

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

Regarding an Application for a Conditional Use)	Case File No.
Permit to Establish a New Headquarters and)	Z0607-17-C
Demonstration Center.)	(Soils and Water CD)

A. SUMMARY

1. The applicant and owner is the Clackamas Soils and Water Conservation District.
2. The subject property is located at 22055 South Beaver Creek Road, Oregon City, OR 97045. The legal description is T3S, R2E, Section 26B, Tax Lot 100, W.M. The subject property is approximately 15 acres and is zoned RA-2 – Rural Agricultural 2-Acre Minimum.
3. On January 25, 2018, the Hearings Officer conducted a public hearing to receive testimony and evidence about the application.

B. HEARING AND RECORD HIGHLIGHTS

1. The Hearings Officer received testimony at the public hearing about this application on January 25, 2018. 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. The applicant's representatives, Larry Fritzie and Tom Watton, testified in favor of the application.

4. A number of people and the local Community Planning Organization testified in favor of the application.
5. Brad White testified in opposition to the application.
6. At the conclusion of the public hearing, the Hearings Officer closed the record.

C. FACTS

The subject property is an approximately 15-acre parcel zoned RA-2. The property is located at 22055 South Beavercreek Road, Oregon City, OR 97045, at the intersection of South Beaver Creek Road (Beavercreek Road) and South Ferguson Road. The property is in an area generally known as Beavercreek, although it is just outside the mapped boundary of the Beavercreek Rural Community. The property is one of the last remaining larger parcels in the area. The commercial area of Beavercreek is to the west, and there are scattered small rural residential and farm uses in the surrounding area. The property is currently used as a farm, and there are wetlands, ponds, and streams on the property. The Clackamas Soils and Water Conservation District proposes to build an approximately 12,000 square foot building to house their new headquarters to support staff, board members, and the agricultural and ranching community. The proposal includes removing the existing farm house and some of the existing agricultural buildings. The new headquarters would have a staff of approximately 16 people, would host various meetings, and seminars, provide outreach programs to groups and schoolchildren, and provide on-site demonstrations for soil and water conservation methods.

D. DISCUSSION

The staff report does a thorough job of explaining how all of the applicable approval criteria are satisfied. Most 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 agree with those findings. Therefore, I adopt and incorporate the findings in the staff report in this decision, except as discussed further.

Brad White (White) lives across Beavercreek Road from the property. White did not identify any specific approval criteria that he believes the application fails to satisfy. White's concerns include governmental activities in general, commercial use of the

property, and increased traffic. White's first concern – that government agencies are wasteful and a poor use of tax dollars – is not a basis to deny the application. Even if he is correct, that would have no bearing whatsoever on whether the applicable approval criteria are satisfied.

White also argues that the proposed use would be a commercial use – which should not be allowed in a rural zone. The proposed application, however, does not seek to change the zoning of the property to commercial. While there are zoning designations that provide for all sorts of commercial uses, other zoning designations such as RA-2 also allow for activities that might be considered “commercial” in nature. In any event, Section 316 of the Clackamas County Zoning and Development Ordinance (ZDO) implements the RA-2 zoning district, and under Table 316-1 “Government Uses” is an allowed conditional use in the RA-2 zone. There is no dispute that the proposed use is a government use, and I agree with the applicant and the staff report that it is a government use. Therefore, the argument that the proposed use would somehow allow impermissible “commercial use” is not a basis to deny the application.

Finally, White argues that Beaver Creek Road is already very busy and the proposed use would make things worse. ZDO 1203.03(C) requires that the “proposed use is consistent with Subsection 1007.09, and the safety of the transportation system is adequate to serve the proposed use.” ZDO 1007.09(C) provides that “[A]pproval 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 1007.09(D) provides that “[A]s used in Subsection 1007.09(C), adequate means a maximum volume-to capacity ratio (v/c), or a minimum level of service (LOS) * * *.” The applicant retained a transportation engineer to conduct a traffic impact analysis (TIA) on the proposed use. The traffic engineer determined that the proposed use would generate 122 weekday vehicle trips, with 17 AM and 17 PM peak hour vehicle trips. Table 2 on page 17 of the TIA shows the existing and projected LOS and V/C ratios for the proposed development. The TIA concludes that intersections in the area are “currently operating acceptably per Clackamas County standards and are projected to operate acceptably * * * either with or without the addition of site trips from the proposed facility.” White does not acknowledge let alone attempt to refute the traffic impact analysis prepared by the applicant's expert. The professionally prepared TIA is more persuasive

than anecdotal evidence presented by White. I agree with the applicant and the staff report that ZDO 1203.03(C) is satisfied.

All of the applicable approval criteria are satisfied.

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 Z0607-17-C, with the following conditions of approval.

F. CONDITIONS OF APPROVAL

I. General Conditions:

- 1) Approval of this land use permit is based on the submitted written narrative and plan(s). No work shall occur under this permit other than which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of approval described herein.
- 2) The applicant is advised to take part in a Post Land Use Transition meeting. County staff would like to offer you an opportunity to meet and discuss this decision and the conditions of approval necessary to finalize the project. The purpose of the meeting is to ensure you understand all the conditions and to identify other permits necessary to complete the project. If you like to take advantage of this meeting please contact Wendi Coryell, Clackamas County at (503) 742-4657.
- 3) **Prior to the issuance of building permits,** the applicant shall submit a statement of use to Wendi Coryell in the Clackamas County Engineering Division. Wendi Coryell can be contacted at (503) 742-4657 or wendicor@co.clackamas.or.us. The statement of use is used to calculate the Transportation System Development charge. A Transportation System Development Charge (TSDC) is included in the final calculation of the building permit fees for new instructional projects; this includes additions and tenant improvements that increase the number of daily trips to the site.
- 4) If approved, the conditional use is valid for four (4) 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.
- 5) 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.
- 6) 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.

II. Planning and Zoning Conditions: Clay Glasgow, (503) 742-4520, clayg@clackamas.us

- 1) Development of the subject property is subject to the provisions of ZDO Sec.1203 and those other relevant codes and ordinances adopted by the Board of County Commissioners pursuant to subsec. 1001.03 of the ZDO, including, but not limited to, the County Roadway Standards, County Excavation and Grading Ordinance, and Oregon Structural Specialty Code, etc.
- 2) Outdoor lighting shall be located and designed so that it does not shine onto adjacent properties or right-of-ways.

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

- 1) All construction shall comply with current Oregon Structural Specialty Code and any other relevant codes. All required building permits shall be obtained and received final occupancy approval.
- 2) All applicable development permits (grading and erosion control, etc.) shall be obtained prior to any construction.

IV. Engineering Division Conditions: Ken Kent, (503) 742-4763, kenken@clackamas.us

- 1) All frontage improvements in, or adjacent to Clackamas County right-of-way, or on site, shall be in compliance with *Clackamas County Roadway Standards*.
- 2) The applicant 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.
- 3) The applicant shall dedicate approximately 4 feet of additional right-of-way along the entire site frontage of S Ferguson Road and verify that there is a minimum 24-foot one-half right-of-way width. The right-of-way centerline and width shall be verified by a professional survey to the satisfaction of DTD Engineering and Survey Departments.
- 4) The applicant shall grant an 8-foot wide public utility easement adjacent to the public right-of-way along the entire site frontage of S Beaver creek Road and S Ferguson Road.
- 5) Access from S Beaver creek Road to the parking and maneuvering area shall meet the following requirements:
 - a. A single, 28-foot wide paved approach, extending a minimum 20 feet from the edge of asphalt on S Beaver creek Road, per Standard Drawing D500 shall be constructed. The driveway approach centerline shall align with the centerline of an existing driveway on the north side of S Beaver creek Road.
 - b. Beyond the paved approach, a minimum 20-foot wide gravel surface shall be constructed to the parking and circulation area. The minimum structural section for the access road improvements shall comply with Clackamas County Roadway Standards, Drawing R100.
 - c. The applicant shall maintain adequate intersection sight distance at the proposed intersection with S Beaver creek Road. In addition, no plantings at maturity, retaining walls, embankments, trees, fences or any other objects shall be allowed to obstruct vehicular sight distance. Minimum intersection sight distance shall be 555 feet in each direction.
 - d. Written verification shall be provided from the Fire District indicating that the roadway will support a fire apparatus, that sufficient turnaround exist or will be constructed, that corner radii are acceptable, and that vertical and horizontal clearances are acceptable. Improvements to meet emergency vehicle access standards, such as a turnaround if required by the fire marshal, shall be designed and constructed per Standard Drawing C350.
5. The applicant shall design and construct on-site parking and maneuvering areas as follows:

- a) The applicant shall provide adequate on site circulation for the parking and maneuvering of all vehicles anticipated to use the site, including a minimum of 24 feet of back up maneuvering room for all 90-degree parking spaces.
 - b) All curbs shall typically be type "C", or curb and gutter if curb line slope is less than one percent, if they carry, direct or channel surface water. Alternative curbs will be considered when it is determined by the Clackamas County Department of Transportation and Development that type "C" curbs or curb and gutter are not appropriate. Extruded curbs for carrying, directing or channeling surface water, or used as a vehicle wheel stop, shall not be allowed.
 - c) Parking spaces shall meet minimum *ZDO* section 1015 dimensional requirements. The plans shall list the number of parking spaces required and the number of parking spaces provided. The applicant shall label all compact, carpool, disabled, and loading berth spaces on the plans. Parking layout geometry shall be in accordance with *ZDO* Table 1015-1 and Figure 1015-1. The parking lot and drive aisles shall be constructed with screened gravel or better, per Standard Drawing R100. Paved parking spaces shall be striped. Gravel parking spaces shall be provided with wheel stops or similar to delineate the spaces. Required ADA accessible parking spaces and accessible walkway to a building entrance shall be paved.
 - d) Drainage facilities shall be designed and constructed in conformance with *ZDO* section 1008 and *Clackamas County Roadway Standards* Chapter 4.
 - e) All traffic control devices on private property, located where private driveways intersect County facilities shall be installed and maintained by the applicant, and shall meet standards set forth in the *Manual on Uniform Traffic Control Devices* and relevant Oregon supplements.
 - f) All traffic control devices on private property, located where private driveways intersect County facilities shall be installed and maintained by the applicant, and shall meet standards set forth in the *Manual on Uniform Traffic Control Devices* and relevant Oregon supplements.
- 7) Applicant shall comply with County Roadway Standards clear zone requirements in accordance with Roadway Standards section 245.
 - 8) Prior to certificate of occupancy, the applicant shall provide an Engineer's cost estimate to Clackamas County Engineering for any unfinished improvements required by conditions of approval. The estimate shall be submitted for review and approval of quantities of asphalt concrete, aggregates, curbs, sidewalks and any other required improvements and associated construction costs.

- 9) Prior to the issuance of a building permit, the applicant 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 Clackamas River Water for adequate water supply source to serve the development. The approval shall be in the form of utility plans stamped and signed by the Water District representative.
 - c) Written approval from Department of Transportation of Development, Engineering Division for surface water management facilities, surface water detention facilities, and erosion control measures.
 - d) A set of street and site improvement construction plans, including a striping and signing plan, for review, 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 road, driveway, drainage, parking and maneuvering area, and other site improvements.
 - ii) The minimum fee is required for eight or fewer, new or reconstructed parking spaces. For projects with more than eight parking spaces, the fee will be calculated at a per parking space rate according to the current fee structure for commercial/industrial/multi-family development at the time of the Development Permit application.
 - iii) The applicant shall have an Engineer, registered in the state of Oregon, design and stamp the construction plans for all required improvements.

DATED this 29th day of January, 2018.



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).

HEARINGS OFFICER CERTIFICATE OF MAILING

I certify that on the date set forth below I mailed a copy of the above HEARINGS OFFICER FINAL ORDER by first class mail to the following participants at the address shown:

Clackamas soil and Water Conservation District / Tom Salzer 221 Molalla Ave, Ste 102 Oregon City, OR 97045	Larry Fritzie 1880 Willamette Falls Dr Ste 200 D West Linn, OR 97068
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Hamlet of Beavercreek Tammy Stevens P.O. Box 587 Beavercreek, OR 97004-0736	CFD#1 Mike Boumann 2930 Se Oak Grove Blvd. Milwaukie, Or 97222
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Ann Rankin PO Box 1125 Wilsonville, OR 97070	Don Guttridge 24775 S Springwater Rd Estacada, OR 97023
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Jeff Becker 11671 S Carus Rd Oregon City, OR 97045	Bill Merchant PO Box 865 Beaverton, OR 97004
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Ron Oberg PO Box 1645 Oregon City, OR 97045	Tom Salzer PO Box 1685 Oregon City, OR 97045
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Larry Fritzie 13665 SE Ash St Milwaukie, OR 97222	Brad White 22333 S Big Cedar Ln Beavercreek, OR 97004
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Nathan Tucker 221 Molalla Ave, Ste 102 Oregon City, OR 97045	Joan Zuber 44731 S Elk Prairie Rd Molalla, OR 97038
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Rita Baker PO Box 927 Oregon City, OR 97045	Thomas Watton 1880 Willamette Falls Dr West Linn, OR 97068
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Clair Kluek 931 NE Salzman Rd Corbett, OR 97019	Doreen Dalrymple 22135 S Beaver creek Rd Beavercreek, OR 97004
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The original of this decision has been filed with the Planning Division, Clackamas County Department of Transportation and Development.

DATED this 29th day of January, 2018

Linda J. May

Linda J. May, Permits Specialist

