fee as established by the Board of County Commissioners.
- B. Process:
 - 1. Application for a Major Home Occupation permit without an exception shall be subject to the Planning Director review procedures in Subsection 1305.02;
 - 2. Application for a Major Home Occupation permit processed with an exception shall be subject to the Hearings Officer review procedures in Section 1300.
- C. Time Limit: A Major Home Occupation permit and subsequent renewals shall be valid for a period of three years from the date of approval.
- D.C. Renewals: A Major Home Occupation permit may be renewed an unlimited number of times. A renewal application shall be reviewed pursuant to the Planning Director review procedures of Subsection 1305.02, or the Hearings Officer review procedures of Section 1300, as applicable. A renewal application shall be evaluated on the basis of the parcel size analysis first applied to the home occupation.



Campbell M. Gilmour
Director

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

STAFF REPORT AND RECOMMENDATION

TO: Planning Commission

FROM: Scott Hoelscher, Planner II

DATE: February 1, 2010

RE: File No. ZDO-221; Amendments to ZDO 806: Home Occupation to Host Events and ZDO 822: Home Occupations

PROPOSAL

This is a legislative text amendment to Section 806 and Section 822 of the Zoning and Development Ordinance (ZDO). Section 806: Home Occupation to Host Events allows weddings, reunions and other types of gatherings and events in rural residential zones and in Exclusive Farm Use (EFU) and AG/F (AG/Forest) zones in conjunction with a winery. Section 822: Home Occupations allows a business to be operated from a residence.

Proposed Changes to Section 806:

1. The first revision to Section 806 relates to which properties may host weddings and other types of events. Subsection 806.03.F currently allows "Events" to be hosted in the EFU and AG/F zoning districts *in conjunction with a winery*. The proposed amendments would also allow "Events" in EFU and AG/F zones on properties with a Historic Landmark (HL) overlay zoning district. In order to limit impacts on surrounding resource lands, the "Event" must be conducted within 250-feet of the historic landmark structure. The 250-foot threshold was suggested by the Department of Land Conservation and Development (DLCD). Planning staff believes the 250-foot limit is reasonable and has included provisions to increase this distance if there are limiting circumstances such as steep slopes or other natural features.

Most Historic Landmark (HL) overlay zoning districts in the County cover the entire subject parcel. For example, an 80 acre EFU parcel may have a Christmas tree farm consuming most of the 80 acres and a historically significant structure such as a barn or residence on the remaining one or two acres. In this scenario, the Historic Landmark (HL) designation would have been overlaid across the

entire 80 acre parcel. Therefore, in order to limit impacts on agricultural land, staff believes the 250 foot limitation should be included in subsection 806.03.F.

2. The second revision adds an allowance for events in the Timber District (TBR) if the subject property is located in an HL overlay zone. Section 806 was originally drafted to allow events on resource lands zoned either Exclusive Farm Use or Ag/Forest only if the property contained a winery. Because the TBR District does not allow wineries, provisions for “Events” in the TBR District were not originally included in Section 806. Because this amendment package allows “Events” in association with historic landmarks on EFU and Ag/Forest parcels, it follows similar “Events” should be allowed in all resource zone, including TBR districts.
3. The current 806 provisions restrict the “Events” to a residence or other buildings/areas on the property. Buildings may include accessory structures allowed in the underlying zoning district such as pole barns. The proposed amendment to Subsection 806.03.D adds an allowance for the use of one temporary tent during the “Event.” The policy issue here is twofold. ORS 215.448 requires home occupations “...to be operated substantially in the dwelling or other buildings normally associated with uses permitted in the zone in which the property is located.” The issue for the Planning Commission to decide is whether or not a tent is consistent with this standard and if so is it an appropriate type of structure to be used for events in the natural resource areas.
4. This amendment package includes typical housekeeping amendments designed to standardize Sections 806 and 822 with other recently amended sections of the ZDO. These changes include document format, punctuation and word choice.

Proposed Changes to Section 822:

1. Amend Subsections 822.04.A.4/822.05.A.4 (Accessory Space) to require physical separation between business space and personal space within an accessory structure. Home occupation operators often utilize a portion of an accessory structure such as a pole barn or detached shop for the business. The current provisions allow up to 500 square feet of accessory space for a Level 2 Major Home Occupation and 1,500 square feet for a Level 3 Major Home Occupation. In the past it has been difficult to enforce the accessory space provisions if the structure used for the business is larger than the specified maximums. For example, a Level 2 Major Home Occupation may be granted to operate a woodworking business from a 1,000 square foot pole barn with a condition limiting operations to 500 square feet. The Planning Staff is proposing this amendment because it is consistent with current practices in most cases. It also establishes a clearly defined area to separate the area approved for the home occupation and the remainder of the building used for personal storage. Finally,

in many cases a building separation wall is also required by the Building Codes Division to separate an area used for business purposes from personal use space.

2. Amend Subsections 822.04.A.7/822.05.A.7 (Outside Storage) to clarify the “external evidence” provision. Specifically, language is proposed that would exempt vehicles with company names or business logos from constituting “external evidence” of the home occupation. The “outside storage” provision currently prohibits *any* (emphasis added) external evidence of the home occupation. The vagueness of this provision has caused confusion for business operators, is difficult to administer consistently and has been the subject of several LUBA cases in the County.

This amendment is proposed because Staff does not believe that the outside storage provisions in 822.04.A.7 and 822.05.A.7 apply to vehicles. Subsections (7) prohibit outside storage and external evidence “except as specifically allowed by this subsection.” Vehicles are specifically addressed and allowed in subsections (10), Parking. Therefore, it is reasonable to believe that if vehicles are allowed by a specific provision of the ordinance, they should be “exempted” from the “Outside Storage” standard.

3. Amend Subsections 822.04.A.5/822.05.A.5 (Noise). Noise is one of the potential negative impacts of home businesses. To demonstrate compliance with the noise standards business operators may be required to submit a noise study. The proposed amendments add specific guidelines and measurement procedures for noise studies.
4. Amend Subsections 822.04.A.6/822.05.A.6 (Equipment and Process Restrictions). This change is another clarification amendment: vehicles entering or exiting the subject property would be exempt from the standard that states that the home occupation shall not create fumes and odors.
5. Amend Subsections 822.04.A.13/822.05.A.13 (Access) to require a new petition for road access if there is an ownership change of a property on a shared private road or easement. Planning staff has not typically required business owners on easements or private roads to prepare an updated petition at the time of permit renewal. This provision would require business owners seeking permit renewal to obtain signatures of all property owners along the shared easement only if ownership on an affected property changes hands. Planning staff believes that new property owners directly affected by a home occupation, who had not previously agreed to allow the home occupation, should be afforded the same opportunity to “weigh in” as other residents. This has, in fact, been the policy of the Planning Department for home occupation renewals. The proposed language would simply provide clarification on this matter.

6. This amendment includes typical housekeeping amendments designed to standardize Sections 806 and 822 with other recently amended sections of the ZDO. These changes include document format, punctuation and word choice.

BACKGROUND

In 2006 Clackamas County adopted a new ordinance into the Zoning and Development Ordinance (ZDO) known as Section 806 – “Home Occupation to Host Events.” Under State law weddings, reunions and other types of gatherings and events are not specifically listed as permitted or discretionary uses in EFU zones. However, State law does allow the County to permit “Home Occupations” in EFU zones subject to certain standards. Section 806 of the ZDO was adopted in compliance with State law under the Home Occupation provisions in ORS 215.448.

ORS 215.448 allows home occupations subject to the following standards: 1) It shall be operated by a resident or employee of a resident of the property on which the business is located; 2) It shall employ no more than five full-time employees; 3) It shall be substantially operated in the dwelling or other buildings normally associated with uses permitted in the EFU zone. Section 806 – “Home Occupation to Host Events” was adopted under this law.

Section 806 allows “Events” to be hosted in the EFU and Ag/F zoning districts in conjunction with a winery (as defined in ORS 214.452). The standard limiting these types of events to be operated only in conjunction with a winery was a policy decision by the BCC. The intent of the BCC policy was to apply the ordinance narrowly in order to limit the number of these types of activities in agricultural areas. The BCC decided that allowing these types of events in conjunction with a winery was appropriate because wineries are allowed in the EFU zone and are intended to provide for public gatherings and tourism activities. The County has the policy discretion under State law to apply this ordinance narrowly or broadly to properties in the EFU zone.

This past legislative session, Senator Metsger pursued an amendment to State law on behalf of a citizen of Clackamas County who was contemplating the purchase of a property zoned EFU with a Historic Landmark (HL) overlay zoning district. The property is developed with a dwelling designated as a Historic Landmark. Historic Landmarks are properties or structures deemed to have significant historical significance and protected under Goal 5 of the Statewide Land Use Goals. The property is not eligible to apply for a Home Occupation to Host Events because it is not developed with or large enough to qualify for a winery. In lieu of pursuing the proposed bill on a statewide level, Senator Metsger worked with DLCD and the Clackamas County Planning Staff to pursue an amendment to Section 806 at the local level rather than attempt to pass a bill that would apply Statewide.

At a work session on November 3, 2009, the Board of County Commissioners (BCC) considered the amendments proposed by Senator Metsger and directed the Planning

Division to initiate an amendment to Section 806 to consider events allow events on properties with a historic landmark designation. The Planning Staff has also recommended changes to other development standards in Section 806 based on the review of two recent applications approved under the ordinance.

Finally, a note to the Planning Commission regarding events and associated noise. Section 806.03N(5) prohibits outdoor generators and outdoor amplification devices or systems. This standard was adopted in the original ordinance by the BCC in 2006. Two land use applications have recently been approved for Events in the EFU zoning districts. Both operators proposed to have outdoor amplified music (speakers, DJ's, etc.). The land use approval prohibited outdoor amplified music due to this standard. The Planning Staff is not proposing any changes to this standard. However, Planning Staff is confident the issue will be raised at the public hearing. The Planning Commission has a range of alternatives to address noise impacts including reducing hours of operations for certain noise; reducing or increasing the allowable dB(A) or maintaining the current standard prohibiting outdoor amplification.

The text amendments to ZDO Section 822 were initiated by the Planning Director. Planning Staff has been contemplating amendments to the Home Occupation provisions in order to clarify certain language and also provide mechanisms for code enforcement to ensure compliance. ZDO-221 also includes several housekeeping amendments and stylistic changes in an effort to standardize the formatting of the Zoning and Development Ordinance.

ANALYSIS AND FINDINGS

The proposed text amendment is legislative. Section 1400 of the ZDO establishes procedural requirements for legislative amendments, which have been or are being followed in this case. However, the ZDO contains no review criteria that must be applied when considering an amendment to the text of the ZDO. Chapter 11 of the Comprehensive Plan (Plan) contains a section entitled *Amendments and Implementation*. This section contains procedural standards for Plan amendments, requires the Plan and the ZDO to be consistent with Statewide Planning Goals and Guidelines and Metro's Urban Growth Management Functional Plan, and requires the ZDO to be consistent with the Plan. Policy 3.0 establishes the procedural standards for amendments. The process followed for the 806 and 822 text amendments is compliant with these standards. Specifically, notice was mailed to all recognized Community Planning Organizations at least 35 days before the scheduled public hearing and the Department of Land Conservation and Development and Metro were provided with an opportunity to review and comment on the proposed amendments. Advertised public hearings are scheduled before the Planning Commission and the Board of County Commissioners to consider the proposed amendments.

As with all ZDO amendments, compliance with the Statewide Planning Goals and Guidelines and the Urban Growth Management Functional Plan is required. The

followings two sections of this report address the relevant Goals and elements of the Functional Plan.

1. Statewide Planning Goals

- a. Goal 1. Citizen Involvement. The text amendment does not propose to change the structure of the county's citizen involvement program. Notice of the proposed amendment was provided to Community Planning Organizations and a list of interested parties. Also, notice of the Planning Commission and Board of County Commissioners hearings was published in the newspaper.
- b. Goal 2. Land Use Planning. Not applicable because the text amendment does not propose to change the county's land use planning process. The county will continue to have a comprehensive land use plan and implementing regulations that are consistent with the plan. No exceptions from the Goals are required.
- c. Goal 3. Agricultural Lands. The proposed text amendment is consistent with the goal to preserve and maintain agricultural lands because "Events" will be limited to an area within 250-feet of a historic landmark structure or on properties with a winery as defined in ORS 215.452. In addition, ORS 215.448 specifically allows home occupations in an exclusive farm use zone or a mixed farm and forest zone subject to certain standards. The proposed 806 and 822 amendments are consistent with ORS 215.448 and the standards contained therein. The text amendment does not propose any other change to the county's Plan policies or implementing regulations for agricultural lands.
- d. Goal 4. Forest Lands. The proposed text amendment is consistent with the goal to preserve forest lands because "Events" will be limited to an area within 250 feet of a historic landmark structure. In addition, ORS 215.448 specifically allows home occupations in forest zones subject to certain standards. The proposed 806 and 822 amendments are consistent with ORS 215.448 and the standards contained therein. The text amendment does not propose any other change to the county's Plan policies or implementing regulations for forest lands.
- e. Goal 5. Open Spaces, Scenic and Historic Areas, and Natural Resources. The intended purpose of Goal 5 is to protect and conserve historic area and natural resources for future generations. The County has already implemented Goal 5 by conducting and maintaining inventories of historic resources. The proposed text in Section 806 relating to historic landmarks is consistent with Goal 5 because no change to previously identified resources is proposed and the amendments will foster enjoyment of the county's cultural resources. The proposal also provides a good balance between promoting significant historic structures protected under Statewide Goal 5 and limiting the number of these types of facilities on agricultural and forest land protected under Statewide Goals 3 and 4.

- f. Goal 6. Air, Water and Land Resources Quality. Not applicable because the text amendment does not propose to change the county's Plan or implementing regulations regarding air and water quality.
- g. Goal 7. Areas Subject to Natural Disasters and Hazards. Not applicable because the text amendment does not propose to change the county's Plan or implementing regulations regarding natural disasters and hazards.
- h. Goal 8. Recreational Needs. Not applicable because the text amendment does not propose to change the county's Plan or implementing regulations regarding recreational needs.
- i. Goal 9. Economy of the State. Comprehensive Plans and implementing policies can contribute to the regional economic health. The proposed amendments allow more opportunities to host "Events" on resource lands in the county and maintain the county's policy of encouraging economic development by providing for home business opportunities for area residents. For example, the proposed amendment to exempt vehicles with business logos from the "Outside Storage" provision of 822 will allow small business owners greater flexibility in how they operate their business. Staff believes the proposed amendments are consistent with Goal 9.
- j. Goal 10. Housing. Not applicable because the text amendment does not propose to change the county's Plan or implementing regulations regarding housing.
- k. Goal 11. Public Facilities and Services. Not applicable because the text amendment does not propose to change the county's Plan or implementing regulations regarding public facilities and services.
- l. Goal 12. Transportation. Not applicable because the text amendment does not propose to change the county's Plan or implementing regulations regarding transportation.
- m. Goal 13. Energy Conservation. Not applicable because the text amendment does not propose to change the county's Plan or implementing regulations regarding energy conservation.
- n. Goal 14. Urbanization. Not applicable because the text amendment does not propose to change the county's Plan or implementing regulations regarding urbanization.
- o. Goal 15. Willamette River Greenway. Not applicable because the text amendment does not propose to change the county's Plan or implementing regulations regarding the Willamette River Greenway.
- p. Goal 16. Estuarine Resources. Not Applicable.

- q. Goal 17. Coastal Shorelands. Not Applicable.
- r. Goal 18. Beaches and Dunes. Not Applicable.
- s. Goal 19. Ocean Resources. Not Applicable.

The Department of Land Conservation and Development (DLCD) was notified of this proposal. Comments from DLCD are attached as Exhibit 1.

2. Urban Growth Management Functional Plan

- a. Title 1. Requirements for Housing and Employment Accommodation. Not applicable because the proposed text amendment would not decrease the amount of land zoned for residential or commercial/industrial use, affect design type boundaries, alter permitted densities or prohibit accessory dwelling units.
- b. Title 2. Regional Parking Policy. Not applicable because the proposed text amendment would not change the county's Plan or implementing regulations regarding parking.
- c. Title 3. Water Quality and Flood Management. Not applicable.
- d. Title 4. Industrial and Other Employment Areas. Not applicable because the proposed text amendment would not change the county's Plan or implementing regulations concerning designation of industrial and other employment areas, minimum lot sizes in these areas, or permitted uses in these areas.
- e. Title 5. Neighbor Cities and Rural Reserves. Not applicable because the proposed text amendment would not change the county's Plan or implementing regulations concerning neighbor cities and rural reserves.
- f. Title 6. Central City, Regional Centers, Town Centers and Station Communities. Not applicable because the proposed text amendment would not change the county's Plan or implementing regulations concerning the Clackamas Regional Center (CRC).
- g. Title 7. Housing Choice. Not applicable because the proposed text amendment would not change the county's Plan or implementing regulations concerning housing choice.
- h. Title 8. Compliance Procedures. Not applicable.
- j. Title 9. Performance Measures. Not applicable.

- k. Title 10. Functional Plan Definitions. Not applicable. This Title contains definitions only.
- l. Title 11. Planning for New Urban Areas. Not applicable because the proposed text amendment would not change the county's Plan or implementing regulations concerning planning for new urban areas.
- m. Title 12. Protection of Residential Neighborhoods. Not applicable because the proposed text amendment would not change the county's Plan or implementing regulations concerning residential density, designation of neighborhood centers or access to parks and schools.
- n. Title 13. Nature in Neighborhoods. Not applicable.

EXHIBITS

- A. Exhibit 1: ZDO 806 Draft dated 12/16/09
- B. Exhibit 2: ZDO 822 Draft dated 1/26/09
- C. Exhibit 3: Comments from DLCD dated January 22, 2010
- D. Exhibit 4: Comments from Sunnyside CPO dated January 22, 2010
- E. Exhibit 5: Comments from Jerry Marshall
- F. Exhibit 6: Comments from Oak Lodge Community Council
- G. Exhibit 7: ORS 215.448
- H. Exhibit 8: ORS 215.452

RECOMMENDATION

Staff recommends that the Planning Commission recommend to the Board of County Commissioners approval of ZDO-221.

LANNING DIVISION
50 BEAVERCREEK ROAD
REGON CITY, OR 97045



UNITED STATES POSTAGE
FIRST CLASS
\$01.39
02 1A
0004339947 APR 28 20
MAILED FROM ZIP CODE 97045

Department of Land Conservation + Development
635 Capitol Street NE
Suite 150
Salem, OR 97301
Attn: Plan Amendment Specialist