

COLUMBIA COUNTY LAND DEVELOPMENT SERVICES

Amended Staff Report

July 29, 2024

Conditional Use Permit - Type 2 Home Occupation

HEARING DATES: July 1, 2024 - continued to August 5, 2024 per ORS 197.797(6)

FILE NUMBER: CU 23-12

APPLICANT: Davis Wright Tremaine, LLP, Attn: Caroline Cilek
Suite 700, 4560 NW 10th Avenue, Portland, OR 97205
carolinecilek@dwt.com

OWNER: George Bartholomew Hafeman III,
33470 Chinook Plaza Ste. 345, Scappoose, OR 97056

SITE LOCATION: 51600 SE 9th Street, Scappoose, OR 97056

TAX MAP ID NO: 3118-BC-02800 & Tax Account Number 5340

ZONING: Primary Agriculture (PA-80)

SITE SIZE: ~4.27 acres

REQUEST: Conditional Use Permit for a Type 2 Home Occupation to authorize an event venue that will host weddings, commercial, and fundraising events from the applicant's residence located on PA-80 land.

APPLICATION COMPLETE: 05/13/2024

150 DAY DEADLINE: 10/10/2024

REVIEW CRITERIA:

Columbia County Zoning Ordinance

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ORS 197-797(6) Continuance of July 1, 2024 Public Hearing to August 5, 2024

Prior to the close of the Planning Commission's initial evidentiary hearing on July 1, 2024 and pursuant to provisions in the Oregon Revised Statutes (ORS) 197.797(6), the Planning Commission granted the Applicant's request to continue the public hearing until August 5, 2024 and to leave the record open for additional written evidence, arguments and testimony regarding the proposed Type 2 Home Occupation requested for CU 23-12.

The Planning Commission agreed to the following dates and timeframes related to this continuation of the public hearing for CU 23-12:

- 1 week Open Record Period for parties/participants to submit written evidence to Land Development Services – 7/1/2024 through 7/8/2024
- 1 week Rebuttal Period – 7/8/2024 through 7/15/2024
- 1 week Applicant's Final Rebuttal Period – 7/15/2024 through 7/22/2024

As of July 15, 2024 Land Development Services has received comments from approximately 70 respondents all of which are included in Attachment 7. Of these respondents, nine submitted their opposition to CU 23-12 which primarily describe the excessive noise and traffic including parking on adjacent streets they have experienced for the past few years and questioned the ability of Land Development Services to be able to effectively enforce the imposed restrictions that will be placed on CU 23-12.

At the July 1, 2024 initial public hearing, the applicant submitted **the Hafeman CU 23-12 Applicant's Revised Findings and Conditions of Approval and a Power Point Presentation** to the Planning Commission which covered five categories: Use of the 3 Accessory Buildings, Limited Amplified Sound, Trespassing on Neighboring Property, Notice to Property Owners, and Limited On-Site Parking. Then on July 8, 2024 the applicant submitted the correspondence **Comments on County's Findings and Conditions of Approval for Hafeman CU 23-12 (Attachment 8)** which included the initial five categories and added two additional categories related to Off-Site Parking and Time Limits and Location of Outdoor Weddings. The applicants also submitted a Draft Lake House Noise Control Plan dated 7/8/2024 for the monitoring and management of sound from events that will require the resident property owner to be immediately responsible for responding to noise complaints received while events are occurring.

On July 15, 2024, in response to the comments received between July 1, 2024 through July 8, 2024, the applicant submitted the correspondence titled **"Applicant's Rebuttal for the Lake House CU 23-12 dated July 15, 2024"** also included in **Attachment 8** which included additional revisions to Conditions 12, 16 and 4 related to guests and shuttle bus driver's behavior while being transported to and from the event venue, Onsite Posting of Event Terms and Conditions and an updated Noise Management Control Plan with complete illustrations. The applicant submitted a **4 Page Hafeman CU 23-12 Conditions of Approval for 7/15/2024 Filing**. On July 15, 2024 the property owner's neighbors, Jeff and Laurie Mapes, also submitted their comments stating that they worked with the applicant to develop the Hafeman CU 23-13 Conditions of Approval for 7/15/2024 filing which they refer to as the "Neighbors

Agreement” which is “*the product of considerable effort by Applicant and use to create conditions for the home occupation permit the neighbors can both accept.*”

On July 22, 2024 the applicant submitted the **Final Legal Argument – The Lake House CU 23-12 (Attachment 8)** which summarized the categories of issues raised by neighbors before the Planning Commission as follows: (1) amplified and attenuated sound; (2) inside versus outside activities; (3) parking and shuttle bus; and (4) a catch all, neighborhood compatibility that touches on the first three categories. The applicant also referenced that they had negotiated with Jeff and Laura Mapes modifications to conditions of approval, presented in the original staff report as well as new conditions of approval negotiated during the rebuttal period, which will help to ensure that the county will be able to enforce the limits of the proposed use presented for CU 23-12.

This July 29, 2024 Amended Staff Report for CU 23-12 reflects the county's research and analysis resulting from the additional written evidence, arguments and testimony received during the July 1, 2024 initial public hearing as well as during the 3-week Continuance period provided for in the ORS 197.797(6).

In order to help the efficient use of the Planning Commission’s time, staff has amended the Summary and Background, as well as the Discussion related to the following specific Findings and Conditions in response to the additional written evidence, arguments and testimony received between July 1, 2024 through July 22, 2024.

Findings	Conditions
2, 3 & 23	18
13	10
14	12
19	5, 15, 16 & 17
21	17
23	18
25	6 & 8
26	All amended/modified conditions

SUMMARY & BACKGROUND:

The applicant, Caroline Cilek from Davis Wright Tremaine LLP, representing George Bartholomew (Bart) Hafeman III, has applied for a Conditional Use Permit to establish a Type II Home Occupation at Bart Hafeman’s residence at 51600 SE 9th Street in Scappoose, Oregon as provided for in Section 306.1 of the Columbia County Zoning Ordinance (CCZO). The subject property is served by a private well and septic system and is zoned for Primary Agriculture (PA-80) uses. The site’s soils consist of two high-value and hydric soils according to the U.S Department of Agriculture’s Soil Survey of Columbia County: Sauvie silty clay loam (Type 48) and Rafton silt loam (Type 42). The applicant submitted the

following description of the proposed event venue:

The property hosts a personal residence (occupied by the property owner), a barn, lavender farming, gardens, open space and three accessory structures. There is a lake and wetlands on the property. The existing development is served by a private groundwater well and septic system and is accessed via a flag lot from SE 9th Street. Applicant seeks approval to host weddings and other events on the property as a home occupation using the existing structures and grounds". The submitted Site Plan shown on Page 3 also identifies the property owner's detached garage immediately north of his residence which will not be used for events. Pages 1 and 2 of the submitted Application Narrative describes 35 proposed events per year as follows:

- 15 weddings per year with overnight accommodations
- 4 large commercial events – up to 60 guests
- 10 small commercial events – up to 20 guests
- 6 fundraisers or charitable events – up to 60 guests

At the initial public hearing, the applicant explained to the Planning Commission that they had decided to eliminate any overnight accommodations from their proposal, as demonstrated in their July 15, 2024 and July 22, 2024 submittals.

Consequently, conditions of approval will require all 3 Accessory Buildings to either be removed or relocated and brought up to compliance with the applicable provisions of the Oregon Building Code and the authorized agricultural uses and locational requirements of the PA-80 Zoning District. The applicant is also proposing to relocate Accessory Building 2 and use it as a place for brides to prepare for weddings. Relocating Accessory Building 2 will also require the applicant to obtain approval from the Oregon Department of State Lands (DSL) to remove this structure and its attached dock from the identified wetlands associated with the lake.

The applicant intends to have all event attendees park off site at the Hafeman Plaza located at 51913 Columbia River Highway who will then be shuttled to and from the subject property via consistent shuttle routes. The applicant proposed to provide up to 10 onsite parking spaces for licensed caterers who will provide food and beverage services for all events and other employees needed to serve event attendees. Since the off-site parking facilities and shuttle routes to and from the subject property will all occur within the City of Scappoose city limits and are subject to regulation by the City, one condition of approval will require the City of Scappoose to submit written confirmation that the applicant has secured any and all applicable City approvals, authorizations, licenses, permits, etc. for any activities related to the proposed use proposed to occur within the City of Scappoose.

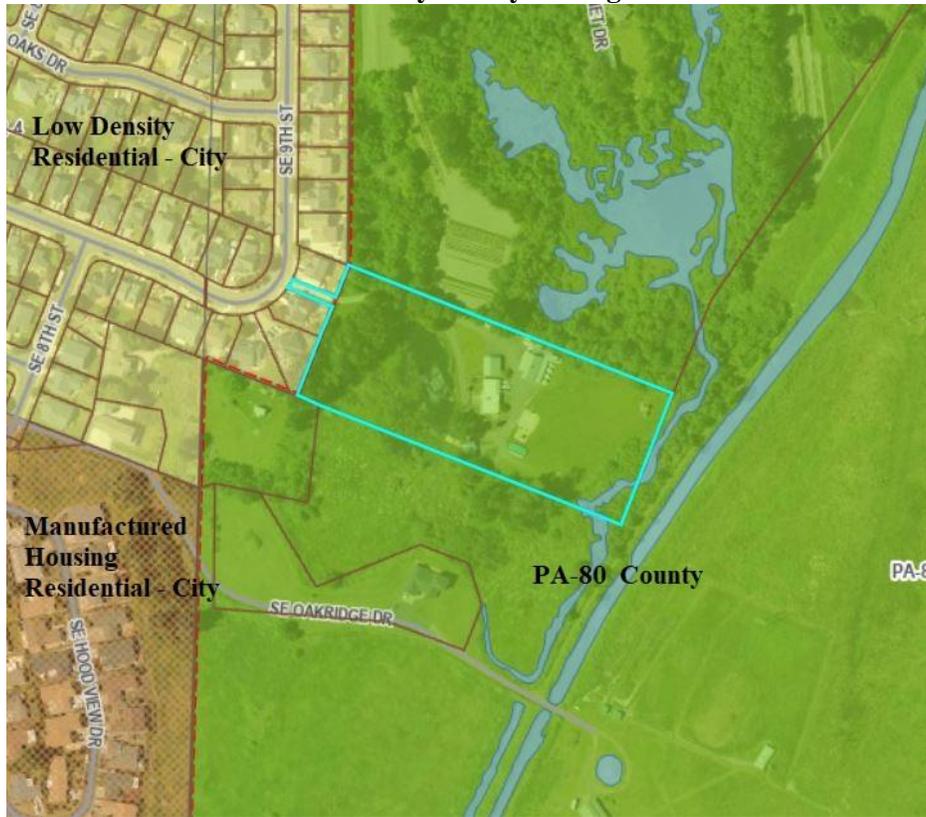
The applicant proposes to test sound equipment to ensure that sound levels will not exceed those limits imposed by the Columbia County Noise Control Ordinance (Ordinance No. 91-8, October 16, 1991). Noise will not exceed 60 dba between 7 am and 10 pm and will not exceed 50 dba after 10 pm. The applicant also submitted a Noise Management Plan on July 15, 2024 that will be covered during the Discussion for Finding 19.

Portable toilets will be utilized for all events and will be maintained regularly by a licensed provider. Five-gallon water dispensers will be brought in for events to supply all drinking water.

Aerial & Zoning Maps of Subject and Adjacent Properties



County & City Zoning



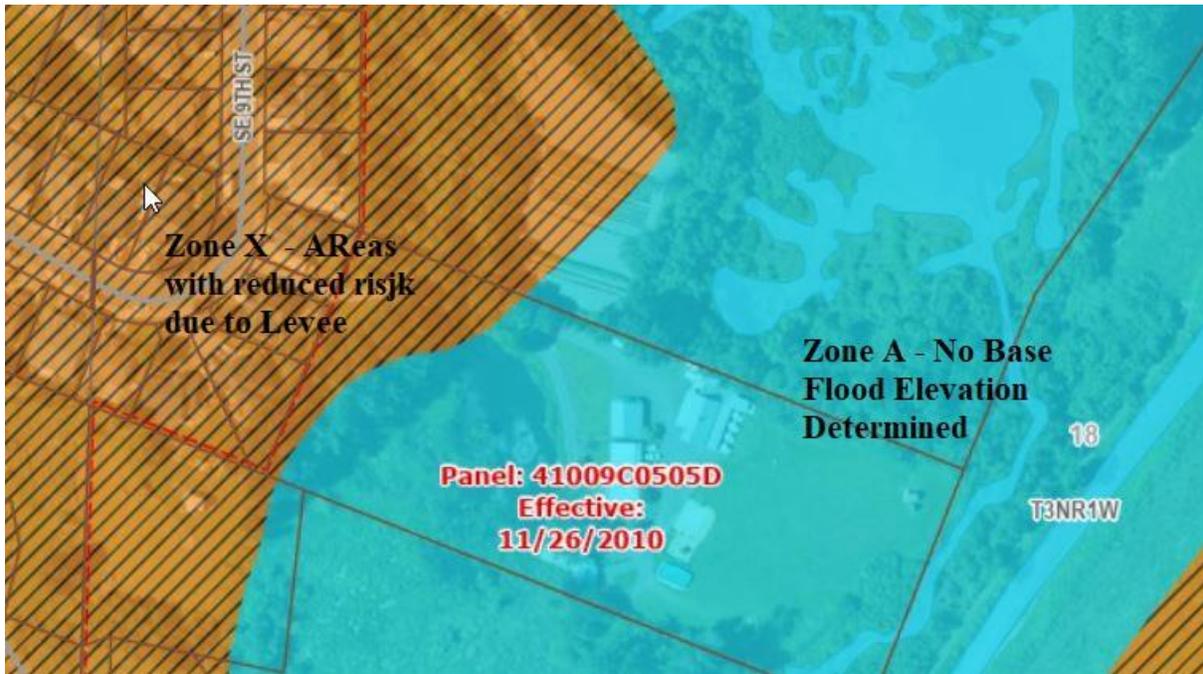
As demonstrated in Page 4's Zoning Map, the 4.27-acre site borders County PA-80 zoned properties to the north, east and south, and residentially zoned properties within the City of Scappoose to the west. Although the property is adjacent to the City of Scappoose, it is not within the city's existing Urban Growth Boundary. There are approximately 60 dwellings within 500' of the subject property, only two of which are located in the county on PA-80 zoned properties. Access is obtained via direct connection to SE 9th Street which is within the City of Scappoose.

This Conditional Use request was initiated by complaint that the property owner was operating an event venue from his residence, which resulted in an open compliance investigation (File No. 192-18-00164-NVST). The proposal requested for CU 23-12, if approved, will authorize the applicant's Type II Home Occupation for hosting events from the site's accessory structures, provided all necessary building permits are reviewed and approved by the County Building Official and Planning Manager for compliance with the applicable provisions of the Oregon Building and Fire Codes as well as the Columbia County Zoning Ordinance (CCZO).

Subject Property's Identified Freshwater Emergent Wetlands & Freshwater Pond and proximity to the Santosh Slough adjacent to the East



Subject Property's Flood Hazard Areas



Natural characteristics of the site are as follows: As shown above on the FEMA Flood Insurance Rate Map (FIRM) Panel No. 41009C0505D and the USFWS National Wetland Inventory Maps the property is located within an identified special flood hazard area of Jackson Creek, and contains Freshwater Emergent Wetlands in the west central area. The site's special flood hazard area is designated as Zone A which is subject to a one percent or greater chance of flooding in any given year, and where no Base Flood Elevation has been determined. The Scappoose- Spitzenberg CPAC Beak Maps indicate that the site is not designated as Peripheral Big Game or Major Waterfowl Habitat Area, nor does it contain any identified threatened or endangered species. The soils are classified as predominantly hydric soils and high value farmland per the U.S. Department of Agriculture's Soil Survey of Columbia County, Oregon.

The Project Planner conducted a site visit on June 3, 2024, and confirmed with the applicant and property owner that the information on the county maps were accurate with the documentation submitted for CU 23-12.

Emergency Services are provided by the Columbia County Sheriff as well as Scappoose Rural Fire Protection District.

The remainder of this report will evaluate to what extent the applicant's proposal conforms to the applicable criteria listed in the Columbia County Zoning Ordinance.

Visit Photos
View of Barn and outdoor recreation area



View of 3 accessory structures intended for overnight accommodations

Accessory Building 1



Accessory Building 2 – with deck



Accessory Building 3



REVIEW CRITERIA, FACTS, ANALYSIS & FINDINGS:

Beginning with Section 306 of the CCZO – Primary Agriculture (PA-80):

TABLE OF AUTHORIZED USES & DEVELOPMENT			
COMMERCIAL	HV	NHV	PA - 80 SECTION
Home Occupations			
Type I -	AR	AR	305.21, 307, 308,
Type II	CUP/PC	CUP/PC	306.1, 307, 308,

306 Conditional Uses. The following uses may be approved, subject to compliance with the procedures and criteria under Sections 307, 308, and 1503 Conditional Use Permit Hearing, the prescriptive standards specified herein, and other applicable state, federal and local regulations and permits:

COMMERCIAL ACTIVITIES – 306 CUP

306.1 Type II Home Occupations, as defined by and subject to Section 1507, may be allowed pursuant to Sections 307, 308 and 1503 with an associated public hearing.

Finding 1: Per the provisions in Section 306.1 of the CCZO, Type II Home Occupations are conditionally permitted in the PA-80 Zone regardless of the soils’ classification pursuant to the provisions in Sections 307, 308, 1503 and 1507 of the Zoning Ordinance, as well as other applicable provisions depending on the property’s site-specific characteristics and location. The proposed Type II Home Occupation will be reviewed by the Planning Commission at their public hearing scheduled for July 1, 2024 which was continued to August 5, 2024 at the applicant’s request per the provisions in ORS 197.797(6).The proposal submitted for CU 23-12 was deemed complete on May 13, 2024, and was scheduled for the next available public hearing based on County deadlines.

Pursuant to the minimum notice requirements in ORS 197.797, all adjacent property owners within 500’ of the subject PA-80 zoned site and affected agencies were initially noticed on May 15, 2024. All adjacent property owners within 500’ of the subject PA-80 zoned site and affected agencies were sent a corrected notice on June 5, 2024. All notices were sent at least 20 days prior to the July 1, 2024 hearing. Notice was published in the Columbia County Spotlight and the Columbia County Chronicle & Chief on June 19 and June 21, 2024, at least 10 days prior to the scheduled hearing.

On June 5, 2024, LDS received the attached **27-Page Document** addressed to the Planning Commission **from Jeff and Laurie Mapes (Attachment 1)** who reside on the adjacent ~61-acre PA-80 tract addressed at 33973 SE Oakridge Drive in Scappoose.

The public hearing will be conducted in accordance with the requirements in Section 1603.3 and 1603.4 of the CCZO, Ordinance No. 91-2 and ORS 197.797.

Staff finds the proposal requested for CU 23-12, if approved, will be required to comply with all minimum requirements for Type II Home Occupations on PA-80 zoned properties with conditions of

approval. All conditions of approval will be based on evidence submitted and received for CU 23-12 and staff’s resulting research and evaluation of site-specific evidence in order to help ensure compliance with all applicable standards and criteria.

Continuing with the applicable provisions in Section 307 – General Review Standards in the PA-80 Zoning District:

307 General Review Standards.

- .1 All uses in the Primary Agriculture Zone shall meet the review standards found in the above enabling Sections 304, 305 or 306. To also ensure compatibility with farming and forestry activities, the Planning Director, hearings body or Planning Commission shall determine that a use authorized by Sections 304, 305, or 306, except as specifically noted, shall meet the following requirements:
 - A. The proposed use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and
 - B. The proposed use will not significantly increase the cost of accepted farm or forest practices on lands devoted to farm or forest use.

Discussion

The applicant submitted the following response in the attached Project Narrative submitted with CU 23-12:

“Response: Applicant defines the surrounding lands as those within a 1/4 mile of the property boundaries. See Attachment 6 (Surrounding Lands). Accepted farming practices on surrounding lands include cultivated fields. Applicant anticipates no off-site impacts that may impact nearby the farming activities. There is no evidence to indicate that the proposed use would result in significant changes to the ongoing field farming that is occurring on surrounding lands. Similarly, given the lack of off-site impacts to accepted agricultural practices, Applicant does not identify any potential increase in costs of such practices.”

The below table lists the land uses and development of all PA-80 zoned properties within 500’ of the subject site that were required to be notified of CU 23-12 as discussed in Finding 1. To date, one resident of the adjacent PA-80 tracts, Jeff & Laurie Mapes, submitted comments to Land Development Services (LDS) indicating that this proposal has the potential to result in significant changes in and/or increases to the cost of accepted farm or forest practices on their adjacent ~61-acre tract.

Tax Map ID #	Address	Total Acreage	% of property in Tax Deferral
3118-00-02101	34066 Bernet Lane	23.10 acres	95%
3118-00-01500	33973 Oak Ridge	59.91 acres	98%

3118-00-01501	Drive	1.78 acres	
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Specifically, in their response, the Mapes describe on **Page 10, Item 6** their potential liability concerns about venue attendees trespassing on their property along the eastern property line near “Accessory Structure 1” labeled on the Site Plan. The Mapes state that because the subject property’s borders are not clearly identified, they are concerned that venue attendees may trespass and get injured on portions of the Santosh Slough’s wetlands and steep bank that is located on their own PA-80 tract.

The Mapes offer a solution on **Page 15** recommending the Planning Commission require the applicant/property owner to pay for a survey of the subject property and to then construct a fence along the eastern property line to prevent guests from trespassing onto and getting injured on their PA-80 property which could potentially increase the costs of their agricultural practices.

At the July 1, 2024 public hearing the applicant stated that constructing a fence along the east property line would potentially disturb the identified wetlands associated with the Santosh Slough and Jackson Creek. Consequently, the applicant alternatively proposed to install “No Trespassing” signs along the surveyed eastern property line as another remedy that would not require disturbance of the wetlands.

Finding 2: Upon reviewing the authorized PA-80 uses, natural wetlands as well as the Santosh Slough on the neighbor’s adjacent ~61-acre tract, and with the neighbors’ expressed liability concerns, staff finds that the Planning Commission has the authority to require the applicant/property owner to post “No Trespassing” signs as an alternative to a fence along the subject property’s surveyed eastern property line, which would not disturb the identified wetlands on the Mapes’ property as one condition of approval. Staff finds that this condition of approval is consistent with the requirements in Section 307.1(B) and will help to ensure the costs of accepted farming practices on the adjacent PA-80 tract will not significantly increase, while at the same time protecting the safety of event attendees.

- .2 In addition to the requirements in 307.1A. and B., the applicant may demonstrate that the standards for approval will be satisfied by imposing clear and objective conditions to ensure conformance to applicable standards of the proposed PA-80 use.

Finding 3: Staff finds that installing “No Trespassing” signs along the subject property’s eastern border, will serve as a clear and objective condition to sufficiently address potential liability concerns that could impact costs or accepted farming practices on lands devoted to farm or forest use, consistent with this provision of the CCZO.

- .3 For all residential development approved under 305.1 through 305.13, the owner shall sign and record in the deed records a document binding on the landowner and any successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices normally allowed under law.

Finding 4: Even though the provisions for residential development approved under 305.1 through 305.13 do not apply to CU 23-12, Staff research verified that a previous property owner has already recorded this Waiver of Remonstrance with the County Clerk through Instrument Number 97-02840 on March 20, 1997 which satisfies this requirement and is included as one item in **Attachment 2**. Staff finds this requirement is met.

.4 Permit Expiration:

- A. For any discretionary decision under Sections 305 and 306, except as provided for in Subsection 307.5 below, if not within an urban growth area, the approval period for development is void two (2) years from the date of final decision if a development permit is not issued by Land Development Services;
- B. The Director may grant extensions of up to one year if the applicant requests an extension in writing prior to the approval period expiration and it is determined that the applicant was not able to begin or continue development during the approval period for reasons which the applicant was not responsible;
- C. Approval of an extension granted under this subsection is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision; and
- D. Additional one-year extensions may be authorized where applicable criteria for the decision have not changed.

Finding 5: Since the property is not within the City of Scappoose's Urban Growth Boundary (UGB), the approval period for development is void 2 years from the date of final decision if a development permit is not issued by LDS. An extension of up to one year may be granted by the Director if the applicant requests an extension in writing prior to the approval period expiration and it is determined the applicant was not responsible for failure to develop.

Continuing with the applicable provisions in Section 308 – Development Standards in the PA-80 Zoning District:

308 Development Standards

- .1 The minimum average lot width shall be 100 feet for all activities except farming and forestry.
- .2 The minimum average lot depth shall be 100 feet for all activities except farming and forestry.
- .3 All newly created lots or parcels and those with permitted, reviewed or conditional uses, shall have a minimum of 50-foot frontage on a public or private right-of-way and an approved access in accordance with this ordinance, the Columbia County Road Standards and the Rural Transportation System Plan.

Finding 6: Pertaining to Section 308.1 and 308.2 dimensional requirements, the subject property's attached legal description in Statutory Warranty Deed recorded via Instrument Number 2015-010058 (Attachment 2) describes the subject property as Parcel 1 and Parcel 2. Parcel 1 is the unincorporated PA-80 zoned portion of the property and Parcel 2 is the property's incorporated portion described as Tract A, Charlie's Acre in the City of Scappoose that is zoned Low Density Residential (R-4). The metes and bounds description for Parcel 1 describes this portion of the property's average width as 677' and average depth as 274', both of which comply with these dimensional requirements in Sections 308.1 and 308.2. Staff finds that the dimensional requirements of Section 301.1 and 308.2 are met.

Discussion on provisions in 308.3

Because Parcel 2 is the incorporated R-4 zoned portion of the subject property that also serves as the property's legal access, staff finds the Section 308.3 minimum 50' of frontage on a public or private right-of-way does not apply to the subject property because it has an approved access to 9th Street which is in the City of Scappoose. Specifically, the attached LDS Final Building Permit (BLD1998-00290) (**included in Attachment 2**), for the site's existing residence and the attached 12/19/1996 confirmation from Michael Greisen Fire Chief of the Scappoose Rural Fire Protection District's approval, also included in Attachment 2, confirms the property's existing access to 9th Street.

The Mapes discuss this concern **on Pages 9 and 10, Item 5** and state that this 50' of right-of-way frontage requirement for CU 23-12 cannot be met. Staff questions the ability of the county's authority to enforce these frontage requirements for proposed uses that are served by and accessed from streets located in the City of Scappoose's city limits. The Columbia County Public Works Department's comments dated 5/21/24 (**included in Attachment 4**) confirms they have reviewed and proposal and have no objections to its approval as submitted because *'No county roads are involved.'*

In addition, LDS received that attached documentation from the City of Scappoose on May 29, 2024 and from the Scappoose Rural Fire District on June 6, 2024 (**included in Attachment 3**), both of which identify the minimum requirements the property owner will have to improve this existing access to before both of these city departments will authorize the new use of this property proposed for CU 23-12. These improvements include provisions related to fire apparatus access roads' dimensions, surface, vehicle circulation, markings, and vertical clearance. None of these comments specify that this existing access needs to be a minimum of 50' wide in order to safely support the new use requested for CU 23-12. Nevertheless, and due to these site-specific fire safety and access requirements, the County will require written confirmation from the City of Scappoose Public Works Department and the Scappoose Rural Fire District that all improvements to the existing access have been installed and accepted as a condition of approval for CU 23-12.

Finding 7: For these reasons and with these conditions of building permit issuance, staff finds that the property owner will be able to comply with the minimum requirements in Section 308.3 for county properties that utilize city streets rather than county roads for ingress and egress.

- .4 Setbacks. The following are minimum setbacks for all buildings and structures.
In addition, all structures are subject to any special setback lines, where specified

on designated arterial or collectors.

- A. No structure shall be constructed closer than 30 feet to a property line. In the event the subject property is bordered by a zone with more restrictive setbacks, the more restrictive setback of the adjoining zone shall control on the side of the subject property adjoining the more restrictive setback.
 - B. Setbacks in wetland areas shall be required in accordance with Sections 1170 and 1180 of the Columbia County Zoning Ordinance.
- .5 Height. There shall be a height limitation of 100 feet in the PA-80 Zone for farm use structures, except for on those lands containing abandoned mill sites that were rezoned to industrial uses pursuant to ORS 197.719 or are subject to Airport Overlay Zone, or any structure which has received a conditional use or variance approval which allows a greater height of said structure. Unless otherwise prohibited, the maximum building height for all non-farm, non-forest structures shall be 50 feet or 2½ stories, whichever is less.

Accessory Building 2 and attached deck– Both appear to be less than 30’ from south property line and have been constructed into the Identified Freshwater Emergent Wetlands/lake



Attached Deck



Encroachment into PEMC wetlands



Finding 8: The Project Planner’s site visit on 6/3/24 confirmed that the location of Accessory Building 2 and its attached deck appear to be constructed less than 30’ from the south property line and (2) encroach into the identified PEMC wetlands/lake. The Oregon Department of State Lands (DSL) comments dated 6/5/24 (**included in Attachment 4**) also states that “*To determine if a wetland removal-fill permit is required, a wetland delineation review is required to evaluate how much of the project area is wetlands. A wetland delineation provides the information needed to either avoid or minimize wetland impacts or to complete a wetland removal-fill permit application if impacts cannot be avoided.*” Consequently, one condition of approval will require the applicant to conduct and submit a Wetlands Delineation to the Oregon DSL.

Because this Delineation must accurately locate the building and deck in relation to the south property line and identified wetlands, the Wetlands Delineation shall include the Separate Surveyed Map of the subject property. This Wetlands Delineation shall include the accurate locations of all existing site development in relation to all property lines. If the approved Wetlands Delineation requires a wetland removal-fill permit from DSL, a copy of this approved Wetland Fill Permit shall be filed concurrent with any related county land use and/or building permits to ensure the structures comply with applicable State and County minimum requirements.

In addition, the May 21, 2024 comments from the County Building Official (**included in Attachment 4**) state that all buildings will need to meet current building, electrical, plumbing and mechanical requirements of the Oregon Building Code. Consequently, pursuant to Condition 9, the submitted building plans submitted for CU 23-12 will be required to identify the height of all proposed structures, and the County Planner will require all structures comply with the height limitations in Section 308.5.

Because the Accessory Building 2 and its attached deck do not appear to comply with the minimum 30’ separation from the south property line and also appear to encroach into the identified wetlands, one condition of approval will require the applicant to submit a Separate Surveyed Map that accurately delineates the location of all structures, development and natural features (identified wetlands and lake) in relation to all property lines and to each other as depicted on the CU 23-12 submitted Site Plan.

Depending on the results of the Separate Surveyed Map, the following conditions are available for the property owner to pursue as applicable.

- Condition 1 Apply for permits to remove or relocate any building/structures that are closer than 30' from any property line; the County Building Official will review and approve all Permits.
- Condition 2 If the surveyed map identifies any of the Site Plan's buildings are closer than 30' from any property line or encroach into the Delineated Wetlands' 50' Riparian Corridor, the property owner will be required to submit Variance Permit Application(s) with fees to LDS for the county to review and approve. The county shall review and approve all Variance Permits prior to the acceptance of any related building permits for any structures included in the submitted Site Plan.

Finding 9: With these conditions of approval, staff finds that all structures identified in the Site Plan for CU 23-12 will comply with the minimum setback and height requirements in Sections 308.4 and 308.5 of the CCZO.

- .6 Signs. The standards and requirements described in Section 1300 of the Columbia County Zoning Ordinance shall apply to all signs and name plates in the Exclusive Farm Use Zone.

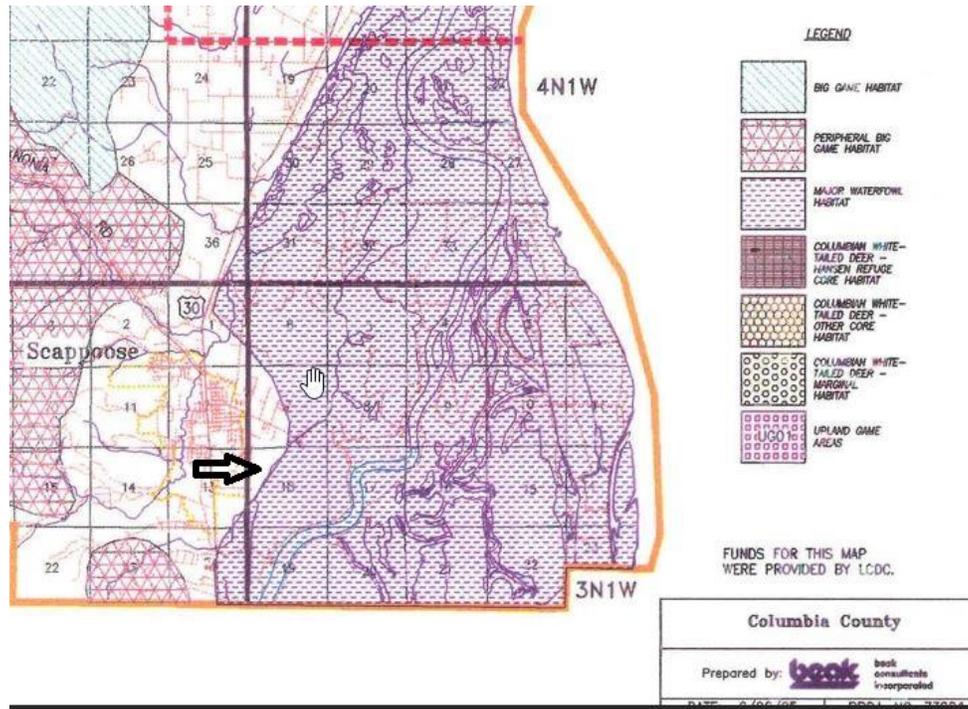
Section 1306 Signs pertaining to rural home occupations:

- .1 Shall not exceed 6 square feet.
- .2 Only one such sign shall be permitted upon the premises.
- .3 Shall not be artificially illuminated.
- .4 Shall be located at least 5 feet from the front property line.

Finding 10: The proposal requested for CU 23-12, if approved, will authorize the property owner to operate a rural, as opposed to urban or suburban, Type II Home Occupation in the PA-80 Zoning District. If the property owner wishes to install the single sign for CU 23-12, he will be required to submit a separate Sign Permit to LDS and shall be reviewed and approved by the County Building and Planning Officials for compliance with the Oregon Building Codes and Columbia County Zoning Codes.

- .6 The Oregon Department of Fish & Wildlife (ODFW) shall be notified and provided with the opportunity to comment on any development within a Goal 5 protected wildlife habitat area.
- .7 Dwellings and other structures to be located on a parcel within designated big game habitat areas pursuant to the provisions of Section 1190 are also subject to the additional siting criteria contained in Section 1190.

BEAK Map of Subject Property – outside of Designated Big Game Habitat Area



Finding 11: Due to the existence of the site's identified wetlands, LDS notified the ODFW of CU 23-12 on May 15, 2024, and then with the corrected notice on June 5, 2024. As of the date of this report, no comments have been received from the ODFW. Page 16's BEAK Map of the Scappoose-Spitzenberg CPAC Area shows the subject site is not within an area designated as Big Game Habitat or Major Waterfowl Habitat, as are other all lands in Section 18 located west of Jackson Creek and the Santosh Slough. For these reasons, staff finds the criterion in Section 308.7 has been met and the criterion in Section 308.8 does not apply to CU 23-12.

Continuing with the applicable provisions in Section 1100 of the CCZO – Flood Hazard Overlay Zone:

Section 1100 FLOOD HAZARD OVERLAY

1101 Purpose: It is the purpose of this ordinance to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas.

1103 Definitions: Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the meaning they have in common usage.

- .11 "DEVELOPMENT" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

.3 Establishment of Development Permit:

- A. Floodplain Development Permit Required: A development permit shall be obtained before construction or development begins within any area horizontally within the special flood hazard area established in section 1104.2. The development permit shall be required for all structures, including manufactured dwellings, and for all other development, as defined in section 1103, including fill and other development activities.

Finding 11: As illustrated on 's the FEMA FIRM Map Panel No. 41009C0505D of the subject property, all structures and development identified in the submitted Site Plan are located within a special flood hazard area near Jackson Creek and are subject to the provisions in CCZO Section 1100 Flood Hazard Overlay. Consequently, as part of the process of bringing the property into compliance, the property owner will be required to apply for and obtain Floodplain Development Permits that will be reviewed by the County Floodplain Manager for compliance with the applicable provisions of the County's Flood Hazard Overlay Zone in Section 1100. All Floodplain Development Permits must also contain surveyed Base Flood Elevations for all structures and development. If any structure or development does not meet all applicable provisions of CCZO Section 1100, the property owner shall obtain a demolition permit or submit a permit to bring the structure or development into compliance. With the imposition of this Condition 7.D, ,, staff finds this requirement is met.

Continuing with the applicable provisions in Section 1170 of the CCO – Wetlands...Overlay Zone:

Section 1170 RIPARIAN CORRIDORS, WETLANDS, WATER QUALITY, AND FISH AND WILDLIFE HABITAT PROTECTION OVERLAY ZONE

*Staff's emphasis placed on **bold text** for Planning Commission's benefit*

1171 Purpose.

- A. **The purpose of this Section is to protect and restore water bodies and their associated riparian corridors, thereby protecting and restoring the hydrological, ecological and land conservation function these areas provide.** Specifically, this Section is intended to protect habitat for fish and other aquatic life, protect habitat for wildlife, protect water quality for human uses and for aquatic life, control erosion and limit sedimentation, prevent property damage during floods and storms, protect native plant species, and conserve the scenic and recreational values of riparian areas.
- B. **This Section meets the above purpose by prohibiting structures and other development from riparian areas around fish-bearing lakes, rivers, streams and associated wetlands, and by prohibiting vegetation removal and/or other vegetative alterations in riparian corridors.** In cases of hardship, the Section provides a procedure to reduce the riparian corridor boundary. Alteration of the riparian corridor boundary in such cases shall be offset by appropriate restoration or mitigation, as stipulated in this Section.
- C. For the purposes of this Section, **“development” includes buildings and/or structures which require a building permit under the Oregon State Building Code, as amended, or**

any alteration in the riparian corridor by grading, placement of fill material, construction of an impervious surface, including paved or gravel parking areas or paths, and any land clearing activity such as removal of trees or other vegetation.

D. This Section does not apply to land legally used for commercial forestry operations or standard farm practices, both of which are exempt from these riparian corridor protection standards. The use of land for commercial forestry is regulated by the Oregon Department of Forestry. The use of land for standard farm practices are regulated by the Oregon Department of Agriculture, with riparian area and water quality issues governed specifically by ORS 568.210 to ORS 568.805.

E. The provisions of this riparian protection overlay zone do not exempt persons or property from state or federal laws that regulate protected lands, water, wetland or habitat areas. In addition to the restrictions and requirements of this Section, all proposed development activities within any wetland area may be subject to applicable state and federal agency standards, permits and approval. The applicant shall be responsible for contacting the appropriate state or federal agencies to determine whether all applicable development requirements have been met.

1172. Riparian Corridor Standards:

A. The inventory of Columbia County streams contained in the Oregon Department of Fish and Wildlife Fish Habitat Distribution Data (published January 13, 2023), specifies which streams and lakes are fish-bearing. Fish-bearing lakes are identified on the map entitled, "Lakes of Columbia County." A copy of the most current Stream Classification Maps is attached to the Comprehensive Plan, Technical Appendix Part XVI, Article X(B) for reference. The map, "Lakes of Columbia County" is attached to the Comprehensive Plan, Technical Appendix Part XVI, Article X(B), and is incorporated therein. Based upon the stream and lake inventories, the following riparian corridor boundaries shall be established:

- **Lakes. Along all fish-bearing lakes, the riparian corridor boundary shall be 50-feet from the top-of-bank**, except as provided in CCZO Section 1172(A)(5), below.
- **Fish-Bearing Streams, Rivers and Sloughs (Less than 1,000 cfs). Along all fish-bearing streams, rivers, and sloughs with an average annual stream flow of less than 1,000 cubic feet per second (cfs), the riparian corridor boundary shall be 50-feet from the top-of-bank.** Average annual stream flow information shall be provided by the Oregon Water Resources Department.

1173 Activities Prohibited within the Riparian Corridor Boundary

In addition to the prohibitions in the underlying zone, the following activities are prohibited within a riparian corridor boundary, except as provided for in Sub-sections 1175 and 1176 of this Section:

- A. The alteration of a riparian corridor by grading, placement of fill material, and/or impervious surfaces, including paved or gravel parking areas, or paths, and/or the construction of buildings or other structures which require a building permit under the Oregon State Building Code, as amended.
- B. The removal of riparian trees or vegetation.

1174 **Exempted Activities.** This Overlay Zone does not apply to land legally used and allowed for commercial forestry operations or standard farm practices, both of which are exempt from the riparian corridor protection standards of this Section. The use of land for commercial forestry is regulated by the Oregon Department of Forestry. The use of land for standard farm practices are regulated by the Oregon Department of Agriculture, with riparian area and water quality issues governed specifically by ORS 568.210 to ORS 568.805.

1175 **Permitted Uses and Activities Subject to Optional Discretionary Review.** Notwithstanding the prohibitions set forth in Subsection 1173 above, the following activities are allowed within the riparian corridor boundary if approved by the planning director through an optional discretionary review process:

- A. The following riparian vegetation may be removed within the riparian corridor boundary:
 - 1. Non-native vegetation, invasive species, and noxious weeds if replaced with native plant species. The replacement vegetation shall cover, at a minimum, the area from which vegetation was removed, and shall provide for maximum soil retention and shade cover. Replacement vegetation shall, upon maturity, maintain 75%-100% canopy and ground cover.
 - 2. Vegetation which is necessarily removed for the development of approved water-related or water dependent uses. Vegetation removal shall be kept to the minimum necessary to allow the water-dependent and water-related use.
 - 3. Trees and vegetation in danger of falling and/or posing a hazard to life or property. If no hazard will be created, such trees or other vegetation, once felled, shall be left in place in the riparian area.
- B. **The following development may be allowed within the riparian corridor boundary.**
 - 1. Streets, roads, and driveways, if:
 - a. If it is not possible to locate the street, road or driveway outside of the riparian corridor boundary; and
 - b. The street, road or driveway is designed to minimize intrusion into the riparian corridor boundary.

2. Pedestrian walkways, paths and trails.
 3. Fencing and signs, not including billboards.
 4. Drainage facilities, utilities and irrigation pumps.
 5. Water-related and water-dependent uses.
 6. New or expanded shoreline stabilization and flood control grading and structures.
 7. Portable furniture, and other portable outdoor equipment for the private use of the property owner/resident. For purposes of this subsection, “portable” shall mean that the item is not affixed to the ground, other than with a chain or other lock which is capable of being removed at any time.
- C. **Wetland fill and removal within riparian corridors shall be avoided unless there is no reasonable alternative to allow the permitted use.** DSL shall be notified of any potential impact from development proposed on wetlands identified in the State Wetlands Inventory pursuant to ORS 215.418.

Map of Oregon Department of Forestry’s (ODF) Statewide Streams August 2022



Finding 12: As already covered for Finding 9, the applicant will be required to submit a Wetlands Delineation to the Oregon DSL for DSL’s review and approval. This submitted Delineation shall also include a separate Surveyed Map that accurately locates the accurate locations of all existing site development in relation to all property lines to ensure all structures comply with both the County’s and DSL’s minimum locational requirements from the site’s identified wetlands.

A copy of this DSL Approved Wetland Delineation shall be submitted to LDS that will be reviewed concurrent with the necessary building plans for all structures.

If the DSL determines these wetlands are fish-bearing, a revised Site Plan will be required that accurately delineates these wetlands’ 50’ protected Riparian Corridor that will allow the County Planner and Building Officials to determine whether or not all structures and development comply with the prohibited and authorized uses of Riparian Corridors identified in Sections 1173, 1174 and 1175 of the CCZO identified on Pages 17-19.

With these site-specific characteristics, staff finds that Condition 7.B will require the property owner to submit a Revised Site Plan that accurately delineates the location of all of the site’s mapped wetlands in relation to all structures and development intended for venue activities as presented for CU 23-12. This Revised Site Plan will then allow the property owner to either remove or relocate all necessary structures and development outside of the protected Riparian Corridor or submit the necessary variance and /or building permits for the County Planner and Building Official to review for compliance with the applicable provisions in Sections 308, 1504, 1173, 114, 1175 and 1178 of the CCZO and the Oregon Building Code. With this condition of approval, staff finds the property owner will be able to design and develop CU 23-12 in ways that preserve the site’s identified environmentally sensitive areas consistent with both the State’s and Columbia County’s regulatory requirements.

Continuing with the applicable provisions in Section 1400 of the CCO – Off Street Parking and Loading:

Section 1400 OFF-STREET PARKING AND LOADING

- 1401 General Provisions: At the time of the erection of a new building, or an addition to an existing building, or any change in the use of an existing building, structure, or land which results in an intensified use by customers, occupants, employees, or other persons, off-street parking and loading shall be provided according to the requirements of this section.

- 1403 Use of Space:
 - .1 Required parking spaces shall be available for parking of vehicles of customers, occupants, and employees.

- 1405 Plans Required: A plot plan shall be submitted in duplicate to the Director with each application for a building permit or for a change of classification to OP. The plot plan shall include the following information:

- .1 Dimensions of the parking lot.
- .2 Access to streets and location of curb cuts.
- .3 Location of individual parking spaces.
- .4 Circulation pattern.
- .5 Grade and drainage.
- .6 Abutting property.

- .7 A landscaping plan which shall include the location and names of all vegetation, and the location and size of fencing or other screening material. This plan shall be approved by the Director.

1408 Design Standards:

- .1 Scope:
 - A. These design standards shall apply to all parking, loading, and maneuvering areas except those for single and two-family residential dwellings on individual lots.
 - B. All parking and loading areas shall provide for the turning, maneuvering, and parking of all vehicles on the lots.

1410 Size:

- .1 The standard size of a parking space shall be 9 feet by 18 feet.
- .2 Handicapped parking spaces shall be 12 feet by 18 feet.
- .3 Parallel parking, the length of the parking space shall be increased to 22 feet.

1404 Joint Usage of Facilities: Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces when hours of operation do not overlap, provided that satisfactory legal evidence is presented to the Planning Director in the form of deeds, leases, or contracts securing full access to such parking or loading areas for all the parties jointly using them.

.2 Public and Semi-Public Buildings and Uses:

Club or Association:	These uses shall be treated as combinations of uses such as hotel, restaurant and tavern etc., and the required spaces for each separate use shall be provided.
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1417 Unspecified Uses: Any use not specifically listed in the foregoing list shall have the requirements of the listed use or uses deemed equivalent by the Director.

Discussion The application states that the provisions in Section 1404 and 1417 related to Joint Usage of Facilities and Unspecified Uses pertain to CU 23-12 Section 1440 does not have any parking and

loading requirements for Home Occupations. On **Page 9** on the attached **Project Narrative**, the applicant states that 10 onsite parking spaces with 1 ADA parking space will be provided for employees and vendors; 3 standard parking spaces immediately west of the Barn as well as 1 standard space and 1 ADA parking space south of the barn. At the July 1, 2024 public hearing the applicant also requested the Planning Commission to allow event guests to utilize these 10 onsite parking spaces in order to “allow guests to bring items such as wedding dresses, cakes and decorations which would be challenging to bring to the venue”. The monitoring and/or enforcement of authorized users of the property’s on-site parking spaces, however, is not a regulatory requirement of the county’s Zoning Ordinance. No more than 10 onsite parking spaces will be authorized with the approval of CU 23-12; the county has no mechanism for monitoring the users of these parking space; however, what will be subject to enforcement is any non-permitted use of the public right-of-way in the vicinity of the site of the proposed use (instead of the 10 on-site parking spaces, as well as the off-site parking contemplated as part of the applicant’s proposal as detailed below).

The original submittal of CU 23-12 indicated that all off-site parking facilities would occur at the Hafeman Commercial Properties’ existing retail plaza located at 51913 Columbia River Highway in the City of Scappoose. However, on **Page 11 of the applicant’s attached July 8, 2024 Comments** indicate that this commercial plaza is no longer being considered as the sole location for event attendee’s off-site parking, from where shuttle services will transport attendees to and from the subject property via specific routes.

The applicant’s **July 15, 2024 Rebuttal for CU 23-12**, stated they are exploring an off-site parking facility on a vacant property located on the NW corner of SW Old Portland Road and SW Dutch Canyon Road in the City of Scappoose. This incorporated property is zoned for Expanded Commercial uses and parking facilities are permitted uses outright in the EC Zone per Section 17.68.030 of the Municipal Code. In a follow-up phone conversation between the Project Planner and the applicant, the applicant is also exploring establishing off-site parking at the existing parking area at the intersection of NE 1st Avenue and E Columbia Avenue. Because these alternative locations are also within city limits, as with the original location they will be subject to all applicable city regulations pertaining to approvals, authorizations, licenses, permits etc. for any activities related to the proposal presented for CU 23-12 that take place within the City of Scappoose. Because the shuttle will be traveling through primarily residential city neighborhoods, the applicant has also proposed modifying Condition 12 to require event attendees remain respectful and quiet during transit and will also prohibit any music being played on the shuttle bus during transit.

With the necessity to find other location(s) for off-site parking facilities adequate for 60 guests including the necessary ADA parking spaces for the largest of authorized events, this modification will be reflected in Condition 12 and will require the City of Scappoose’s approval for compliance with the applicable provisions of the Municipal Code prior to any event at the property. Staff notes that the City’s comments regarding parking within the City (discussed below) will apply to parking at Hafeman Plaza as well as to any other off-site parking located in the City of Scappoose.

Since the off-site parking facilities and shuttle routes to and from the subject property will all occur within the City of Scappoose city limits and are subject to regulation by the city, Condition 12 will require the City of Scappoose to submit written confirmation that the applicant has secured any and all

applicable City approvals, authorizations, licenses, permits, etc. for any activities related to the proposed use proposed to occur within the City of Scappoose.

On May 29, 2024 the City of Scappoose Associate Planner and Director of Public Works both submitted their comments (**included in Attachment 3**) in response to the applicant's request to meet venue attendees' parking and transportation needs entirely on non-contiguous incorporated properties and along city streets and Columbia River Highway.

Planning Staff has provided a Summary of the City Planner's and Public Works Director's responses below.

City of Scappoose Planner

- The applicant will be required to obtain a Minor Site Development Review Permit from the Scappoose Planning Department in order to use **Hafeman Plaza** as an off-site parking facility.
- The City will need to review and approve the **Hafeman Plaza Site Plan and/or Shared Parking Agreement, which may be altered by a recent shared parking agreement between Hafeman Commercial Properties LLC and the CCPOD LLC used for the newly opened Lodge (Food) Carts adjacent to Hafeman Plaza.**
- Any signs in City limits will require a Sign Permit through the Scappoose Planning Department.
- The City needs to approve specific Shuttle Routes between the Parking Facility and subject property.
- The applicant will be responsible for maintaining the driveway and sidewalk from DE 9th Street as required by the Scappoose Municipal Code.

Scappoose Public Works Director

- Expressed concerns over the additional use in city streets during the proposed 35 commercial venues occurring in this city neighborhood composed of single-family dwellings.
- The summary of event attendance does not appear to align with the parking assumptions and the City recommends more clarity on trip expectations.

As of the date of this report, LDS has not received any confirmation from the City of Scappoose that they have approved any listed items in their Response. Consequently, **Condition 12 will require the property owner to submit confirmation that the City of Scappoose has approved all Off-Site Parking Facilities and the related Transportation of Venue Attendees for compliance with the City of Scappoose Municipal Code.**

Staff concurs with the applicant that Section 1416 of the CCZO does not have any Minimum Required Off-Street Parking Spaces for Home Occupations. Nevertheless the proposed uses included in the CU 23-12 application resemble the hotel, restaurant and tavern uses associated with *Clubs and Associations* in Section 1416.2 for Public and Semi-Public Buildings and Uses.

The onsite parking facilities on the subject property will be used to provide spaces adequate for loading/unloading equipment for events as well as for adequate traffic circulation and ingress/egress for emergency vehicles which are consistent with the General Provisions, Plans Required, Design Standards, Size definitions in Sections 1401, 1405, 1408 and 1410, respectively.

Finding 13: With these site-specific characteristics, staff finds that an On-Site Parking Plan will be required to demonstrate the subject property will have adequate parking facilities for the loading/unloading equipment for events. Condition 10 will require the County Building Official and Scappoose Fire District to review and approve an On-Site Parking Plan for compliance with the criteria in Sections 1405, 1408, and 1410 related to Plans Required, Design Standards and Size.

Finding 14: Likewise, because all venue attendees, excluding vendors, will be shuttled to and from the property within the City of Scappoose from as-yet undetermined location(s) within the City of Scappoose, Condition 12 will require the property owner to submit to LDS written confirmation that:

- The City of Scappoose has approved all Off-Site Parking Facilities and the related Transportation of Venue Attendees for compliance with the City of Scappoose Municipal Code confirming the availability of adequate standard and ADA parking spaces to accommodate up to 60 guests.

In addition, Condition 12 will also require the shuttle bus trips to be quiet and respectful while traveling through residential incorporated neighborhood and will prohibit playing music during transit to and from the subject property.

Continuing with the applicable provisions in Section 1450 of the CCZO – Transportation Impact Analysis:

1450 Transportation Impact Analysis: A Transportation Impact Analysis (TIA) must be submitted with a land use application if the proposal is expected to involve one or more of the conditions in 1450.1 (below) in order to minimize impacts on and protect transportation facilities, consistent with Section 660-012-0045(2)(b) and (e) of the State Transportation Planning Rule.

- .1 Applicability – A TIA shall be required to be submitted to the County with a land use application if the proposal is expected to involve one (1) or more of the following:
 - A. Changes in land use designation, or zoning designation that will generate more vehicle trip ends.
 - B. Projected increase in trip generation of 25 or more trips during either the AM or PM peak hour, or more than 400 daily trips.
 - C. Potential impacts to intersection operations.
 - D. Potential impacts to residential areas or local roadways, including any non-residential development that will generate traffic through a residential zone.
 - E. Potential impacts to pedestrian and bicycle routes, including, but not limited to school routes and multimodal roadway improvements identified in the TSP.
 - F. The location of an existing or proposed access driveway does not meet minimum

spacing or sight distance requirements or is located where vehicles entering or leaving the property are restricted, or such vehicles are likely to queue or hesitate at an approach or access connection, thereby creating a safety hazard.

- G. A change in internal traffic patterns may cause safety concerns.
 - H. A TIA is required by ODOT pursuant with OAR 734-051.
 - I. Projected increase of five trips by vehicles exceeding 26,000-pound gross vehicle weight (13 tons) per day, or an increase in use of adjacent roadways by vehicles exceeding 26,000-pound gross vehicle weight (13 tons) by 10 percent.
- .2 Consistent with the County's Guidelines for Transportation Impact Analysis (TIA), a landowner or developer seeking to develop/redevelop property shall contact the County at the project's outset. The County will review existing transportation data to establish whether a TIA is required. It is the responsibility of the applicant to provide enough detailed information for the County to make a determination. An applicant should have the following prepared, preferably in writing:
- A. Type of uses within the development
 - B. The size of the development
 - C. The location of the development
 - D. Proposed new accesses or roadways
 - E. Estimated trip generation and source of data
 - F. Proposed study area

If the County cannot properly evaluate a proposed development's impacts without a more detailed study, a TIA will be required. The County will provide a scoping summary detailing the study area and any special parameters or requirements, beyond the requirements set forth in the County's Guidelines for Transportation Impact Analysis, when preparing the TIA.

Finding 15: The development proposed for CU 23-12 will involve potential impacts to incorporated residential areas and roadways within the City of Scappoose referred in Section 1450.1D. The County Public Works attached comments stated that no county roads are involved with CU 23-12. Consequently, staff finds that obtaining the City of Scappoose's approval of all Off-Site Parking Facilities and the related Transportation of Venue Attendees for compliance with the City of Scappoose Municipal Code is consistent with the purpose of a TIA as required in Section 1450.2. With the City of Scappoose's approval, staff finds that CU 23-12's proposed development will be designed to minimize impacts on and protect the city's affected transportation facilities consistent with these county requirements and those of the State Transportation Planning Rule for rural areas.

Continuing with the applicable provisions in Section 1503 of the CCZO – Conditional Uses:

Section 1503 CONDITIONAL USES

- .1 **Status:** Approval of a conditional use shall not constitute a change of zoning classification and shall be granted only for the specific use requested; subject to such reasonable modifications, conditions, and restrictions as may be deemed appropriate by the Commission, or as specifically provided herein.
- .2 **Conditions:** The Commission may attach conditions and restrictions to any conditional use approved. The setbacks and limitations of the underlying district shall be applied to the conditional use. Conditions and restrictions may include a specific limitation of uses, landscaping requirements, off-street parking, performance standards, performance bonds, and other reasonable conditions, restrictions, or safeguards that would uphold the intent of the Comprehensive Plan and mitigate any adverse effect upon the adjoining properties which may result by reason of the conditional use being allowed.
- .3 **Conditional Use Permit:** A Conditional Use Permit shall be obtained for each conditional use before development of the use. The permit shall stipulate any modifications, conditions, and restrictions imposed by the Commission, in addition to those specifically set forth in this ordinance. On its own motion, or pursuant to a formal written complaint filed with the Planning Department, upon proper notice and hearing as provided by Sections 1603 and 1608 of this ordinance, the Commission, (or Board on appeal) may, but is not required to, amend, add to or delete some or all of the conditions applied to Conditional Use Permits issued by the Planning Commission or Board of Commissioners. The power granted by this subsection may only be exercised upon a finding such amendment, addition or deletion is reasonably necessary to satisfy the criteria established by Section 1503.5 below.

Discussion: A Summary of the provisions related to the Status and Conditions for Conditional Use Permits provides clarification that the approval of a conditional use does not constitute a change in the subject property’s zoning classification. Consequently, conditional uses shall only be granted for the specific requested use which is, in turn, authorized to be subject to appropriate and reasonable modifications, conditions, safeguards and restrictions that are necessary to mitigate adverse impacts on the adjoining properties in ways that are consistent with the intent of the County’s Comprehensive Plan. Finally, the provisions in Section 1503.3 require Conditional Use Permits to not only be obtained before any authorized development occurs, but that the operation of the conditionally permitted use must also comply with all modifications, conditions and restrictions identified herein.

Finding 16: Because the County has documentation that the property owner has been conducting these unauthorized event venues for at least the past 6 years (specifically in violation of the requirement of Section 1503.3, which requires securing a Conditional Use permit “prior to development of the use”), Conditions 2 and 20 will prohibit the property owner from conducting any more events at the subject property until such time that the County has not only processed and approved the Type II Home Occupation requested for CU 23-12, but has written confirmation that the property owner has met all conditions, restrictions and modifications identified herein and all necessary improvements have been

reviewed and approved by the County and City of Scappoose, as applicable.

- .4 Suspension or Revocation of a Permit: A Conditional Use Permit may be suspended or revoked by the Commission when any conditions or restrictions imposed are not satisfied.
- A. Conditional Use Permit shall be suspended only after a hearing before the Commission. Written notice of the hearing shall be given to the property owner at least 10 days prior to the hearing.
 - B. A suspended permit may be reinstated, if in the judgment of the Commission, the conditions or restrictions imposed in the approval have been satisfied.
 - C. A revoked permit may not be reinstated. A new application must be made to the Commission.

Finding 17: As identified in Section 1503.4, compliance with all conditions and applicable standards addressed in this report will be required to ensure that the Type II Home Occupation remains in compliance with all attached conditions of approval for the lifetime of this use. Condition 3 will also state that CU 23-12 may be suspended or revoked by the Planning Commission when and if the authorized uses no longer comply with any imposed condition or restrictions identified herein, or when the scope of activities that occur exceed the approved scope of activities.

- .5 Granting a Permit: The Commission may grant a Conditional Use Permit after conducting a public hearing, provided the applicant provides evidence substantiating that all the requirements of this ordinance relative to the proposed use are satisfied and 7/29/2024 demonstrates the proposed use also satisfies the following criteria:
- A. The use is listed as a Conditional Use in the zone which is currently applied to the site;
 - B. The use meets the specific criteria established in the underlying zone;

Finding 18: As covered in Finding 1, Type II Home Occupations are listed as an authorized Conditional Use in the PA-80 Zone per the definition in Section 306.1. Likewise, Findings 2 – 10 of this report have already researched, evaluated and made substantiated Findings and related Conditions of Approval detailing how the proposal presented for CU 23-12 already satisfies or will be able to satisfy all applicable General Review and Development Standards criteria in Sections 307 and 308 with the imposition of Staff’s proposed Conditions of Approval. With Conditions already covered for Finding 2 - 10, staff finds that the criteria in Section 1503.5(A & B) will be met.

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

Aerial View of 4.27-acre subject property



Discussion: As shown above, characteristics of the subject PA-80 zoned property include a substandard 4.27-acre rectangular property that is adjacent to the City of Scappoose on the east and is accessed from 9th Street which is within the city limits. As covered previously in this report, all of the property except portions of the property located west of the wetlands and built freshwater is located within the 100-year Floodplain of Jackson Creek which is fish-bearing. As covered for Finding 12, a Wetlands Delineation will determine if these wetlands are fish-bearing and if they will require to be protected with a 50' riparian corridor. The site does not have any steep slopes and the site's south and east borders are generally the wetlands/lake and Santosh Slough/Jackson Creek. All of the site's existing development except the unauthorized Accessory Building 1 is east of the wetlands/lake. The northern PA-80 zoned 23-acre tract contains one manufactured home and an accessory structure while the southern adjacent PA-80 zoned tract consists of the Jeff and Laurie Mapes's single family dwelling and one accessory structure.

Pages 1 – 3 of the **Project Narrative** describes the Weddings, Commercial, Fundraising, and Charitable Events they are requesting approval for with the submittal of CU 23-12. All events will occur between the hours of 7 am and 10 pm, on any day of the week, and may include celebrations (baby showers, memorials, birthdays), acoustic jazz nights, seasonal celebrations (corporate holiday parties), and wine tasting and food- or art-related events. Noises may not exceed 60 dba between 7 am and 10 pm consistent with the Columbia County Noise Control Ordinance (Ordinance No. 91-8, October 16, 1991). The On and Off-Site Parking and Traffic Management for these venues have been covered for the Discussions related to Findings 13- 15. All food and beverage service would be provided by licensed caterers and will be brought onsite and prepared in the prep area of the Barn. Finally, portable toilets will be required for the events and serviced regularly by a licensed provider. Five-gallon water dispensers will also be required for events to supply all drinking water.

<i>Types of Events</i>	<i>Number of Events</i>	<i>Maximum Capacity</i>
Wedding Days	15	60 guests/5 vendors and employees
Wedding Lodging	30 (nights)	6 (guests)
Large Commercial Events	4	60 guests/5 vendors and employees
Small Commercial Events	10	20 guests/3 vendors and employees
Fundraisers/Charitable Events	6	60 guests/5 vendors and employees

The Applicant’s submittals on both July 15, 2024 and July 22, 2024 amended Condition 5 to specify these types of events including their purposes, operating and preparation hours and also eliminated any multi-day events as well as any overnight lodging. Staff has made these modifications to Condition 5 which specifies the authorized activities expected onsite and limits their hours of operations.

On **Page 6**, the applicant submitted the following response to the criteria in Section 1503.5(C) related to the suitability of the site for the intended events:

“The site is relatively flat with existing vegetation, water and wetland resources, and structures and paving. No new development is proposed as a part of this application. The site is of adequate size to accommodate the proposed onsite parking for vendors and employees and there is adequate space for the proposed number of guests. The proposed activities will take place towards the rear of the property, furthest from the residential neighbors along SE 9th Street. Agricultural fields buffer the property from the north, east, and south.”

On **Pages 1 and 2** of the **Mapes’ June 2024 Letter to the Planning Commission** they express how the noise generated from these events are not suitable for this site. The Mapes have lived at 33973 Oakridge Drive since 2003 at least 15 years and their main complaint is very loud music that continues for hours and often consists of amplified voices and crowd cheers. These outdoor events can be heard by the Mapes even with closed doors and windows, over their television and fans and can make their house reverberate from bass music. It is not unusual for them to hear wedding toasts spoken over microphones. Most events have been occurring during the summer months when the prevailing northern wind blows noise onto their property directly south. The Mapes state these loud event venues significantly impedes their ability to enjoy being outdoors at their home and decreases their quality of life.

Continuing with matters related to the suitability of nearby residents, the Mapes contend the importance for event attendees be aware of the specific limitations of the home occupation permit and increasing the likelihood that attendees will comply with these known limitations. Finally, the Mapes also state that because they never know when these events will occur, it prohibits them from being able to adequately prepare for them.

On **Page 13, 14 and 17 (Items 2 4 and 7)** the Mapes recommend the Planning Commission require the following conditions of approval as ways to help ensure all venue activities remain suitable for this PA-80 zoned property that is within 500 feet of at least 50 other residences.

“2. No speakers, voice amplification, microphones, electronic musical instruments, or other electronic sound sources are allowed other than sources confined entirely within the interior of existing, enclosed, permitted buildings. Electronic sources of sound outside of buildings are prohibited, including sources attached to the exterior of buildings or coming from automobiles.

4. The terms and conditions of the home occupation permit must be posted in a prominent location on Applicant’s property where they are likely to be noticed by and are printed in large enough font to be read easily by event attendees and shall include the following:

- 1. The total numbers of persons attending any event may not exceed 60;*
- 2. The property adjoins residential properties;*
- 3. All persons attending events must behave in a manner respectful of neighboring residential uses, particularly with regard to noise levels;*
- 4. No speakers, voice amplification, microphones, electronic musical instruments, or other electronic sound sources are allowed other than sources confined entirely within the interior of existing, enclosed, permitted buildings; and*
- 5. Electronic or amplified sources of sound outside of buildings are prohibited, including sources attached to the exterior of buildings or coming from automobiles;*

7. Applicant must provide written notice of each event and its date and time, mailed no less than twenty days before the date of each event, to owners of record of property on the most recent property tax assessment roll where such property is located within 500 feet of the subject property.”

In response to these concerns expressed by the Mapes, at the July 1 2024 public hearing, the applicant proposed these modifications to duration and location of outdoor wedding ceremonies as follows:

- Outdoor wedding ceremonies would be limited to one amplified speaker;
- Would occur in the early evenings and be limited to between 15 – 30 minutes;
- Would include the noise from the existing fountain in the lake; and
- Would be conducted only between the barn and the lake in order to allow the noise primarily to travel northeast and away from the residences located west and south of the subject property.

Staff finds modifying Condition 15 to allow limited duration and location of all outdoor wedding ceremonies will be an appropriate way of reducing the offensive levels and amount of noise generated from all outdoor events. Limiting outdoor wedding ceremonies to 30 minutes also is consistent with the provision for home occupations in Section 1507.3(A) that require them to operate substantially inside the dwelling or in other buildings (like the barn) that are normally associated with permitted agricultural uses .

At the July 1, 2024 public hearing the applicant also proposed the necessary modifications to the on site Posting of the Terms and Conditions of the home occupation as stated in Condition 16. Upon staff’s review of the proposed medication to these Posted Terms, staff accepts the modifications to Terms 3 and

4 and incorporates original Term 5 into modified Term 4. With these modifications to the *Posted Terms and Conditions* staff finds the applicant is trying to reduce the objectional noises traveling from the subject property to the residences in close proximity.

At the July 1, 2024 public hearing, the applicant also requested that the notification to adjacent property owners within 500' be limited to only for large events between 20 – 60 guests. The reasoning for this modification is that larger events typically require significantly more advance planning and preparation whereas smaller events often change at the last minute and do not require as much planning and preparation. Staff considers these proposed modifications to Condition 17 to be reasonable accommodations for smaller events with less than 20 guests and no more than 5 employees onsite.

The applicant's July 15, 2024 Rebuttal included a **Noise Management Control Plan** that shows noise levels will be measured at the south and west property lines to ensure noise generated from events will not exceed these limits the Oregon Department of Environmental Quality (DEQ) for Noise Control Regulations for Industry and Commerce. The proposal requested for CU 23-12 however is being reviewed and approved as a Home Occupation from a residence not from a commercial or industrial zoned property. This **Noise Management Plan** includes DEQ noise thresholds and measurement locations as well as an operational contact (the property owners) and indicates noise level measurements will be taken at least twice during large events along the South and West property lines. In addition, measurement readings will be kept in a log onsite. Consequently, the applicant has requested a modification to Condition 14 that will require adherence to this Noise Management Plan to demonstrate he is sensitive to the neighbors expressed noise complaints and is willing to take steps to alleviate or reduce these detrimental impacts to residents in close proximity.

The County's Building Official attached comments also will require that all building and structures that will be used for the Home Occupation must be approved to comply with the applicable building and fire code requirements which will also be necessary to ensure the suitability of these buildings and structures for their intended use. In addition, the County Assessor's comments (**included in Attachment 4**) will require the property owner to file a Business Personal Property Tax Return with the County Assessor once operations related to CU 23-12 begin.

Finding 19: Although the natural characteristics of the property help make it suitable for weddings, commercial events and fundraisers, this 4.27-acre PA-80 property is located within 500' feet of at least 50 dwellings to the west and by two dwellings on approximately 80-acres of PA-80 land to the north, east and south. On June 17, 2024 however, Tracey and David Heimbeck who reside at 51704 SE 9th Street immediately adjacent to the subject property did submit comments (**included in Attachment 1**) supporting the proposal requested for CU 23-12. These comments stated in part “*He has always been very respectful of our privacy and aware of noises that may accompany large gatherings.*” The Heimbeck's support of CU 23-12 and the Mapes' concerns and presented mitigation do not negate each other's perspective and Staff has taken both into consideration in the preparation of this Staff Report.

For these reasons, and with the modifications to Conditions 14, 15, 16, and 17 related to noise

emanating from events, the location and duration of outdoor wedding ceremonies, Onsite Posting of CU 23-12's Terms and Conditions, and providing 20 -day notification to adjacent property owners within 500' of events between 21 – 60 guests, staff finds that the relevant issues included in the Mapes' 2nd, 4th and 7th Conditions are reasonable and appropriate ways of not only reducing the noise levels of these types of events, but also providing nearby residents with advance notification of scheduled large events that will allow residents to make appropriate plans to either avoid or enjoy said events. With Conditions 14 - 17 that address the Mapes' identified concerns they have been experiencing, staff finds that CU 23-12 will be able to be comply with suitability requirements in Section 1503.5(C) of the CCZO.

- D. The site and proposed development is timely, considering the adequacy of transportation systems, public facilities, and services existing or planned for the area affected by the use;

Discussion: On Page 6 of the **Project Narrative**, the applicant submitted the following response to the criteria in Section 1503.5(D):

“No public facilities, except the use of the roadway, is required for this proposed use. All water and sanitary services are provided onsite via the existing septic system and groundwater well or through portable toilets and handwashing stations. The individual trips for the proposed use include vendors and employees (up to 5 per event) with guests arriving by the Plaza Parking shuttle. The site and the existing infrastructure are adequate to accommodate the proposed use”.

The adequacy of the city transportation system, including On and Off-Site Parking and Shuttle Routes for these venues, have been covered for the Discussions leading to Findings 13- 15. Likewise, the Discussion leading to Finding 7 will require written confirmation from the City of Scappoose Public Works Department and the Scappoose Rural Fire District that all improvements to the subject property's existing access have been installed and accepted as conditions of building permit issuance for CU 23-12.

The County Sanitarian comments dated 5/29/24 (**included in Attachment 4**) will require the applicant to submit a Lot Authorization Permit requiring authorization of the site's new use, and to determine if the site's existing septic system will need any necessary modifications to accommodate this new use. Condition 13 will require the County Sanitarian to approve the change in use and review and approve the installation of any necessary modifications to the site's existing septic system.

Jake Constans, the Oregon District 18 Watermaster provided comments (**included in Attachment 4**) stating he has no objections to the approval of CU 23-12 as presented indicating that the requested use will not detrimentally impact the site's existing groundwater.

Finding 20: Without any additional evidence, staff finds that CU 23-12 is timely and can be supported by the site's existing transportation system and public facilities with conditions of approval that have already been covered in this report.

- E. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district;

Discussion: On Pages 6 & 7 of the **Application Narrative**, the applicant submitted the following response to the criteria in Section 1503.5(E):

“Applicant identifies the “surrounding area” as 1/4 mile from the property boundary, shown in Attachment 6 (Surrounding Lands). The character of the surrounding area includes both residential and agricultural uses. Applicant’s property is located just outside the city limits, with some surrounding properties within the city limits and a large portion of the surrounding area located in PA-80 zoning outside the city limits. The property’s underlying zoning is PA-80 but given the proximity to medium density residential within the city limits, Applicant addresses potential impacts to such uses under this criterion in addition to uses in the PA-80 zone.

Traffic will be minimized through the use of the Plaza Parking shuttle and implementation of Applicant’s parking and transportation management plan described above. Noise will be monitored and not exceed limits imposed by the Columbia County Noise Control Ordinance (Ordinance No. 91-8, October 16, 1991). Specifically, noise will not exceed 60 dba between 7 am and 10 pm and will not exceed 50 dba after 10 pm.

Finding 21: To avoid unnecessary repetition, Staff believes that the 3 page Discussion leading to Finding 19 including the July 1, 2024 and July 15, 2024 modifications related to location and duration of outdoor wedding ceremonies, Onsite Posting of Terms and Conditions, the Noise Management Plan, behavior of event attendees during transit to and from the property, and the 20 day-notification of adjacent property owners within 500 feet of large events and the resulting modifications of Conditions 12, 15, 16 & 17 will be reasonable and appropriate ways to minimize potential disruptions to the surrounding properties’ residential and agriculture character and uses. Staff finds CU 23-12 can be approved with reasonable conditions that will help to reduce outdoor noise while attendees and entertainers are in transit to and from the property as well as while they are on the subject property. In addition, the applicant will provide timely notice of all large events to property owners within 500’ both of which are consistent with and satisfy this requirement in Section 1503.5(E).

Continuing with the applicable provisions in Columbia County Zoning Ordinance- Section 1503.5:

- F. The proposal satisfies the goals and policies of the Comprehensive Plan which apply to the proposed use;

Discussion: On Page 7 of the **Application Narrative**, the applicant submitted the following response to the criteria in Section 1503.5(F):

“The Columbia County Comprehensive Plan is implemented through the CCZO. Applicant demonstrates that the proposed use complies with the applicable provisions of the CCZO governing the PA-80 zone and other resource protection provisions. Accordingly, the County may find that the proposal is consistent with this criterion.”

Finding 22: Staff finds that throughout this report’s research and the subsequent Discussion and Findings leading to identified Findings, the related conditions, restrictions and limitations required for CU 23-12 are consistent with the applicable Goals and Policies of following Parts of the County’s Comprehensive Plan apply to the proposal requested for CU 23-12. Part II – Citizen Involvement, Part V – Agriculture, Part X – Economy, Part XIII -Transportation, Part XVI.- Goal 5 – Article VIII- Fish and Wildlife Habitat and Article X – Water Resources and Part XIX – Natural Disasters and Hazards.

Continuing with the applicable provisions in Columbia County Zoning Ordinance- Section 1503.5:

G. The proposal will not create any hazardous conditions.

Discussion: On Page7 of the **Application Narrative**, the applicant submitted the following response to the criteria in Section 1503.5(G):

“ Applicant proposes using existing structures. Applicant is working to confirm that all existing structures proposed for use in this application have valid building permits and all occupancy requirements.

Other portions of this report have already covered conditions that will remedy hazardous conditions related to event attendees trespassing on adjacent properties, as well as the remedies that are necessary to address the unauthorized structural, mechanical, electrical and plumbing work that has been conducted on the barn and the construction of 3 accessory buildings. These issues will all need to be addressed prior to the hosting of any future events at the subject property. The June 24, 2024 **Fire Service Referral and Acknowledgment** from Miguel Bautisia, Division Chief of the Scappoose Rural Fire Protection District (**included in Attachment 3**), also provides specific requirements of the Oregon Fire Code that will apply not only to the site’s roadway but to all buildings and facilities intended for the uses presented for CU 23-12. Condition 9.A will require that the Scappoose Rural Fire Protection District review and approve the minimum and applicable code requirements prior to occupancy of all buildings and structures as designated by the Oregon Fire Code and Oregon Structural Specialty Code provisions referenced in the 6/6/24 Memo.

Finding 23: Staff finds that with the installation “No Trespassing “ signs along the property’s east property line, the County Sanitarian’s and County Building Official’s review and approval of the site’s septic system and buildings and structures and the Scappoose Rural Fire Protection District’s approval of the roadway, buildings and structures will also help to ensure that the proposal requested for CU 23-12 (as conditioned) will not create hazardous conditions and satisfy this provision in Section 1503.5(G).

.6 **Design Review:** The Commission may require the Conditional Use be subject to a site design review by the Design Review Board or Planning Commission.

Finding 24: The Planning Commission may require the proposal be subject to a Site Design Review if it determines additional provisions are necessary that have not been adequately addressed in this staff report.

Continuing with the applicable provisions in Section 1507 of the CCZO - Home Occupations

Section 1507 Home Occupations

1507.2 Type 2: A Type 2 home occupation is reviewed as a Conditional Use by the Planning Commission and may be visible to the neighborhood in which it is located. In addition to the general criteria in Subsection 1507.3, the following criteria shall apply to a Type 2 home occupation:

- A. It shall be operated by a resident or employee of a resident of the property on which the business is located.
- B. It shall employ on the site no more than five full-time or part-time persons.
- C. Signs are permitted as per Section 1300 of the CCZO.

Discussion: Applicant lives on the property and will operate the home occupation which satisfies the criterion in Section 1507.2(A) for Type 2 Home Occupations.

Staff's further research on Home Occupations in the PA-80 Zone revealed the Final Opinion and Order for LUBA Nos. [2022-085/086](#) 1000 Friends of Oregon et al v. Marion County which is included as **Attachment 5**. On **Page 17** LUBA concluded that in an earlier decision in Green v. Douglas County (Green III) "...we concluded that the status allows an applicant to count the number of persons who are employed on site at any given time rather than the total number of people employed to carry out the use. Under that interpretation, a business allowed as a home occupation could employ more than five persons so long as no more than five employees are ever on site at the same time."

The Mapes also address this criterion on **Pages 6 and 7 (Item 3)** of their document which also include references to *Green v. Douglas County's* analysis that limits the number of employees on site to a maximum of five. The Mapes also provide that attached staffing guidelines from Party Waiters LLC, an agency that provides catering staff for events and operates in New York City. According to these Guidelines, the minimum staffing for events proposed for CU 23-12 fall into the following categories:

- Buffet or sit-down meal for 25 guests, a minimum of two staff persons are needed.
- Buffet meal for 50 guests, three staff persons are needed.
- Sit-down meal for 50 guests, staff person rises to six.
- Adding bar service for 50 guests adds another two people, one to bartend and a second person as a "barback."

Consequently, the Mapes' recommend two conditions of approval for CU 23-12 are consistent with LUBA's limitations to the number of employees on site to support the number of event attendees as follows:

No more than five persons required to produce an event, including without limitation property owner, property owner's employees and agents, independent contractors, and staff persons of independent contractors, may be on site at any one time.

"The number of persons at an event, other than the (maximum five) persons involved in producing the event, may not exceed 60.

Staff would also note that the property owner is the lead singer of his own band, Hit Machine, which also meet LUBA's definition of home occupation "employees"; the number of people onsite to produce the event. So, by way of example, since the property owner is also a band member he could not have more than 4 other band members on site at any time for any commercial event when the property owner performs at any event at the property, and no other "employees" would be permitted. This 5-employee limit also applies to other bands, any other caterers who will be providing food and beverages to event attendees, any Auctioneers involved in producing an auction event, other support staff for events, and any combination of any of the above.

Finding 10 has already covered required compliance with the requirements in Section 1306 of the CCZO for onsite signage for total home occupations.

Finding 24: Staff finds that with limiting the number of event attendees to 60 at any single event is consistent with the LUBA's requirement in 1000 Friends of Oregon et al v. Marion County and ORS 215.448(1)(b) limiting staff support on site to five (5). With these conditions of approval, staff finds these criteria for Type II Home Occupations in Section 1507.2 of the CCZO will be satisfied.

1507.3 The following criteria shall apply to all home occupations:

- A. A home occupation shall be operated substantially in:
 - 1. The dwelling; or
 - 2. Other buildings normally associated with uses permitted in the zone in which the property is located.

The applicant submitted the following response to the criteria in Section 1507.3 (A)

Response: The proposed home occupation will occur substantially in the existing barn on the property and to a lesser extent other accessory structures (for pre and post event use). The barn, as evidenced from the photos submitted into the record, has the look and feel of a barn on a farm with wood siding, cement slab floors, wood interior and benches, and the like. The accessory structures are outbuildings used for art/music/writing studio space. Applicant will work with the County to ensure that the use of these buildings complies with building code. See Attachment 7 (Building Permits). The County may find that this criterion is met.

Pictures of exterior & interior of 3 Accessory Buildings/outbuildings identified on Site Plan

Building 1



Building 2



Building 3



The Mapes also address this criterion on **Pages 4 and 5 (Item 2)** pertaining to these provisions in Section 1507.3(A) which mirror those in ORS 215.448(1)(c).requiring home occupations 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’s Project Narrative** describes uses for these three Accessory Structures specifically state they will be used “*for wedding party preparation and overnight lodging of guests.*” Staff concurs with the Mapes analysis that the applicant has not established that “short-term rentals and dressing rooms” are buildings normally associated with uses that are permitted in the PA-80 Zone.

At the July 1, 2024 public hearing, the applicant agreed to remove the overnight accommodations component of CU 23-12 and agreed to either remove these accessory structures with demolition permits or have these structures’ location and uses approved by the County Planning and Building officials for uses normally associated with PA-80 zoned properties. The applicant proposed the necessary modification to Condition 6 which helps to clarify these restrictions of accessory structures in the PA-80 Zone.

Although Section 306.14 of the CCZO identifies “private parks including campgrounds as conditionally permitted uses in the PA-80 Zone, the requested proposal is for a Type II Home Occupation is not for a private campground with overnight accommodations. Barns are buildings that are normally associated with PA-80 uses, while accessory structures for overnight accommodations are not. The prohibition of electronic sources of sound outside of the barn, as addressed during the Discussion for Finding 19, will also help to ensure all events occur substantially within the barn and comply with these local and state regulatory requirements for home occupations.

Finally, staff’s research of 1000 Friends of Oregon et al v. Marion County revealed that LUBA’s reason for Remanding in their **First Assignment of Error on Pages 8 & 9** stresses the kinds of nonresidential structures within which home occupations must occur: “*The legislature specified where the home occupation may take place and did not limit the activities to those that may take place in a dwelling. Instead, a home occupation may operate out of a nonresidential structure, such as a barn, so long as the*

structure is normally associated with uses permitted in the zone in which the property is located (emphasis added)."

To address the issues related to the Section 1507.3 criterion that home occupations must occur substantially inside buildings which are normally associated with PA-80 uses, the applicant's submittal of July 15, 2024 included amending Condition 6 in ways that limits the amount of time and nature of activities that will occur inside the barn and those occurring outdoors but in close proximity to the barn. The applicant summarizes these amendments as follows"

"Condition 6 establishes the types of activities that will occur in the barn and the limited types of activities that may occur outside the barn. For example, for events other than weddings, activities will occur in the barn and other than dining outside during a meal at the limited outdoor seating on the barn patio, located on the east side of the barn, outdoor activities are limited to "quiet" activities such as walking the Applicant's property and gardens, transporting to and from vehicles, taking photos, etc. For wedding events, outdoor activities also include the wedding ceremony."

In addition, another modification to Condition 6 states that weddings' outdoor activities will be limited to a maximum of 30-minute ceremonies, dining outside during a meal at the outdoor seating on the barn patio on the east side of the barn, walking the property and gardens, transporting to and from vehicles, wedding photos, and use of bathroom facilities located outside the barn. Use of outdoor seating on the barn patio is limited to dining during a meal, not other gatherings or activities are permitted there. Guests are expected to return to the barn one meals are finished. Finally, except for outdoor weddings, the applicant is also agreeing to limit amplified live music at any event to a single musician playing a guitar inside the barn.

Finding 25: Based on the above evidence and analysis, staff finds that the applicant will not have any overnight accommodations occurring within the 3 accessory structures with CU 23-12 in compliance with the requirements in Section 1507.3(A) of the CCZO. Consequently, Condition 8 will require the property owner to either remove these 3 accessory structures from the property with demolition permits issued by the County or have these structures approved by the County Planning and Building Officials only for uses normally associated with PA-80 zoned properties.

Related to the same criterion requiring home occupations to operate substantially inside buildings normally associated with PA-80 uses, staff finds that the applicant's proposed amendments to Condition 6 demonstrate their intent to limit the amount of time event attendees and entertainers spend outdoors of the existing barn to help ensure the barn, rather than the large open areas, will become the primary hub of activity on the subject property. For these reasons and with the proposed modifications to Condition 6, staff finds the proposal requested for CU 23-12 will comply with the provisions in Section 1507.3 of the CCZO with provisions that will limit the time and kinds of outdoor activities occurring outside the site's barn and on the subject property. Finally, the County Building Official's, Floodplain Manager's and Scappoose Fire District's inspections and approvals of the barn's new uses proposed for CU 23-12 will also ensure this structure is safe for these activities in compliance with the minimum requirements of the Oregon Building and Fire Codes as well as the County's Flood Hazard Overlay Zone. For these reasons and with the modifications of the affected Conditions of Approval, staff finds the proposal presented for CU 23-12 will comply with the provisions in Section 1507.3(A) of the CCZO.

1507.3 The following criteria shall apply to all home occupations

- B. A home occupation shall not unreasonably interfere with other uses permitted in the zone in which the property is located.

Finding 26: For the sake of unnecessary redundancy, staff finds that this report’s Discussion and substantiated Findings have consistently led to the majority of Conditions of Approval for CU 23-12 as originally included in the June 24, 2024 Staff Report and as modified in light of the additional comments/evidence submitted between July 1, 2024 through July 22, 2024 consistent with the continuance provisions in (ORS) 197.797(6) . Further, staff finds that the modified Conditions of Approval indicate the applicant’s willingness to include time, place, and manner limitations to the operation of events on the subject property in light of neighbors’ expressed concerns they have experienced from these unpermitted events for at least six years. Consequently, staff finds that the Conditions of Approval identified for CU 23-12 are designed to help ensure that the authorized events will minimize their interference with other residential and agriculture uses on the subject and adjacent properties in compliance with this criterion in Section 1507.3(B) of the CCZO.

COMMENTS RECEIVED:

District 18 Watermaster: Have reviewed the proposal and have no objection to its approval as submitted.

County Building Official: All buildings will need to meet current building, electrical, plumbing and mechanical codes.

Public Works Department: Has reviewed the proposal and has no objections to its approval as submitted because no county roads are involved. .

Columbia River PUD: No comments have been received as of the date of this report.

County Sanitarian/Environmental Health Services Specialist: The proposal will require a Septic Authorization for the change in use of the site’s existing septic system; a site will be required.

County Assessor: The property owner must file a Business Personal Property tax return with the County Assessor once operations begin.

Scappoose-Spitzenberg CPAC: Has reviewed the proposal and has no objections to its approval as submitted.

OR Department of State Lands, Josh Goldsmith: Comments dated 6/5/24 related the existence of Wetlands and a required Wetlands Delineation have been incorporated into the Discussion related to Finding 9 of this report.

Jeff and Laurie Mapes, residents at 33973SE Oakridge Drive in Scappoose; The June 3, 2024 Letter to the Planning Commission have been incorporated into various Discussion and their related Findings throughout this report.

City of Scappoose, N.J. Johnson, Associate Planner The May 28, 2024 Land Use Referral Comments have been incorporated into the Discussion related to Findings 13 and 14 of this staff report.

City of Scappoose, Dave Sukau, Public Works Director: The May 28, 2024 Comments have been incorporated into the Discussion related to Findings 13 and 14 of this staff report.

Scappoose Rural Fire Protection District: The June 6, 2024 Fire Service Referral and Acknowledgement Comments have been incorporated into the Discussion related to Findings 7 and 23 of this staff report.

Columbia County Public Health: No comments have been received as of the date of this report.

Tracey and David Heimbeck, residents at 51704 SE 9th St, Scappoose: Emailed their support of Bart Hafeman and the Lake House. We have been direct neighbors of Bart and his family and have had nothing but great interactions. He has always been very respectful of our privacy and aware of noises that may accompany large gatherings. Therefore, we are in full support of Bart Hafeman and the Lake House.

Linda Hinsvark, resident at 51692 SE 8th Street in Scappoose: Emailed her support of CU 23-12 stating that every event has been very considerate of the area around it, noise levels and offsite parking have been at acceptable levels and never been disruptive. Applicant is a good neighbor and is an asset to the community.

Attachment 6 Details

On June 21, 2024 the Applicant submitted their Response to Jeff and Laurie Mapes June 3, 2024 Letter to the Planning Commission which is included as **Attachment 6**. Staff has evaluated and discussed all pertinent issues made at the public hearing on July 1, 2024 as well as those submitted on July 15, 2024 as they relate to the Findings, Recommendations and Conditions of Approval included in this amended Staff Report for the continuance of CU 23-12.

No further comments from agencies, citizens or otherwise have been received regarding this proposal as of the date of this staff report.

CONCLUSION, RECOMMENDATION & CONDITIONS:

Based upon research about the property and evaluation leading to Findings within the original Staff Report dated June 24, 2024 as modified pursuant to the continuance provisions in ORS 197.797(6) for

land use application **CU 23-12**, Staff recommends the Planning Commission **APPROVE** the request to lawfully establish a Type 2 Home Occupation on the subject PA-80 zoned tract subject to the following conditions **with one new Condition 22, confirming this Conditional Use is personal to the applicant and does not run with the land.**

CONDITIONS OF APPROVAL:

1. This Conditional Use Permit shall remain valid for two (2) years from the date of the final decision per Section 307.4 of the County Zoning Ordinance. At a minimum, a development construction permit must be issued by Land Development Services within the approval period. If a construction permit is not issued within the approval period, the land use permit expires. An extension of one (1) year on the approval period may be granted by the Planning Director if a written request and payment is received prior to the approval's expiration and the reason for the delay is beyond the control of the owner.
2. The property owner is prohibited from holding any onsite events until such time that the County has confirmation that all conditions, restrictions and modifications identified herein have been satisfied, and all necessary improvements have been reviewed and approved by the County and City of Scappoose, as applicable.
3. Pursuant to Section 1504.3 of the County Zoning Ordinance, the Type II Home Occupation authorized with the Planning Commission's review and approval of CU 23-12 may be suspended or revoked by the Planning Commission when the authorized use and development no longer comply with any imposed condition or restriction identified herein.
4. No more than five persons/employees required to support an event shall be on site at any one time. This includes without limitation the property owner, **musicians, the shuttle bus driver, vendors** and any food and beverage servers, all of whom are considered as employees and agents, independent contractors, and staff persons of independent contractors, pursuant to the requirements in Section 1507.2(B) of the County Zoning Ordinance and ORS 215.448 (1)(b).
5. **Applicant may hold up to 35 events per calendar year as follows:**

Weddings. Up to 15 wedding days per year with up to 60 guests. Pre-event preparation would begin around 12 pm with dancing ending at 9 pm, all sound ceasing at 9:30 pm, and all guests off property by 10 pm.

Commercial events. Up to 4 large commercial events per year with up to 60 guests. Events may include celebrations (baby showers, memorials, birthdays), acoustic jazz nights, seasonal celebrations (corporate holiday parties), and wine tasting and food- or art-related events. Pre-event preparation would begin around 12 pm with all sound ceasing at 9:30 pm and all guests off property by 10 pm.

Small Events. Up to 10 small commercial events per year with up to 20 guests. Events may include celebrations (baby showers, memorials, birthdays), acoustic jazz nights, seasonal celebrations (corporate holiday parties), and wine tasting and food- or art-related events. Pre-event preparation would begin around 12 pm with all sound ceasing at 9:30 pm and all guests of property by 10 pm.

Fundraisers/Charitable Events. Up to 6 fundraisers or charitable events per year with up to 60 guests. Example of these events are fundraisers for Columbia Food Bank, Scappoose Wrestling, Human Society, or United Way of Columbia County. Pre-event preparation would begin around 12 pm with all sound ceasing at 9:30 pm and all guests of property by 10 pm.

All events shall be single day events; multi-day events are not permitted. All events shall comply with Condition 4.

6. Per the requirements in Section 1507.3 of the County Zoning Ordinance, the property owner shall hold events “substantially in” the barn and either (1) remove the 3 Accessory structures intended for” wedding party preparation and/or overnight lodging of guests” from the property with demolition permits issued by the County or (2) have these structures approved by the County Planning and Building Officials for any other permitted uses normally associated with PA-80 zoned properties.
 - A. For events other than weddings, activities will occur in the barn, and other than dining outside during a meal at the limited outdoor seating on the barn patio on the east side of the barn, walking the Applicant’s property and gardens, transporting to and from vehicles, taking photos on the property, use of the bathroom facilities located outside the barn, and other similar, quiet activities, there will be no gatherings of people outside the barn. Use of the outdoor seating on the barn patio is limited to dining during a meal; no other gatherings or activities are permitted there. Once the meal is over, guests are expected to return to the inside of the barn.
 - B. For wedding events, outdoor activities may include the wedding ceremony limited to approximately thirty minutes, dining outside during a meal at the limited outdoor seating on the barn patio on the east side of the barn, walking the Applicant’s property and gardens, transporting to and from vehicles, wedding photos, and use of bathroom facilities located outside the barn, and other similar, quiet activities. Use of the outdoor seating on the barn patio is limited to dining during a meal; no other gatherings or activities are permitted there. Once the meal is over, guests are expected to return to the inside of the barn. There shall be no gathering of people outside the barn other than as specifically described here.
 - C Except for outdoor wedding ceremonies, which are limited to one speaker as noted in Condition 15, amplified live music at any event is limited to a single musician playing a guitar inside the barn.

7. The property owner shall submit a Wetlands Delineation to the Oregon Department of State Lands for their review and approval. The Wetlands Delineation shall also include a Separate Surveyed Map of the subject property and include the accurate locations of all existing site development and structures in relation to the delineated wetlands and property lines to ensure all structures comply with the DSL and Columbia County's minimum locational requirements from wetlands, and property lines.
 - A. If the approved Wetlands Delineation requires a wetland removal-fill permit from DSL, a copy of this approved Wetland Fill Permit shall be filed concurrent with any related county land use and/or building permits.
 - B. The property owner shall submit a Revised Site Plan that accurately delineates the location of all of the site's Delineated Wetlands in relation to all structures and development intended for venue activities as presented for CU 23-12.
 - C. A copy of the **DSL Approved Wetlands Delineation** shall be submitted to Land Development Services that will be reviewed concurrent with the necessary building plans for all authorized structures and development.
 - D. The property owner shall either remove or relocate all accessory structures and development outside of the Delineated Wetlands protected Riparian Corridor or submit the necessary variance and /or building permits for the County Planner and Building Official to review for compliance with the applicable provisions in Sections 1504, 308, 1173, 114, 1175 and 1178 of the County Zoning Ordinance and the Oregon Building Code.
8. The property owners shall be required to either apply for the appropriate permit(s) to remove any structures that are closer than 30' from any property line or to submit the necessary Variance Applications for the county to review and approve these non-conforming structures pursuant to the provisions in Section 1504 of the County Zoning Ordinance.
 - A. The County shall review and approve all Variance Applications prior to the acceptance of any related building permits for said structures.
9. The property owner shall submit with the associated fees all necessary structural, mechanical, electrical and plumbing permits for all structures used by event attendees for the County Building Official to review and approve for compliance with the applicable provisions of the Oregon Building and Fire Codes. All submitted plans must also be accompanied with the necessary Floodplain Development Permits and fees.
 - A. The Scappoose Rural Fire Protection District shall review and approve the applicable code requirements for the occupancy of all buildings and structures as designated by the Oregon Fire Code and Oregon Structural Specialty Code provisions referenced in the June 6, 2024 Fire Service Referral and Acknowledgement for CU 23-12, including maximum occupancy for all buildings and structures.

10. The County Building Official and Scappoose Fire District shall review and approve an On-Site Parking Plan for compliance with the criteria in Sections 1405, 1408, and 1410 related to Plans Required, Design Standards and Size for up to 10 parking spaces.
11. The County shall receive written confirmation from the City of Scappoose Public Works Department and the Scappoose Rural Fire District that all improvements to the existing access to SE 9th Street have been installed and accepted.
12. Prior to the commencement of any events, the property owner shall submit confirmation to the County that the City of Scappoose has approved all Off-Site Parking Facilities and the related Transportation of Venue Attendees necessary to accommodate up to 60 guests including ADA parking spaces for compliance with Land Use Referral comments dated May 28, 2024 and the City of Scappoose Municipal Code. In addition, the shuttle bus driver shall announce to event guests that the shuttle will travel through residential neighborhoods and guests must be respectful during transit. The shuttle bus shall not play any music.
13. The County Sanitarian shall review and approve an Authorization Notice for the change in use of the site's existing septic system. All necessary modifications or improvements shall be installed prior to occupancy of any structure.
14. Sound levels during these events will not exceed those limits imposed by the Columbia County Noise Control Ordinance (Ordinance No. 91-8, October 16, 1991). Noise will not exceed 60 dba between 7 am and 10 pm and will not exceed 50 dba after 10 pm. Applicant shall adhere to the **Lake House Noise Management Control Plan** approved for CU 23-12.
15. Except for outdoor wedding ceremonies, which shall be limited to one amplified speaker, no speakers, voice amplification, microphones, electronic musical instruments, or other electronic sound sources are allowed to be used for any events other than sources confined entirely within the interior of the barn. Electronic sources of sound outside of the barn are prohibited, including without limitation sources attached to the exterior of any building or coming from automobiles. Speakers located inside the barn shall be directed towards the interior of the barn.
16. The Event Terms and conditions of the conditional use and home occupation permit shall be posted in prominent locations in the barn and on the subject property. Each signage shall be printed in large enough font to be read easily by event attendees. The Applicant shall also include the Event Terms on the applicant's website in a conspicuous manner and in event contracts. The Event Terms shall include the following:
 1. The total numbers of persons attending any event may not exceed 60;
 2. The property adjoins residential properties;
 3. All persons attending events must be respectful of neighboring residential uses, including abiding by access, parking, and noise limits particularly with regard to noise levels;
 4. Event attendees shall not park in the residential neighborhoods adjacent to the Lake House property.

5. Except for outdoor wedding ceremonies limited to approximately thirty minutes, activities at the Lake House must be conducted in the barn except for dining during a meal at the outdoor seating on the patio on the east side of the barn, walking the Lake House property and gardens, transporting to and from vehicles, taking photos on the property, use of the bathroom facilities located outside the barn and other similar, quiet activities. Once a patio meal is over, guests are expected to return to the inside of the barn. There shall be no gathering of people outside the barn other than as specifically described here.
6. Except for outdoor wedding ceremonies limited to approximately thirty minutes, which shall be limited to one speaker, no speakers, voice amplification, microphones, electronic musical instruments, or other amplified electronic sound sources are allowed other than sources confined entirely within the interior of the barn;
7. Columbia County retains authority to enforce all conditions of Columbia County Conditional Use Permit 23-12 Approval, including a cease order for violations occurring during an event.
8. The Lake House (meaning its owner, employees and agents), as well as the Lake House's customers and all guests, are responsible for compliance with these Event Terms. If the Lake House becomes aware of a violation of these Event Terms or any of the conditions of its conditional use permit to hold events, the Lake House must take whatever steps are necessary to either bring the event immediately into compliance or immediately terminate the event.

In addition, Applicant or an event coordinator will be on the premises during an event. The event coordinator will be familiar with the Event Terms. The event coordinator will count towards the maximum of five employees allowed by the Home Occupation permit.

17. Property owner must provide written notice of each large event, between 21 – 60 guests, of the event's date, time and duration, which shall be mailed no less than twenty days before the date of each large event, to owners of record of property on the most recent property tax assessment roll where such property is located within 500 feet of the subject property. The mailed notice shall contain the contact information for the onsite operational contact to report noise concerns.
18. The property owner shall install "*No Trespassing*" signs along the surveyed eastern property line to deter event attendees from trespassing onto and getting injured on the adjacent ~61-acre PA-80 zoned tract.
19. The property owner shall submit a Sign Permit to LDS for any on-site sign(s) pursuant to Section 1306 of the County Zoning Ordinance.
20. Prior to the commencement of any events, the County Planning Official shall conduct a Site Visit to verify that each of the Conditions of Approval have been satisfied including, without limitation, the requirements of Conditions 16 and 18 have been satisfied related to posted Terms and Conditions of the home occupation permit and the installation of "*No Trespassing*" signs along the surveyed eastern property line.

21. The property owner shall file a Business Personal Property Tax Return with the County Assessor once operations related to CU 23-12 once operations begin.

22. This Conditionally Permitted Type 2 Home Occupation Permit shall be applicable to the proposal authorized for CU 23-12 only and shall not run with the land or subsequent property owner(s).

ATTACHMENTS:

Submitted CU 23-12 Application Materials including Project Narrative and Off-Site Parking Facilities and the related Transportation of Venue Attendees

Attachment 1: Comments received from notified neighbors:

- June 5, 2024, 27-Page Document addressed to the Planning Commission from Jeff and Laurie Mapes residents of 33973 SE Oakridge Drive, Scappoose
- June 17, 2024 Email received from Tracey and David Heimbuk, residents at 51704 SE 9th Street, Scappoose

Attachment 2: LDS' and recorded Documentation of Subject Property

- Recorded Waiver of Remonstrance Instrument No 97-0284
- Statutory Warranty Deed of Property's Legal Description Reference # 2015-010058
- LDS Final Building Permit for existing residence BLD 1998-00290
- Letter from Michael Greisen Fire Chief from Scappoose Rural Fire Protection District 12/19/1996

Attachment 3: Comments received from the City of Scappoose and Scappoose Rural Fire Protection District

- Fire Service Referral and Acknowledgement dated 6/6/24 from Miguel Bautista, Division Chief
- Land Use Referral Comments dated May 28, 2024 from N.J. Johnson Associate Planner and Laurie Oliver Joseph, Community Development Director
- Comments dated May 28, 2024 from Dave Sukau, Public Works Director

Attachment 4: Agency Responses to Referral and Acknowledgement for CU 23-12

- 3/21/24 Comments from county Public Works Department
- 5/17/24 comments from Oregon District 18 Watermaster
- 5/21/24 Comments from County Building Official
- 5/29/24 Comments from County Sanitarian/Environmental Health Specialist Trainee
- 5/17/24 Comments from County Assessor
- 6/5/24 Oregon DSL Response to WN 2024-0358 for CU 23-12

Attachment 5: 1000 Friends of Oregon et al v. Marion County LUBA Nos. 2022-085/086

Final Opinion and Order

Attachment 6: Applicant's June 21, 2024 Response to the June 3, 2024 Comments submitted by Jeff and Laurie Mapes

Attachment 7: All comments received at the July 1, 2024 public hearing and during the 3-week Comment period provided for in ORS 197.797(6)

Attachment 8:

- Applicant's submitted **Comments on County's Findings and Conditions of Approval for Hafeman CU 23-12** dated July 8, 2024
- **Applicant's Rebuttal for the Lake House CU 23-12 dated July 15, 2024** including **4 Page Hafeman CU 23-12 Conditions of Approval for 7/15/2024 Filing**
- **July 15, 2024** submittal from Jeff and Laurie Mapes referencing the **Applicant's CU 23-12 Conditions of Approval for 7/15/2024 filing**
- **July 22, 2024 Final Legal Argument – The Lake House CU 23-12** submitted by applicant Davis/Wright Tremaine, LLP.

CC: Applicant; Davis, Wright, Tremaine: Cilek, Caroline CarolineCilek@dwt.com
Property Owner: Bart Hafeman, 33470 Chinook Plaza Ste 345, Scappoose, OR 97056
Jeff and Laurie Mapes, lauriemapes2002@yahoo.com
City of Scappoose: Laurie Oliver Joseph: loliver@scappoose.gov
N.J. Johnson njohnson@scappoose.gov