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Yamhill County Board of Commissioners
535 NE 5th Street
McMinnville, OR 97128

Re: Docket No. C-01-25 – Applicant's Final Written Argument

Dear Chair Johnston, Commissioner Starrett, and Commissioner King:

My office represents J&S Restoration and Reconstruction, LLC, the family-run loss mitigation business owned by Mr. Isidro Javier Ceja and Ms. Sara Herrera Contreras that is the subject of this appeal. This submittal constitutes the Applicant's final written argument, pursuant to ORS 197.797(6)(e). Although Mr. Ceja applied for this home occupation permit through his agent, M&H Oregon Construction, LLC, the permit would be "personal" to Mr. Ceja. *See* Sept. 12, 2025 Director's Decision, Condition of Approval 6. Therefore, this submittal refers to J&S Restoration and Reconstruction, LLC and Mr. Ceja interchangeably as the "Applicant" in this appeal.

At the outset, Mr. Ceja's neighbors appear to hold significant misperceptions about the nature of the proposed home occupation and the scope of land use activities authorized in the Exclusive Farm Use ("EFU") zone. The Applicant has proposed an extremely modest home occupation, limited to equipment storage, maintenance, and loading, and a one-person office within an existing shell barn that currently lacks any interior commercial improvements ("Proposed Use"). The Applicant is not proposing a massive commercial enterprise, such as a bed and breakfast, disguised as a home occupation. This case is not the *Grange Hill* case, as this Board is well aware. *See Friends of Yamhill Cnty. v. Yamhill Cnty.*, 373 Or 790, 572 P3d 278 (2025).

Home occupations are conditionally allowed in the EFU zone, which is the zone that governs Mr. Ceja's property, as well as his neighbors' properties. The EFU zone is not a rural residential zone, and the legislature has authorized home occupations on EFU land for exactly the type of small family business that Mr. Ceja is proposing to operate. Appellants' desire for an idyllic, private country lane is understandable, but it is not consistent with the state and local laws promoting reasonable levels of economic activity on the working resource lands where Appellants have chosen to live.

The record also reflects that the Proposed Use will have very minimal—if any—impact on neighboring properties. County staff's original decision thoroughly considered comments from neighbors, addressed all applicable approval criteria, and correctly concluded that all relevant

impacts to surrounding properties could be mitigated through appropriate conditions of approval. Moreover, most of the additional conditions of approval requested by the Appellants in their November 6 Testimony are measures the Applicant has already proposed to implement. *See* Appellants' Nov. 6 Testimony at 9–10. If this Board feels the need to impose additional conditions of approval, the Applicant proposes the following:

1. Hours of operation shall be limited from 7:00 a.m. to 6:00 p.m., with the exception of emergency dispatch, which shall be allowed on a 24/7 basis.

2. The applicant and/or landowner shall provide a sight-obscuring fence or vegetative screening along the subject property's south and west property lines.

3. The home occupation shall not feature the outdoor storage of equipment; however, outdoor storage of business vehicles shall be allowed. Once the sight-obscuring fence is installed or vegetative screening is planted, business vehicles shall be parked behind such fence or screening.

4. The site of the home occupation shall not be used as a meeting location for patrons or clients, instead being limited to use by employees of the home occupation business.

Mr. Ceja cannot pave NE Equestrian Drive for the benefit of his neighbors, as implementing such a condition would be unreasonably expensive and grossly disproportionate to any impacts from the Proposed Use. Mr. Ceja also cannot conduct all equipment loading and unloading inside a building, given his barn's existing orientation on his property. Mr. Ceja will, of course, comply with applicable noise standards that apply to all land uses in Yamhill County, so no corresponding condition of approval is required. *See* Appellants' Nov. 6 Testimony, at 9–10 (Proposed Conditions 1, 2, 4, and 6).

Mr. Ceja and his family have already gone to extraordinary lengths to accommodate their neighbors' preferences—well beyond what the law requires. We would hope that any remaining differences of opinion can be resolved through a face-to-face conversation between neighbors. It appears the parties are not that far apart, and we remain optimistic that reaching a reasonable settlement is possible.

Nonetheless, in anticipation of a potential LUBA appeal by the Appellants or other neighbors, we offer the following responses to the arguments raised by the Appellants in their Sept. 29 Appeal Letter ("Sept. 29 Appeal"), Nov. 6 Open Record Submittal ("Appellants' Nov. 6 Testimony"), Nov. 13 Open Record Submittal ("Appellants' Nov. 13 Testimony"), and at the Board's Oct. 30 public hearing.

For these reasons, and those detailed below, we respectfully request that the Board affirm the Planning Department's decision dated September 12, 2025, approve the Applicant's CUP application ("Application"), and deny the appeal.

I. Factual Background

As you know, in December 2024, Mr. Ceja applied for a conditional use permit ("CUP") to operate a home occupation loss mitigation business ("Proposed Use") in a new barn on his family's property at 10431 NE Equestrian Drive, McMinnville, OR 97128 ("Subject Property").

At the County's direction, the County's Building Department reviewed plans for Mr. Ceja's new barn and issued a building permit in February 2025. Applicant's Nov. 6 Testimony, Exhibit F. The building permit stated that it was for a "[s]torage building for special equipment used for mitigation (Shell Only)." *Id.* at 1. The building permit states that a "new application and plans will be needed for T[enant] I[mprovements]." *Id.* These records make clear that the new building approved by the County to date is simply a shell building—ultimately intended, in part, for equipment storage associated with Mr. Ceja's home occupation—but currently unimproved while it awaits final land use and other building permit approvals.

Mr. Ceja then completed the approved construction on his new barn over the summer. Both before and while constructing the barn this past summer, Mr. Ceja repeatedly communicated with his neighbors—the Goodroes ("Appellants"), Brucks, and Winkelmans—about his plans for his property. Applicant's Nov. 6 Testimony. Notably, Mr. Ceja repeatedly communicated his desire to be a good neighbor; clarify any misperceptions about the barn, his family, and his business; and address his neighbors' concerns about changes to the Subject Property. *See id.*, Exhibit D. Mr. Ceja also notified each of his neighbors that he had received a building permit for the barn at least as early as July 29, 2025. *See id.*, Exhibit D, at 2 ("We have acquired … permits for the business building.").

Meanwhile, County planning staff processed Mr. Ceja's CUP application to operate his loss mitigation business in the new barn. As Mr. Ceja has explained, the business activities proposed for the barn are extremely minimal: storage and minor, routine cleaning of equipment; loading and unloading of equipment to vehicles; and a one-person business office. Director Friday's office approved the CUP on September 12, 2025 ("Sept. 12 Director's Decision"), concluding that the application met all applicable legal standards for a home occupation. Director Friday's office also imposed 15 conditions of approval to ensure compliance and minimize impacts on our neighbors.

On September 29, 2025, the Appellants filed their appeal of the Sept. 12 Director's Decision. The Board held its first evidentiary hearing on October 30, 2025 and subsequently held the record open, at the request of Appellants, pursuant to ORS 197.797(6).

II. Analysis

Appellants' written submittals raise various incorrect legal standards that simply do not apply to this Application. In this section, we clarify the correct approval standards and demonstrate how the Applicant's proposed use, as conditioned by staff, complies with those standards.

A. Applicable Zoning – EF-40 (Exclusive Farm Use)

As noted, the Subject Property is zoned EF-40. Home occupations like the Proposed Use are a conditional use in the EF-40 zone. ORS 215.283(2)(i); ORS 215.448; OAR 660-033-0130(14); YCZO 402.04(I). Many of the state and local approval criteria for home occupations reference, as a baseline standard, activities or impacts "normally associated" with or that "normally occur" in the EFU zone. Therefore, we believe it is important to begin with the purpose of the EFU zone.

As Appellants themselves have acknowledged, the purpose of the EFU zone is to promote "farm use," as defined in ORS 215.203. *See* Appellants' Nov. 6 Testimony. *But see* Nov. 6 Testimony of Steve and Melissa Winkelman ("How can it be that a property * * * zoned for residential farmland can be changed so dramatically * * * ?). All other uses—including non-farm dwellings—are the exception, not the rule. *See, e.g.*, ORS 215.284 (imposing approval criteria for non-farm dwellings). There is no evidence in the record that Appellants or their other neighbors are farming their properties as a primary occupation. Therefore, on a very basic policy level, Appellants' and the Applicant's competing visions for their shared street are on equal footing.

ORS 215.203, which defines "farm use" provides context for the types of impacts "normally" associated with the EFU zone. For example, "farm use" includes "raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof." ORS 215.203(2)(a). Anyone who has spent time around livestock breeding knows that it is noisy, creates considerable dust and smell impacts, and is unpredictable as animals get sick, herd sizes grow and shrink, and animals or their products (*e.g.*, dairy) are shipped off for final commercial purposes. Orchard and vegetable farming operations have different but comparable impacts, including pesticide application, plowing, and significant manual labor onsite to pick crops.

Yamhill County also recognizes that the types of activities and impacts "normally" associated with or occurring on EFU land may well not reflect the rural idealistic images folks longing for a "farm" property imagine. The County has even taken steps to warn potential purchasers of EFU land of "rural realities." Applicant's Nov. 6 Testimony, Exhibit N ("So … You Think You Want to Live in the Country?"). A key excerpt from the County's brochure warns:

> While you may feel that country living will provide you with privacy and tranquility, there are pitfalls. Since much of the county is farmed, and many of the rural residential areas are next to farmland, anyone wanting to move to rural Yamhill County should know the farms are a special type of neighbor. Farmers create dust and noise in the process of working fields and harvesting crops, and this may be early in the morning or at night. Some types of crops require that farmer deliberately make lots of noise in order to scare away birds. Fields are routinely sprayed with chemicals, sometimes by airplane, and it is difficult to control overspray in all situations. These farming practices are

> protected in farm zones. Farmers are not required to alter their methods, even if they disturb or irritate you. Farm smells are another matter you should consider when thinking of moving to the country. Livestock and poultry are the main thing to look for, but materials applied to the cropland can also be offensive.

Yamhill County is forced to issue public warnings like this to head off exactly the situation we find ourselves in now: Neighbors in the EFU zone with non-working properties seek government intervention because they crave a more "rural residential" feel—the phrase Appellants repeatedly use to characterize NE Equestrian Drive. *See, e.g.*, Sep. 29 Appeal at 21, 27.

We ask the Board to keep this baseline "farm use" standard in mind when evaluating the types of land use impacts "normally" associated with the EFU zone.

B. State Approval Criteria

The Proposed Use complies with the controlling state approval criteria at ORS 215.448, ORS 215.296, and OAR 660-033-0130(14), as demonstrated in the Sept. 12 Director's Decision and this section.

OAR 660-033-0130(14) Home occupations and the parking of vehicles may be authorized. [ORS 215.283(2)(i); ORS 215.448(1)]

> ***(a) Home occupations shall be operated substantially in the dwelling or other buildings normally associated with uses permitted in the zone in which the property is located.***

See also ORS 215.448(1)(c). In response to this criterion, County staff found:

> "[T]he loss mitigation business will be operated substantially within an accessory shop building and the shop is similar in size and shape to other accessory buildings commonly found in the Exclusive Farm use zone. This type of accessory building is in keeping with other accessory buildings commonly found in the Exclusive Farm Use District and in the surrounding area. Future owners can use this structure in conjunction with farm uses and/or for personal storage needs and would be permitted in the Exclusive Farm use zone. Staff finds that with conditions the request complies with the above criterion."

Aug. 29 Staff Report at 11.

As staff correctly reasoned, the key legal question is whether the accessory building where Mr. Ceja plans to operate his home occupation qualifies as a "building[] <u>normally associated</u> with uses permitted" in the EF-40 zone.

The building at issue is an approximately 6,480-square-foot empty, shell barn that has not yet been approved for any interior tenant improvements. The Applicant characterized this building

as a "barn" associated with his "proposed tree farm" in his application submitted on December 24, 2024, as well as his supplemental description submitted on July 3, 2025, both of which were appended to staff's Aug. 29 Staff Report.

Appellants take issue with the word "barn" and argue that the building cannot be treated as a "barn" because it received a "commercial" building permit and, therefore, is a "commercial structure." Appellants' Nov. 13 Testimony at 2. The Applicant does not dispute that the building received a commercial building permit (at the County's direction). However, that does not mean it is not the type of building "normally associated with uses permitted in the" EFU zone. Whether characterized as a "barn," "shed," or otherwise, the structure could readily serve a variety of future purposes to serve uses permitted as of right in the EFU zone, including farm uses or personal storage for an authorized residence. Appellants have not demonstrated otherwise. *See, e.g.*, *Green v. Douglas Cnty.*, 245 Or App 430, 263 P3d 355 (Or App 2011) ("[T]he limiting factor for the allowed types of buildings under ORS 215.448(1)(c)(B) . . . is not a matter of the design of the structure; it is whether the building is commonplace—whether it is 'normally associated with uses permitted in the zone in which the property is located.'").

Appellants also argue that the Subject Property lacks a "primary farm dwelling." *See* Appellants' Nov. 6 Testimony at 5-6. But the Applicant has never claimed that the home occupation will operate in a primary farm dwelling. Accordingly, Appellants' arguments regarding the "$80,000 test" and Christmas tree farming costs are irrelevant to the applicable legal standards. The Applicant proposes to operate in the second category of permissible structures: an "other building[] normally associated with uses permitted in the zone in which the property is located." ORS 215.448(1)(c)(B); OAR 660-033-0130(14)(a).

The dispositive question is whether the Applicant's barn is the type of structure "normally associated with uses" permitted in the EFU zone. It is. The land uses permitted in the EFU zone area associated with buildings as diverse as "churches," ORS 215.283(1)(a), farm dwellings and accessory farm buildings, ORS 215.283(1)(d) and (e), wineries, ORS 215.283(1)(n), farm stands, ORS 215.283(1)(o), fire service facilities, ORS 215.283(1)(s), solid waste disposal O&M buildings, ORS 215.283(2)(k), destination resorts, ORS 215.283(2)(t), schools, ORS 215.283(2)(aa), and more. Although the Applicant's barn is large relative to his dwelling, so is Mr. Goodroe's barn. *See* Applicant's Nov. 6 Testimony, Exhibits B and Q. The Applicant's barn is proportionate to his property and intended uses, which include personal storage, equipment for Christmas tree farming, and the proposed home occupation.

Ultimately, Appellants and their other neighbors are unhappy about the size of Mr. Ceja's barn. They have gone so far as to appeal Mr. Ceja's building permit to LUBA, asserting that a land use hearing was required to evaluate whether it is really a "barn" before the building permit could issue. These are surprising positions to take, given that (1) they are inconsistent with the law and (2) Mr. Goodroe also secured a building permit for a "detached accessory structure" earlier this year, and there is no evidence that farming is his primary occupation. *See* Applicant's Nov. 6 Testimony, Exhibit Q.

At the end of the day, the applicable legal standard requires the County to evaluate whether the Applicant's barn is the type of structure "normally associated" with the EFU zone. How the barn was permitted is a separate legal issue. This criterion is satisfied, as County staff correctly found.

> ***(b) A home occupation shall be operated by a resident or employee of a resident of the property on which the business is located, and shall employ on the site no more than five full-time or part-time persons.***

See also ORS 215.448(1)(a)–(b). As stated in the Applicant's Nov. 6 Testimony, at 1, Isidro Javier Ceja and his wife, Sarah Herrera Contreras, reside full-time at 10431 NE Equestrian Drive, McMinnville, OR 97128, and have no plans of moving elsewhere.

As also stated in Applicant's Nov. 6 Testimony at 2, the business employs a total of five full-time and part-time employees, including the two business owners: Mr. Ceja and Ms. Contreras (2); their daughter (part-time); their crew chief, Carlos Alberto Servin; and their marketing and office manager, Lisa Springer. Staff's Condition of Approval 5 also limits the home occupation to five full or part time employees. This criterion is satisfied, as County staff correctly found.

> ***(c) A governing body may only approve a use provided in OAR 660-033-0120 as a home occupation if:***
>
> > ***(A) The scale and intensity of the use is no more intensive than the limitations and conditions otherwise specified for the use in OAR 660-033-0120, and***

This criterion does not apply to this Application, as staff correctly found.

> > ***(B) The use is accessory, incidental and subordinate to the primary residential use of a dwelling on the property.***

The purpose of this criterion is to ensure that a business permitted as a "home occupation" does not overtake the primary use of the property as a "home." Importantly, this criterion evaluates whether the home occupation "use" is accessory, incidental, and subordinate to the primary residential land use. This criterion does not evaluate whether accessory structures (like a barn) are incidental and subordinate to a primary residential structure.

Oregon courts do not look at any single factor in isolation to determine whether a land use is accessory, subordinate, and incidental to another use. Instead, they apply a totality of the circumstances test, weighing considerations such as the frequency, nature, and intensity of the use; its economic structure; the size of the land and structures involved; the character of adjacent properties; and whether similar accessory uses exist nearby. *Friends of Yamhill County v. Yamhill County*, 301 Or App 726, 735, 458 P3d 1130, 1135 (2020).

Properly viewed through this lens, the Proposed Use is clearly accessory, incidental, and subordinate to the primary residential use of the Subject Property. The property's primary

function is residential: It was purchased as the "forever home" of the Applicant's family, his children during school breaks, and soon, Ms. Herrera's aging parents. Applicant's Nov. 6 Testimony. Presumably, the Applicant's family would continue living at the Subject Property regardless of the outcome of this land use process.

Meanwhile, the Proposed Use would occupy only a small portion of the property—less than twenty percent—while the remainder would be devoted to residential living and agricultural activities, including Christmas tree farming. The barn that will house the business is consistent with the agricultural character of the area, where barns are common and expected. The business itself would be integrated into the Applicant's daily life and would not operate as a public-facing enterprise. In short, the residential use would continue to dominate in character, scale, and function.

Appellants contend that the Proposed Use does not meet this standard because of three main factors: (1) the size of the barn, (2) traffic impacts, and (3) stormwater impacts. None of these arguments withstand scrutiny.

(1) Size of the Barn: It is true that the Applicant's barn is larger than his family's dwelling, but that is unsurprising for a farm property. Agricultural operations require structures capable of storing equipment far larger than household furniture. The barn is not abnormal for a property of this size and zoning; it will serve both the home occupation and the Subject Property's agricultural use, Christmas tree farming. Moreover, barns are a defining feature of agricultural zones, and Mr. Goodroe himself has a barn that is quite large in proportion to his house. Far from undermining the Subject Property's residential character and use, Mr. Ceja's barn reinforces the property's agricultural identity. And, as noted, the relevant legal question is not whether the barn is "subordinate and incidental" to Mr. Ceja's house, but whether his proposed home business will be "subordinate and incidental" to his residential use of the Subject Property.

(2) Traffic Impacts: The Applicant estimate an average of 3-4 business-related round trips per day (including personal trips home for lunch) (*i.e.*, 6-8 daily trips), based on his years of experience operating his business in Yamhill County. Even in rare emergency scenarios, trips would not exceed 10 round-trips per day (*i.e.*, 20 daily trips). These figures align with the standard supplied by Appellants for typical residential traffic impacts. *See* Appellants' Nov. 6 Testimony at 8 ("The number of trips far exceeds the typical 10 trips-per-day associated with a residence."). The record also reflects that Ms. Goodroe's previous trip counts collected over the summer have been inflated by recent construction activity at the Subject Property, not unauthorized business operations. Once construction completely concludes, trips will be limited and predictable; vehicles leaving in the morning and returning in the evening, with occasional midday equipment pickups.

(3) Stormwater Impacts: Appellants have raised various stormwater-related concerns, including asserting that the "business use also creates more than triple the amount of stormwater than the residence, and it is unclear from the record where the water is being routed." Appellants' Nov. 6 Testimony at 8. There is no evidence to conclude that the Proposed Use will create triple the

amount of stormwater than the residence—or frankly, even to make that inference. *See* Applicant's Nov. 13 Testimony at 1-2. The Proposed Use is equipment storage and an office in a barn that has already been constructed. In short, stormwater impacts are irrelevant to this criterion. Appellants' unsubstantiated stormwater management concerns do not alter the fundamental relationship between the home occupation and the residential use at the Subject Property.

Appellants also raise concerns that "[t]he business will [] create more dust, noise, and fumes than a typical rural residence" and the barn structure will create a visual effect that is not incidental and subordinate to the residence. None of these factors are applicable to this analysis; they are relevant only to the Subject Property's external impacts and are addressed as necessary in the parts of this submittal dealing with those issues.

Under the totality of the circumstances, the Proposed Use will be modest in scope, integrated with the Subject Property's agricultural character, and secondary to the Applicant's primary residential use. Appellants' arguments, focused narrowly on building size and vehicle trips, ignore the broader legal standard and the reality of how the Subject Property functions. The Applicant's Proposed Use will be accessory, incidental, and subordinate to the residential use, and this criterion is satisfied.

ORS 215.448(1) [I]n an exclusive farm use zone, * * * the following standards apply to the home occupation:

* * * * *

(d) It shall not unreasonably interfere with other uses permitted in the zone in which the property is located.

County staff addressed potential impacts to neighbors and other uses permitted in the EFU zone at length in the Aug. 29 Staff Report. We also address these issues later in this submittal and incorporate those arguments here. Notably, the legislative history of ORS 215.448(1)(d) emphasizes the degree to which it was intended to prevent home occupations from causing significant and unreasonable interferences with other land uses. HB 2561 (1995), which modified ORS 215.448 to create the current language, "modified what had been a requirement that a home occupation 'not interfere' with other uses permitted in the zone, requiring instead that a home occupation 'not unreasonably interfere' with those uses." *Friends of Yamhill Cnty. v. Yamhill Cnty.*, 373 Or 790, 572 P3d 278 (2025). Thus, as a legal matter, this provision was not designed to block home occupation permits based on the minor types of impacts raised by Appellants in this appeal.

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ORS 215.448(3) Nothing in this section authorizes the governing body or its designate to permit construction of any structure that would not otherwise be allowed in the zone in which the home occupation is to be established.

Appellants have asserted that the barn where the Proposed Use would be located "should never have been approved" and have now filed a LUBA appeal of the building permit for the barn. Appellants' Nov. 13 Testimony at 1. However, Appellants have not asserted that the County relied on the Applicant's proposed home occupation to permit the barn, and nothing in the record supports that conclusion either. This criterion is satisfied.

ORS 215.296(1) A use allowed under ORS 215.213 (2) or (11) or 215.283 (2) or (4) may be approved only where the local governing body or its designee finds that the use will not:

> ***(a) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or***
>
> ***(b) Significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.***

(2) An applicant for a use allowed under * * * 215.283 (2) * * * may demonstrate that the standards for approval set forth in subsection (1) of this section will be satisfied through the imposition of conditions. Any conditions so imposed shall be clear and objective.

Staff's Aug. 29 Staff Report contains four full pages of findings evaluating potential impacts of the Proposed Use on surrounding farm and forest properties. *See* Aug. 29 Staff Report, 15–19. This analysis thoroughly addresses concerns raised by the Appellants and other neighbors on properties immediately adjacent to the Subject Property, as well as those resource lands in the wider vicinity. Thus, it is unclear why Appellants believe this analysis was insufficient. *See* Sept. 29 Appeal at 25. To summarize staff's analysis:

1) <u>Define the analysis area</u>

Although Appellants allege that the County has not defined the "surrounding area," County staff explicitly defined the "surrounding area" on page 2 of the Aug. 29 Staff Report:

> All of the surrounding lots are located in the EF-40 zone. Land use in the surrounding area consists of rural residential and commercial farm uses, predominantly in the form of hazelnut orchards grass seed, wheat and hay fields, and livestock pasturage. Rural residential uses are present on four (4) of the nearest lots (Tax Lots 4401-03400 4401-02400, 4401-03300, and 4401-03200), including the three adjacent lots to the south, southwest, and west. This cluster of five lots, including the Applicant s lot, that are predominantly used residentially are all roughly the same size, ranging between 3.75-acres and 5.5-acres.

As Appellants stated on page 7 of their Sept. 29 Appeal:

> LUBA generally takes a practical approach to the analysis, and therefore the County's failure to separately analyze more distant properties in the study area or identify its outer boundaries is not reversible error, where the County found no significant impacts on parcels adjacent to the subject property and, given the homogeneity of the surrounding area, significant impacts on non-adjoining parcels are unlikely. *Sisters Forest Planning Comm. v. Deschutes County,* 48 Or LUBA 78 (2004).

Given both the scale and the nature of the Proposed Use, alongside the fact that the wider surrounding area is also entirely agricultural land, the County's designated area of impacts is sufficient.

2) Inventory of farm/forest uses in the analysis area and accepted farm/forest practices

Inventorying land does not require a robust quantification or consultant-driven process. As Appellants themselves concede, "[t]his task [of inventorying land] is most often accomplished by means of a visual survey." Sept. 29 Appeal at 9.

In the staff report, County staff described the uses in the surrounding lands as: "hazelnut orchards, grass seed, wheat and hay fields, and livestock pasturage. Rural residential uses are present on four (4) of the nearest lots (Tax Lots 4401-03400 4401-02400, 4401-03300, and 4401-03200)." The staff report both identifies specific tax lots **and** the farming operations occurring on them. Appellants allege that the County has not identified the "accepted farming practices." However, there is no legal requirement that the County provide information beyond what staff provided here.

3) Identify potential significant impacts and conflicts

In the staff report, County staff identified potential impacts, as relevant to other properties' farming and forestry practices, as traffic; noise; erosion; water impacts; and environmental contamination. *See, e.g.*, Aug. 29 Staff Report, at 6–9. Appellants subsequently identified exhaust odor/fumes, traffic, dust, and glare from headlights as potential impacts on surrounding properties that must be considered. *See* Sept. 29 Appeal, at 10. The County considered those potential impacts in a full page of analysis. *See* Aug. 29 Staff Report, at 15–16.

Appellants contend: "The applicant needs to address the externalities created by his business, including such impacts as noise, exhaust odor/ fumes, traffic, dust, and glare from headlights. None of this critical analysis bas been completed." Sept. 29 Appeal at 11 (emphasis added). In fact, many of these impacts were described by Appellants and then explicitly considered and addressed by the Planning Department's staff report, often in multiple places. *See, e.g.*, Aug. 29 Staff Report, at 16–17 ("Additionally, because the loss mitigation activities will occur indoors there will be minimal noise generated from the business will be comparable to noise commonly associated with and generated by the farm activities permitted in the farm zone and that commonly occur in the county."); 9 ("Regarding access to the property, NE Equestrian Drive is a public graveled road and while the road may emit dust during the dry season and be muddy

during the rainy season, it appears to be adequate to meet the traffic needs for the business."); 5 ("There will be no on-site retail component to this business or customers visiting the subject lot so traffic to and from the site that is associated with the business will be for employees and for vehicles to be picked up and dropped off for mobilization and demobilization.").

Additionally, other impacts identified by Appellants that were not explicitly addressed in the staff report—*e.g.*, glare from headlights and exhaust odor/fumes—will not cause significant impacts on neighboring farm and forestry practices. *See* Applicant's Nov. 6 and Nov. 13 Testimony. Again, Appellants mischaracterize the legal standard. The question is not whether the Proposed Use will have any conceivable impacts on the Appellants' and their neighbors' homes or properties. The question is whether impacts from the Proposed Use will "significantly" change or increase the cost of "accepted farm or forest practices."

This confusion around the standard may be because Appellants misunderstand the term "significant" in this context. Appellants argue that the term "significantly" is undefined and therefore requires a dictionary definition and caselaw to guide interpretation. *See* Sept. 29 Appeal at 10 ("Because the term 'significant' is undefined, and of common usage, it is permissible to consult dictionary definitions."). But, in the primary case Appellants cite to support their "farm and forest impacts" analysis, *Stop the Dump Coalition v. Yamhill County*, defines "significant" in this exact farm and forest impacts context as:

> the following definition of "significant" from *Webster's Third New International Dictionary* is most apt: "**3 a:** having or likely to have influence or effect **:** deserving to be considered **:** IMPORTANT, WEIGHTY, NOTABLE[.]" *Webster's* at 2116 (unabridged ed. 2002).
>
> As used in ORS 215.296(1) to modify a "change in accepted farm or forest practices on surrounding lands," the ordinary meaning of "significant" indicates that the change has, or is likely to have, an important influence or effect on the farm or forest practices "on surrounding lands."

See 364 Or 432, 447, 435 P3d 698, 707 (2019) (emphases in original).

In this case, neither staff nor the Appellants have identified any impacts that would affect farm and forest practices in the surrounding area, much less impacts that would "significantly" change or increase the cost of accepted farm or forestry practices. Because the Proposed Use's on-site operations at the Subject Property will only consist of administrative tasks, storage, and minor cleaning, impacts to surrounding properties will be inherently de minimis. This criterion is satisfied.

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C. Local Approval Criteria

The Proposed Use also complies with the controlling local approval criteria at YCZO 402.04, 402.07(A), 1004.01, and 1202.02, as demonstrated in the Sept. 12 Director's Decision and this section.

YCZO 402.04 Conditional Uses

> ***The following uses are allowed in the Exclusive Farm Use District upon conditional use approval. Approval of these uses is subject to the Conditional Use criteria and requirements of Section 1202, and subsection 402.07(A) of this ordinance and any other provision set forth below. Applications shall be reviewed under the Type B procedure of Section 1301:***
>
> * * * * *
>
> ***(I) Home occupation, subject to the standards and limitations set forth in Section 1004.***

YCZO 402.07 Approval Standards for Approval of Conditional Uses

> ***(A) In the Exclusive Farm Use District, prior to establishment of a conditional use, the applicant shall demonstrate compliance with the following criteria in addition to other requirements of this ordinance:***
>
> > ***1. The use will not force significant change in accepted farming or forest practices on surrounding lands devoted to farm or forest use.***
> >
> > ***2. The use will not significantly increase the cost of accepted farming or forest practices on surrounding lands devoted to farm or forest use.***

The Applicant has already demonstrated why this criterion is satisfied in response to ORS 215.296 and incorporates that discussion by reference.

YCZO 1004.01 Standards and Limitations

Except as provided in the Minor Home Occupation standards listed in Subsection 1004.01 [sic], the following standards and limitations shall apply to home occupations:

> ***A. The home occupation will be operated by a resident of the property on which the business is located.***

The Applicant has already demonstrated why this criterion is satisfied in response to OAR 660-033-0130(14)(b) and incorporates that discussion by reference.

B. The home occupation will employ on the site no more than five full or part-time employees.

The Applicant has already demonstrated why this criterion is satisfied in response to OAR 660-033-0130(14)(b) and incorporates that discussion by reference.

C. The home occupation will be operated substantially in the dwelling or in other buildings normally associated with uses permitted in the zone in which the property is located.

The Applicant has already demonstrated why this criterion is satisfied in response to OAR 660-033-0130(14)(a) and incorporates that discussion by reference.

D. The home occupation will not unreasonably interfere with existing uses on nearby land or with other uses permitted in the zone in which the property is located.

The Applicant has already demonstrated why this criterion is satisfied in response to ORS 215.448(1)(d) and incorporates that discussion by reference.

E. No more than one (1) home occupation shall be permitted in conjunction with any dwelling or parcel. Activities which are substantially different in nature shall be considered separate home occupations.

The Applicant has applied for one home occupation, and there is no evidence that any other home occupation is occurring or will occur at the Subject Property. The Applicant has testified that they are not currently conducting business operations at the Subject Property. Staff's Condition of Approval 8 also limits the Applicant to the single loss mitigation business home occupation. This criterion is satisfied.

F. A home occupation shall not be used to permit construction of any structure that would not otherwise be allowed in the zone in which the home occupation is established, nor shall a home occupation be used as justification for a zone change.

The Applicant has already demonstrated why this criterion is satisfied in response to ORS 215.448(3) and incorporates that discussion by reference.

G. The total area used for outdoor storage shall not exceed the allowable parcel coverage in the zone in which the home occupation is established.

As staff correctly concluded, "[t]he subject lot measures approximately 5.5 acres in size therefore the parcel coverage standard is not applicable for this request." *See* Aug. 29 Staff Report, at 12. Additionally, the Applicant has not proposed any outdoor storage. In response to this criterion, Appellants' Sept. 29 Appeal cites incorrect legal standards and does not provide any support to rebut staff's findings on this point. *See* Sept. 29 Appeal at 14. This criterion is satisfied.

H. There shall be no visible evidence of the conduct of a home occupation from any road or adjacent property, other than permitted signs. Any outdoor storage or outdoor work areas shall be effectively screened by vegetation or by a sight obscuring fence.

As stated in the Applicant's Nov. 6 Testimony, at 3, minimal work activities will occur on the site. All equipment storage will be in the barn, out of sight from neighbors. As discussed in the Applicant's Nov. 13 Testimony, the Applicant intends to grow a vegetation screen along the south and west sides of their property, screening the home occupation business from NE Equestrian Drive and their neighbors. Until that screen is complete, business vehicles may be visible from NE Equestrian Drive. However, business owners and employees regularly take their vehicles home, so business vehicles visible during the time period in which it takes to grow a permanent tree screen should not be considered "outdoor storage." This criterion is satisfied.

I. A home occupation shall not generate noise, vibration, glare, fumes, odor, electrical interference or other disturbance beyond what normally occurs in the applicable zoning district.

For this criterion, we again note that the baseline legal standard is "what normally occurs in the" EFU zone. As discussed throughout this submittal, working agricultural lands create noise, dust, smells, and all sorts of other impacts that might not be permitted in an urban residential area. Appellants have failed to point to a single element of the Proposed Use that would cause greater impacts in any of these categories than what normally occurs in the EFU zone. Instead, Appellants contend that "[t]here has been no effort quantify the types and levels of noise, vibration, glare, fumes, odor, and/or electrical interference which normally occur in this zone." Appellants' Sept. 29 Appeal, at 15. Nowhere in either the applicable state or local requirements is there a requirement that these types of impacts be quantified to permit a home occupation. Requiring such an analysis would place a disproportionately heavy burden on small businesses, like the Applicant's, which are exactly the type of business the legislature intended to allow as home occupations on EFU land.

Appellants take particular issue with potential noise impacts from the Proposed Use, contending that the Applicant must conduct a noise study to demonstrate compliance with the Yamhill County Noise Control Ordinance and DEQ's Noise rules found at OAR 340-035-0035.

First, the controlling legal question is whether the Proposed Use would create noise impacts greater than typical agricultural/farming operations. No noise study is required to conclude that it will not, as any reasonable person would conclude. The equipment storage, loading and unloading, routine cleaning and maintenance, and administrative tasks proposed by the Applicant cannot conceivably produce the volume or duration of noise that farming operations create in herding, pesticide spraying, plowing, or any other farming activity using large equipment on-site.

Second, Appellants incorrectly cite to OAR 340-035-0035(1)(b)(B)(i) as their justification to apply DEQ noise regulations to the Proposed Use. This provision applies to any "new industrial

or commercial noise source located on a previously unused industrial or commercial site." (Emphasis added.) The Subject Property is not a "previously unused industrial or commercial site," so this provision does not apply. And, even if this provision did apply, it includes several express exemptions that would arguably apply to the Proposed Use.

Finally, Appellants cite Yamhill County's Noise Control Ordinance to argue that it is "unlawful to make an unreasonable amount of noise." Sept. 29 Appeal at 17. We concur. But Appellants have cited no basis for their claims that the Proposed Use would cause an unreasonable amount of noise and the description of the Proposed Use supplied by the Applicant does not support that inference. *See, e.g.*, Applicant's Nov. 6 Testimony.

With respect to potential glare from the Proposed Use, the record reflects that the Proposed Use will be limited to equipment storage and maintenance and an office; NE Equestrian Drive is already well-lit at night; and night-time operations will be extremely limited. *See* Applicant's Nov. 6 Testimony. Additionally, staff's Condition of Approval 10 requires the Applicant to ensure that any lighting associated with the Home Occupation does not shine onto the adjacent roadway or neighboring lots.

J. A home occupation shall not generate traffic or parking beyond what normally occurs in the applicable zoning district.

Again, the controlling legal standard is what "normally occurs" in the EFU zone. The record reflects that the Appellants are used to a quiet, private country lane—presumably because neither they nor any of their other neighbors are currently operating intensive commercial farming operations. The reality is that large-scale agricultural operations are a permitted use in the EF-40 zone, and potentially significant traffic impacts are "normal" for those operations. *See* Applicant's Nov. 6 Testimony, Exhibit N. For example, the Applicant's approximately 5-acre property could support a full-time commercial farming operation with dozens of employees, each driving their own car to the Subject Property. "Normal" agricultural traffic impacts may be more than what Appellants are used to, but that does not render the Appellants' historical experience a relevant legal standard.

Additionally, the Appellants stated in their Nov. 6 Testimony, at 8, that an average household will produce 10 daily trips per day. As stated in the Applicant's Nov. 6 Testimony, the Proposed Use will average 3–4 round-trip business trips each day (6-8 total daily trips), potentially reaching up to a maximum of 10 round-trip trips (20 total daily trips) in very rare circumstances. It is reasonable to infer, based on the record, that traffic impacts from the Proposed Use would fall well within the range of "normal," even when compared to the Appellants' historical experience on Equestrian Drive.

Finally, with respect to parking, the Applicant has stated that customers will not visit the Subject Property, and staff's Condition of Approval 12 prohibits the Applicant's employees from parking on NE Equestrian Drive. There is no evidence that the Proposed Use will create parking impacts beyond those normally occurring in the EF-40 zone. This criterion is satisfied.

K. Off-street parking spaces shall be provided for clients or patrons and shall not be located in any required yard.

No clients or patrons will visit the Subject Property. It will only be used to store and manage equipment. Therefore, this criterion is not applicable or is satisfied, to the extent it applies.

L. One (1) on-premise sign shall be permitted in conjunction with a home occupation, subject to the sign provisions set forth in Section 1006.

The Applicant does not currently have, and do not currently intend to place any signage on the Subject Property. Additionally, staff's Condition of Approval 9 limits any signage to 24-square feet, if approved by the County before installation. This criterion is satisfied.

M. The nature of a proposed home occupation shall be specified at the time of application. Any proposed change in the nature of an approved home occupation shall require a new conditional use permit. Any departure from the uses and activities initially specified shall be considered grounds for revocation of the conditional use permit.

The Applicant's Nov. 6 Testimony, combined with the initial application, as amended, provides sufficient detail to describe the nature of the use. Additionally, staff's Condition of Approval 8 clearly limits the home occupation to the loss mitigation business as represented by the Applicant, and staff's Condition of Approval 14 requires a one-year review by the County of home occupation activities. This criterion is satisfied.

N. A permit for a home occupation shall be deemed personal to the applicant and shall not run with the land. Upon notification by the county such permit shall expire two (2) years from the date of issuance, at which time the permit may be renewed by the Director upon a finding that the requirements of this ordinance are being met. A fee for renewal of the permit may be imposed by the Director.

Staff's Conditions of Approval 13 and 14 limit the approved home occupation to one year, with an opportunity to renew after a County review. This criterion is satisfied.

O. A condition of approval may be placed on a home occupation requiring a review every 12 months following the date the permit was issued. The home occupation may be renewed if it continues to comply with the requirements of this ordinance and any other conditions of approval.

Staff's Condition of Approval 14 limit the approved home occupation to one year, with an opportunity to renew after a County review. This criterion is satisfied.

P. Pursuant to the nonconforming use provisions of Section 1205 of this ordinance, any proposed expansion or change in the nature of a home occupation in operation prior to adoption of this ordinance shall be subject to the requirements of this

> ***section and shall require a conditional use permit. In the event of denial of such an application, the home occupation shall be allowed to continue at its original scale and nature as a nonconforming use.***

This provision does not apply, as the Proposed Use is not operating as a nonconforming use.

YCZO 1202.02 Review Criteria

A conditional use may be authorized, subject to the Type B application procedure set forth in Section 1301, upon adequate demonstration by the applicant that the proposed use will be compatible with vicinity uses, and satisfies all relevant requirements of this ordinance and the following general criteria."

A. The use is listed as a conditional use in the underlying zoning district.

YCZO § 402.04(I) lists a home occupation as a Conditional Use in the EF-40 District, consistent with ORS 215.283(2)(i).

B. The use is consistent with those goals and policies of the Comprehensive Plan which apply to the proposed use.

The Sept. 12 Director's Decision evaluated and found that the Proposed Use would be consistent with applicable Comprehensive Plan goals and policies. *See* Aug. 29 Staff Report at 3. Appellants' Nov. 6 Testimony selected several Comprehensive Plan policies and stated that they are not met, treating them as approval criteria requiring a step-by-step analysis. Sept. 29 Appeal at 27–29. As staff have explained, they are not. *See* Aug. 29 Staff Report at 3.

However, to correct the record, we briefly address Appellants' arguments under the Comprehensive Plan.

11.05.01.02 Rural Area Development

Appellants contend that "access to a commercial 24/7 business through a rural residential neighborhood" is not "adequate" for purposes of Comprehensive Plan Policy 11.05.01.02, requiring that "[a]ll proposed rural area development and facilities" be "furnished with adequate access." Sept. 29 Appeal at 27. First, as explained in the Applicant's Nov. 6 Testimony and the Aug. 29 Staff Report, clients and customers of the Proposed Use will not access the Subject Property. *See* Applicant's Nov. 6 Testimony at 3; Aug. 29 Staff Report at 14. And anticipated "business" trips associated with the Proposed Use will typically be in the range of 6–8 trips per day.

Moreover, despite Appellants' repeated attempts to characterize NE Equestrian Drive as a "rural residential neighborhood," we must again clarify that the Applicant's and his neighbors' properties are located in an agricultural zone, not a rural residential zone, and thus Comprehensive Plan Policy 11.05.01.02 must be evaluated through that lens.

11.05.02.01(b)(i)(8) & (c)(i)(1) Agricultural Lands

Appellants assert that the Proposed Use could "substantially impair or conflict with the use of farm or forest land" and is inconsistent with the County's goal to "preserve" Class I through IV agricultural soils for farm use. Appellants' Sept. 29 Appeal at 28. As discussed at length, staff evaluated potential impacts on farm and forest land and concluded that all potential impacts raised by the Appellants and their neighbors would not significantly impact farmland. Moreover, the Applicant himself is a Christmas tree farmer and his proposed home occupation business clearly will not conflict with his ability to continue farming his property.

Goal Statement (c)(1)(4)

Appellants assert that the Applicant's construction permits do not contain adequate provisions to protect sites from soil erosion. Sept. 29 Appeal at 28. The Applicant's construction permits are not at issue in this appeal.

11.05.05.01(b)(i)(3) Air, Water and Land Resources Quantity

Appellants argue that staff's "decision does not ensure compliance with noise regulations." Appellants' Sept. 29 Appeal, at 29. However, the identified Comprehensive Plan policy merely requires that "Yamhill County will cooperate with the State Department of Environmental Quality in implementing noise control regulations." Potential noise impacts have already been addressed. In addition, all land uses in Yamhill County are required to comply with applicable noise criteria, regardless of whether they are incorporated in a condition of approval. This policy is not an applicable basis to deny or condition the Application.

C. The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features.

County staff evaluated this criterion at length and concluded that it was satisfied. *See* Aug. 29 Staff Report at 4–5. However, in their Sept. 29 Appeal, Appellants addressed this standard word-by-word and, therefore, we respond in kind.

Size

The 5.5-acre Subject Property is sufficiently large to host this home occupation, which will be primarily operated inside an existing structure and will include only two trailers, a truck, and a van that are parked outside. No physical business operations other than administrative tasks, equipment storage, and some minor equipment cleanings will occur on site. All of this activity could occur on one acre, rendering a 5.5-acre property more than sufficiently large.

Appellants may have concerns about noise and smell, but their specific concerns are unclear. *See* Sept. 29 Appeal, at 20 ("At 5.5 acres, the property is relatively small which means that noise and odors . . ."). Moreover, noise and odor concerns are addressed elsewhere in this submittal.

Shape

The Subject Property is not so unduly oddly shaped as to render it an issue for the Proposed Use. Appellants apparently concur.

Location

The Subject Property is located in rural Yamhill County just to the west of Lafayette, and is within 10 miles of Newberg, McMinnville, Dayton, Dundee, Lafayette, Carlton, and Yamhill. Moreover, the Subject Property's proximity to Highway 99W makes it easy for the Applicant to respond to emergencies throughout the County. Therefore, the location of the Subject Property is suitable for the Proposed Use.

Appellants contend that "[t]he Location of the land is in what amounts to a rural residential subdivision." *See* Sept. 29 Appeal at 21. As noted, the Subject Property is, in fact, not in a rural residential subdivision.

Topography

The Subject Property is topographically appropriate for the Proposed Use, as it is entirely flat farmland "with little appreciable slope or other natural feature that would impede the operation of the loss mitigation business." Aug. 29 Staff Report, at 4.

Appellants have expressed a number of concerns about stormwater management and flooding risks, given the flat topography, and contend that the Applicant must conduct a stormwater study because the Applicant is "redistributing" water in violation of Oregon law. Sept. 29 Appeal at 21. However, the Appellants have cited no basis for their fears about stormwater impacts associated with the Proposed Use, which is equipment storage and an office in an existing barn. At most, any stormwater concerns raised by the Appellants would relate to construction at the Subject Property that has already occurred. However, these concerns are not relevant to the approval criteria in this appeal.

Additionally, "Yamhill County Soil & Water Conservation District submitted a document that provides the Applicant with guidance regarding noxious weed control and responsible water use management." Aug. 29 Staff Report, at 4. Thus, local flood authorities are aware of the Proposed Use and do not see any imminent stormwater or flood risk from the Proposed Use's activities.

Finally, while Appellants have raised various arguments about Oregon's "common law of drainage," those arguments are not relevant to applicable approval criteria either. Should, in the future, Appellants have some actual evidence of new, adverse stormwater impacts to their property, the Applicant is open to addressing those concerns outside of this proceeding.

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Existence of Improvements

County Planning staff determined that "there are no identifiable additional service improvements that would be needed on the property to support the proposed loss mitigation business." Aug. 29 Staff Report, at 4. Appellants have not identified anything in the evidentiary record that might constitute a needed service improvement. Additionally, contrary to the Appellants' assertion, County staff did, in fact, analyze this issue and determine that it did not adversely impact the suitability of the Subject Property for the Proposed Use. *See* Appellants' Sept. 29 Appeal, at 21 ("The Board of Commissioners must analyze if there are any "improvements" on the parcel that make it not suitable for a 24/7 loss mitigation business.").

Natural Features

Appellants have alleged that "[t]he record is not developed sufficiently to make findings regarding the presence or lack of natural features on the property." *See* Appellants' Sept. 29 Appeal, at 21. However, planning staff did evaluate the natural features on the Subject Property, which is a flat farmland parcel with a few trees, and did not identify any natural features rendering the property unsuitable for the home occupation use. *See* Aug. 29 Staff Report, at 4.

D. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zoning district.

Planning staff's four pages of findings on this issue more than sufficiently demonstrate that this criterion is satisfied. The key issue is whether the Proposed Use will "substantially" limit, impair, or prevent the use of surrounding properties for use permitted in the EF-40 zone.

Appellants do not advance an argument that any specific land uses will be "prevented" by the Proposed Use, substantially or otherwise. Appellants also do not identify how any land uses will be "limited," other than asserting that a business operating 24/7 "limits and does harm to neighboring residences because it result[s] in light glare and noise during all hours of the night." These fears about light glare and noise have been addressed in this and the Applicant's other submittals. And, per Appellants' own definition of limit – "something that bounds, restrains, or confines"—it is unclear how these impacts could "limit" other land uses, even if they were to occur. Appellants' remaining arguments appear to allege that the Proposed Use will substantially "impair" other land uses permitted in the EFU zone.

Appellants provide no basis for their concerns about noise impairing their own property's permitted uses. Appellants seem to be focused on the enjoyability of their property, but actual impacts aside, the standard is impairment of uses, not impairment of enjoyment. And, as discussed above, the Subject Property and all neighboring properties are in the EFU zone, where noise is a reality of daily life. Appellants have identified no potential impacts that would actually impair their ability to farm their land or conduct other permitted uses on their property.

Appellants' other stated concern relates to potential erosion and muddy runoff from "recent development activities." *See* Sept. 29 Appeal at 23. Here, Appellants appear to conflate prior development activities with the Proposed Use that is the subject of this appeal. There is no evidence that the Proposed Use will result in potential erosion or muddy runoff that would substantially limit, impair, or prevent the use of surrounding properties for land uses permitted in the EF-40 zone.

E. The proposed use is appropriate, considering the adequacy of public facilities and services existing or planned for the area affected by the use; and

This criterion is met, as determined by planning staff, who have far more knowledge about the adequacy of the County's own public facilities than the Applicant or the Appellants. The Aug. 29 Staff Report specifically evaluated potential septic and traffic impacts under this criterion. The Appellants have not raised specific concerns under this criterion but did cite it in their Sept. 29 Appeal at 24.

F. The use is or can be made compatible with existing uses and other allowable uses in the area.

The Appellants' approach to the final conditional use criterion, that "[t]he use is or can be made compatible with existing uses or other allowable uses in the area" is to break down this phrase into single words and provide the definition for each. However, both state and local criteria specific to the respective home occupation standards, and our analysis throughout this response discuss these issues in length. This criterion is satisfied.

III. CONCLUSION

For the foregoing reasons, we respectfully request that the Board affirm the Planning Department's Sept. 12 Director's Decision and deny this Appeal. Thank you for your consideration.

Sincerely,

Merissa A. Moeller

Merissa A. Moeller