

BEFORE THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON
FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of Upholding the Planning)	
Commission's Approval and Denying the Appeal)	
Of Docket C-13-16; Approval of a Conditional)	
Use Permit for a Home Occupation to Operate an)	Board Order 16-525
Excavating Business from an Existing Shop)	
Building on Tax Lot 4513-1000,)	
Applicant: Eugene C. Laughlin, Jr.)	

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on December 20, 2016, Commissioners Mary Starrett, Stan Primozych, and Allen Springer being present.

IT APPEARING TO THE BOARD as follows:

A. By application dated July 6, 2016, Eugene C. Laughlin, Jr., requested county approval of a conditional use permit for a home occupation to operate an excavating business from an existing shop building on Tax Lot 4513-1000, 12890 Fox Ridge Road, McMinnville, in an area zoned AF-10, Agriculture/Forestry Small Holding;

B. On October 6, 2016, the Planning Commission held a public hearing on the request and approved the application, with conditions, by a vote of 5-2. On October 20, 2016, the Planning Commission's decision was appealed by Stephen Leonard, 12100 SW Fox Ridge Road, McMinnville; and

C. On December 1, 2016, the appeal was heard by the Board of Commissioners. Following the hearing, the Board voted 3-0 to uphold the Planning Commission's decision, and to deny the appeal, with staff directed to prepare written findings for final adoption on December 20, 2016; NOW THEREFORE,

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

Section 1. The Planning Commission's decision to approve Docket C-13-16 is hereby upheld, and the appeal filed by Stephen Leonard is denied.

Section 2. The findings and conditions attached as Exhibit A, and incorporated herein by reference, are hereby adopted in support of this order.

DONE this 20th day of December, 2016 at McMinnville, Oregon.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

BRIAN VAN BERGEN

County Clerk

Chair

MARY STARRETT

By:

Deputy Lucy Flores Mendez

Commissioner

STAN PRIMOZICH

FORM APPROVED BY:

Commissioner

ALLEN SPRINGER

Timothy S. Sadlo

Senior Assistant County Counsel

Accepted by Yamhill County
Board of Commissioners on

12-20-16 by Board Order

Board Order 16-525

Page 2

**Exhibit A – Board Order 16-525
Findings in Support of Decision to
Uphold the Planning Commission’s Approval
Of Docket No. C-13-16
And Conditions of Approval**

DOCKET NO.: C-13-16

REQUEST: An appeal of the Planning Commission’s approval of a Conditional Use Permit for a home occupation to operate an excavating business from an existing shop building adjacent to McMinnville Water and Light reservoir tanks on SW Fox Ridge Road, a County Road.

APPLICANT: Eugene C. Laughlin, Jr.

APPELLANT: Stephen Leonard

TAX LOT: 4513-1000

LOCATION: 12890 Fox Ridge Road, McMinnville

ZONE: AF-10, Agriculture/Forestry Small Holding

CRITERIA: The request is subject to Sections 501.03(C), 1004 and 1202.02 of the Yamhill County Zoning Ordinance

FINDINGS:

A. Background Facts

1. *Lot Size:* 24.1 Acres
2. *Access:* Fox Ridge Road, McMinnville.
3. *On-site Land Use:* The southern boundary of the property is Fox Ridge Road, (County Road 282). The access drive is located on the eastern property boundary, adjacent to McMinnville Water & Light’s municipal drinking water reservoir tanks. The view from the mailbox is of a large grass field, a gravel drive, and fences. At the end of the approximately 798-foot driveway, and not visible from the County Road, is a large barn, and a large parking/vehicle access area. The structure and parking area are located approximately 125 feet from the eastern property boundary and a large municipal water storage tank. The northern end of the property is forested. There is also a covered, post and beam picnic structure in the vicinity of the barn, which is also not visible from the County Road.

4. *Surrounding Land Use and Zoning:* Parcels to the north, south and west are zoned EF-80, Exclusive Farm use and range in size from approximately 2.5 to 273 acres. The parcels to the south and west exhibit farm use practices and the parcels to the west and north appear to be dedicated to forestry and rural residential uses. The parcel to the east is zoned PWS, Public Works and Safety District; is owned by McMinnville Water & Light; and contains water storage tanks that are part of the city's water supply system. Further to the east and southeast of the subject property are parcels zoned VLDR-2.5, Very Low Density Residential, which are predominantly in rural residential use. Numerous dwellings are located along the County Road, which eventually dead ends.
5. *Water:* Provided by McMinnville Water & Light.
6. *Sewage Disposal:* Provided by on-site septic system.
7. *Fire Protection:* McMinnville Rural Fire Protection District.
8. *Previous Actions:* In 2001, Docket PAZ-06-01: a Comprehensive Plan map amendment from Agriculture Forestry Large Holding to Agriculture Forestry Small Holding; a zone change from EF-80 Exclusive Farm use to AF-10 Agriculture Forestry Small Holding; and an Exception to Goals 3 and 4 on Tax Lot 4513-1000; approved with a limited use overlay that includes the following conditions:
 - a. Tax lot 4513-1000 shall not be divided or developed with more than one principal dwelling unless the zoning is changed to allow a higher density of development; and
 - b. The dwelling to be constructed shall not be located within the existing forested area.

Because of the zone change to a rural residential, non-EFU or Forestry designation, the property currently qualifies for one single-family dwelling.

In 2012, a complaint was filed (I-055-12) and an investigation ensued regarding the use of the existing agricultural barn, built in 1994, as a single-family dwelling without approval from the Yamhill County Planning Department. The barn was decommissioned as a residence in 2014, and inspected in order to verify that it was no longer being utilized as a dwelling.

9. *Overlay Districts:* None (except for the limited use overlay described above).

B. Conditional Use Provisions and Analysis The conditional use standards of YCZO Section 1202.02, and the county's findings addressing them, are as follows:

- (A) *The use is listed as a conditional use in the underlying zoning district;*

The applicant is requesting conditional use approval to use the existing barn and gravel parking area in the operation of an excavating company as a home occupation. Home occupations are listed as a conditional use in the AF-10 zone.

- (B) *The use is consistent with those goals and policies of the Comprehensive*

Plan which apply to the proposed use;

The county's Comprehensive Plan goals and policies do not contain standards that must be met in order to conduct a home occupation. Section I.E Goal 1 Policy i. states:

A reasonable expansion of the concept and definition of home occupation will apply to very low density residential and agricultural small and large holding areas where small-scale, family-operated, home-craft industry or repair service has been traditionally carried on, and such uses will be reasonably regulated, subject to limitations on location, scale, performance characteristics, commercial character, and visibility from bounding roads or adjoining property.

This Policy indicates county support for home industries—production and service—that otherwise comply with zoning ordinance standards intended to ensure that a home occupation does not unduly interfere with other uses taking place in the area. The zoning code defines “Home Occupation” as:

An activity involving off-site sales, the manufacture of a product or the provision of a service carried on in compliance with Section 1004 of this ordinance by a resident of the property on which the business is located. “Home occupation” does not include the retail sale of products unless such sales are secondary to the primary home occupation use.

The review criteria in Section 1004 limit the location, scale, performance characteristics, commercial character and visibility of a home occupation, and are addressed below. The proposed use, which has been described as the parking and storage of two dump trucks, two smaller trucks, equipment and trailers related to excavations that will take place elsewhere, is consistent with the goals and policies of the county's Comprehensive Plan.

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

The applicant has demonstrated that the parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements, and natural features. The parcel is large enough to support the proposed use and to buffer the proposed use from neighboring properties and residences. The subject property is 24.1 acres with an existing large agricultural building/shop and a parking/vehicle access area, which cannot be seen from the road. The proposed uses are further obscured (sight and sound) by forested areas of property and neighboring properties, and by the adjacent reservoir tanks. The topography and natural features of the parcel buffer the use completely from neighboring uses, with the only exception being that the applicant and his employees must drive the vehicles associated with the use past homes that have been constructed along the county road that provides access to the site. The record supports a conclusion that the physical attributes of the parcel are suitable for the proposed use considering the size, shape, location, topography and natural features.

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

A hearing was held before the Planning Commission and before the Board of Commissioners. Neighbors, mostly who live in homes along Fox Ridge Road, objected to the use as “industrial” and not appropriate for the area, which they characterized as predominantly “residential.” Their concerns of potential impacts included:

- Increased traffic diminishing the safety of pedestrians and motorists using the county road.
- Noise and diesel odor in the rural neighborhood.
- Diminution of nearby property values.
- A business using heavy trucks and equipment would be inconsistent with residential land uses along Fox Ridge Road.
- Damage to the pavement on Fox Ridge Road as a result of the increased traffic of the applicant’s vehicles and equipment.

The building proposed for the home occupation is located in the back of the subject property, a minimum of 1,000 feet away from the nearest neighboring residence. The property line nearest the building housing the home occupation is owned by McMinnville Water & Light and contains several municipal water supply tanks. The applicant has indicated that a total of four vehicles will be parked and dispatched from the property. Two of those vehicles the applicant has described as “standard sized vehicles” that are “up to date with emissions and noise within DEQ requirements” and the remaining two vehicles the applicant has proposed to park at the site are dump trucks. The applicant also states that ancillary support equipment will also be stored on-site, including trailers and excavators.

Traffic to the subject parcel is currently light, because the county road dead ends. Additional traffic attributable to the home occupation is expected to be minimal, because no customers will visit the property, and otherwise due to the nature of the work. Typically, vehicles and equipment are dispatched to a customer’s job site, remain at the job site for the duration of the project, and are then returned only if they are not immediately moved to another job site. The structure accessed by Fox Ridge Road will be used to store equipment when it is not needed at a job site. The business currently has three full-time employees (including the applicant) and one part-time/seasonal employee.

The testimony received by the Planning Commission and by the Board focused on harm to residential uses along Fox Ridge Road, and to the road itself. The County Engineer noted that “...loaded trucks do have a significant impact on road maintenance, however, contractor’s storage yards typically have empty trucks on them and it is my assumption that this applicant will be storing his empty dump trucks on this property between jobs and/or evenings..... The incremental road maintenance in this case would be difficult to determine without significant data on current truck loading and the additional loading represented by the proposed use. As

mentioned above the loads represented by a storage yard type activity are probably incidental to the current loads and do not warrant the effort to determine their impact.” This testimony indicates that a few extra truck trips on the road as proposed by the applicant are below the threshold of significance at which additional consideration or study would be warranted.

The county Public Works Director also testified regarding potential harm to the road or safety problems that might be related to the proposed use of the county road. He indicated that Hill Road, which is the terminus of Fox Ridge Road, is being improved by the City of McMinnville, with some widening, and with a four-foot wide bike and pedestrian lane on one side. He indicated that the surface of Fox Ridge Road has been in bad shape for at least 10 years, and the cracks that have appeared in the road are attributable more to natural loss of asphalt flexibility over time, and not from excessive loading by heavy vehicles. He is hoping that the road will be paved next year, with some improvements that will make the road safer for pedestrians. He also indicated that, because it is a dead end, Fox Ridge Road currently has far fewer trips than numerous other county roads that are also heavily used by pedestrians and bicyclists.

The Board notes that the purpose of a county road is to provide access to all properties, of all zoning classifications, for all legitimate economic uses that county residents choose to make of their property. The level of use proposed by the applicant is not significant, and presents no additional level of danger or damage to the road than garbage trucks, logging vehicles, school busses, farm vehicles, and passenger cars and trucks, all of which are currently allowed to use the county road without limitation. The proposed use does not “substantially” limit, impair or prevent the use of any “surrounding” property, as the Board understands the meaning and intent of those words. Residential uses along the county road used as access to the site are not “surrounding” properties and, in any case, the proposed use does not “substantially” limit, impair or prevent the use of any dwelling located on property abutting Fox Ridge Road.

The Board also notes that the applicant provided credible testimony, that the Board relies upon, that he and his employees have been, and will continue to be, polite, safe users of Fox Ridge Road; that they are fully aware of pedestrian and bicycle use of the road; and that the applicant and his employees intend to operate the business with respect for the neighbors and residents along the road. A condition of approval allows review of the home occupation use of the property in one year, and every two years thereafter, at the discretion of the Planning Director. The possibility that the permit can be revoked if impacts prove to be greater than as described by the applicant further promotes safe use of the county road by the business.

Based on all of the testimony and evidence in the record, the Board concludes that the proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties.

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

The proposed use is appropriate considering the public facilities that are already available in the area. Access to the facility must be acceptable to the McMinnville Rural Fire Protection District.

The proposed use would not require any public services other than services already existing in the area. To the extent the county road can be considered a “public facility,” the road is adequate to accommodate all current users and to accommodate the proposed additional use by the applicant and his employees. The road is popular with walkers, bikers, and runners, all who currently share use of the road with vehicles both large and small, without serious conflict. The limited number of trips proposed by the applicant will not significantly affect the adequacy of the road for any current or anticipated future users.

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

The Board concludes that the use is compatible with existing uses and other allowable uses in the area, as explained in findings addressing subsection (D), above, and elsewhere in these findings. The limitations imposed by the zoning ordinance, and by the conditions of approval, help to further ensure compatibility of the use with existing uses and other allowable uses in the area.

C. Home Occupation Review Criteria The home occupation standards of YCZO Section 1004, and the county’s findings addressing them, are as follows:

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

The Board finds that in this case the proposed business is being “operated” by the applicant and the applicant’s employees, and that the intent of the provision is to ensure that the business use of the property is secondary to, and connected with, residential use of the property. There is currently no dwelling on the property, but a dwelling is allowed on the site. A condition of approval requires that the applicant establish a dwelling on the property within one year of approval. The applicant has indicated that he will either construct a dwelling on the property, or site a manufactured dwelling on the property, and that his foreman will reside on the property.

Opponents have objected to this arrangement as not being allowed under the opponents’ interpretation of the ordinance. The Board interprets the ordinance as allowing the approval with the imposed condition. There is precedence for this approach, with the county, in the past, approving a bed and breakfast as a home occupation prior to construction of the home that would contain the bed and breakfast.

A difference in this case is that the applicant currently parks his trucks and equipment at the site as proposed in his application. The Board accepts as credible his statements that he did not believe he needed a permit to park his equipment on the site. As indicated by the Planning Department, he took immediate steps to gain the necessary approvals as soon as he was notified that a permit is required. Given the minimal potential impacts from the proposed use (and all of the impacts attributed to a minor number of average additional truck trips per day on a county road that is adequate for the use), the county has allowed a grace period on enforcement against the applicant while appeals are pending and while he completes all the steps required by the conditions of approval.

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

The applicant has indicated that the home occupation currently has a total of three employees, and that he has an additional employee or employees seasonally, part or full time. The business is not proposing to have more than five full or part-time employees.

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

The part of the applicant's business activities that will be conducted on the subject property will take place substantially in the existing building including storage and dispatch of the excavating equipment and vehicles. The barn and access driveways are all of a type commonly found in the AF-10 zone, and are normally associated with the types of farm, forest and residential uses permitted in the zone.

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

The proposed use will be conducted from the existing barn structure which is approximately 75 feet from the nearest lot boundary, the eastern boundary, which is owned by the McMinnville Water & Light and constructed with municipal water supply tanks. All other immediately surrounding parcels are zoned EF-80. The proposed use will primarily be the parking of associated vehicles and equipment to be dispatched as needed generally between 7am and 5pm during the week. For reasons stated elsewhere in these findings, the Board concludes that the home occupation will not unreasonably interfere with farm, forest or residential uses on nearby land or with any existing or allowed uses along the county road that provides access to the subject property.

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

The request is consistent with subsection (E) because there are no other home occupations on the subject property, or any activities taking place that can be characterized as home occupations.

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

The applicant intends to build or install a dwelling on the property, which is allowed outright in

the AF-10 zone and is not dependent on the approval of this conditional use permit. The existing barn/shop building is also allowed in the zone. No attempt is being made to use the home occupation as justification for a zone change.

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

The home occupation is located in the AF-10 zone. Section 501.06, listing the parcel coverage limitations in the zone, states:

D. Parcel Coverage.

Not applicable, except that for any parcel of less than one (1) acre, the maximum parcel coverage shall be fifteen (15) percent.

Because the subject property is 24.1 acres, the parcel coverage standard is not applicable.

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

The home occupation will be operated substantially in or near the existing barn, an area that is more than 750 feet from the nearest road and is not visible from the road or from any other dwelling in the area, due to topography. As discussed elsewhere in these findings, additional screening is provided by a large forested area on the north end of the site and by the presence of large municipal water supply tanks located immediately to the east. This standard is met without the need for additional vegetation or a sight obscuring fence.

It may be argued (but was not argued in the hearings before the Board or the Planning Commission) that the excavation vehicles and equipment on trailers must traverse the property on their way to the storage building and building access/parking area, and that the vehicles used in the business will be "visible evidence" of the conduct of the business contravening requirement (H). The Board rejects that possible interpretation of its ordinance as fundamentally unworkable, and not intended. Subsection (H) requires only that there be no visible evidence of the storage of vehicles and machinery, offices, dispatch equipment, or other equipment or vehicles associated with the business. The applicant has demonstrated compliance with subsection (H).

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

Section 501.01 states the purpose of the AF-10 Zoning District as follows:

The purpose of the AF-10 District is to provide for low density rural residential development on selected lands identified as Agricultural/Forestry Small Holding in the Comprehensive Plan; and, at the same time, to encourage small-scale or more intensive farm and forestry activities. Within this District, no limitations shall be placed on farm and forestry uses of the scale, type and performance characteristics commonly found in the F-80, EF-20, -40 or -80 and AF-20, -40 or -80 Districts. In areas immediately adjacent to urban centers, the AF-10 District is intended to be a transitional zone between F-80, EF-20, -40 or -80 and AF-20, -40 or -80 Districts and higher-density VLDR and LDR Districts or urban districts identified in city comprehensive plans.

In this case, Fox Ridge Road intersects with a city street, but the subject property is not “immediately adjacent” to an “urban center.”

The Board finds that noise, vibration, fumes and odor are commonly associated with the farm and forestry uses commonly occurring in the AF-10 (rural residential) zone, and in the county’s resource zones referenced in the AF-10 “purpose” section. Logging and farming practices and machinery generate noise and vibration, and forest practices “normally” produce fumes and odor, including odor associated with animal waste, pesticide use, and diesel. The “scale, type and performance characteristics” of equipment and machinery commonly associated with intensive farming and forestry uses are intensive, with potentially great impacts to surrounding uses.

In comparison, the Board finds that, while moving the vehicles on and off of the site in the manner and at the level proposed by the applicant may generate noise, vibration, fumes and odor (but not electrical interference or glare) those impacts are insignificant and insubstantial, and are far lower than the level of disturbance that would normally occur in the district due to farming and forestry practices. The noise, vibration, fumes and odor associated with the proposed use are also the same types of impacts that are allowed and expected on every other county road, and the number of vehicle trips expected to be associated with the proposed use is an insignificant increase in the current use of the county road. Claims made by the opponents of potential impact to their residential uses due to use of the county road for access to the subject property, are overstated.

The parking and dispatch of the vehicles and equipment will be conducted substantially within or near the existing barn and surrounding parking area that are located approximately 1,000 feet from the nearest residence. The vehicles are up to date with DEQ noise requirements, and there is no vehicle weight limit on the county road other than the limits on vehicle axle weights imposed by state law. The proposed use is unlikely to cause any disturbance beyond the impacts normally associated with the farm, forest and residential uses that normally occur in the AF-10 zone.

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

As described above, “small-scale or more intensive farm and forestry activities” are allowed and

are common in the AF-10 zoning district. The level of traffic and parking that normally occurs in the AF-10 zoning district is low. At the same time, the uses common in the zone can generate significant traffic and require significant parking, especially during harvest.

With regard to parking, under ORS 215.311(6), in forest zones and mixed farm and forest zones, generally, “parking up to seven dump trucks and up to seven trailers is allowed.” The statute suggests that the parking of seven dump trucks and trailers in forest and mixed farm and forest resource zones is “normal.”

In comparison, the proposed use will generate traffic that the County Public Works Director and County Engineer characterized and quantified as insignificant given the level of traffic generally present on county roads and given the very low levels of traffic on Fox Ridge Road, a dead end.

The opponents raised concerns regarding the potential wear and tear on Fox Ridge Road depending upon the frequency of trips conducted by the two “standard sized vehicles” but more particularly the two dump trucks and other excavating equipment parked and stored on the property. Those concerns have been addressed elsewhere in these findings. Commuting traffic will be minimal, as the applicant has stated that three to four full, part-time, or seasonal people will be employees of the business and the bulk of the work is done off-site. Customers will not visit the site. The traffic expected to be generated by the proposed home occupation, and the parking necessary to conduct it, are not “beyond what normally occurs” in the AF-10 zone or beyond what is expected and allowed in the AF-10 zone considering the purpose statement of the zoning district.

Traffic expected to be generated by the proposed use, and safety, road maintenance and livability impacts are the central concerns of the opponents. As stated, the Board believes that those concerns and the opponents’ fears are overstated. A condition of approval allows the permit to be reopened for review in one year, and every two years thereafter, to ensure that the applicant is not generating impacts beyond what is “normal” in the AF-10 zone. As noted in Finding B.5 above, the County Engineer has stated that the storage yard type of activity proposed is probably incidental to the current loads and does not warrant the effort to determine their impact.

The Board also notes that the AF-10 zone allows other activities, as both permitted and conditional uses, that may result in a traffic impact far greater than that proposed by the applicant. For example, permitted uses in this zone include “intensive” farm and forest operations, public and private parks, and horse boarding facilities. In addition, a winery and tasting room can be approved as a conditional use.

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

Clients or patrons are not expected to visit the site. The parcel is large enough to provide an adequate area for off street parking and internal circulation, as explained elsewhere in these findings, and will not be located in any required yard.

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

One on-premises sign not exceeding 12 square feet in size could be installed, pursuant to YCZO Section 1006. The applicant has indicated that a sign is not proposed.

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

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

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

P. Pursuant to the nonconforming use provisions of Section 1205 of this ordinance, any proposed expansion or change in the nature of a home occupation in operation prior to adoption of this ordinance shall be subject to the requirements of this section and shall require a conditional use permit. In the event of denial of such an application, the home occupation shall be allowed to continue at its original scale and nature as a nonconforming use.

Subsections (M), (N), (O) and (P) are regulations that apply to all home occupations. To the extent necessary, they have been incorporated into the conditions of approval.

D. CONCLUSION

The request is for a conditional use approval for a home occupation to operate an excavating business in an existing shop building. With conditions, the request complies with the conditional use criteria listed in Section 1202.02, and with the home occupation criteria listed in Section 1004 of the Yamhill County Zoning Ordinance.

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CONDITIONS OF APPROVAL

The request in Docket C-13-16 for conditional use approval for a home occupation to operate an excavating business in an existing shop building on Tax Lot 4513-1000 is hereby approved, subject to the following conditions:

1. The parking and storage of the excavating equipment and vehicles shall be substantially conducted inside the building and the existing parking on the property identified in the application. There shall be no visible evidence of the conduct of the home occupation from any road or adjacent property.
2. Any outdoor storage areas shall be effectively screened from neighboring properties by landscaped vegetation or by a sight obscuring fence.
3. The applicant shall obtain any required building and septic permits and inspections prior to use of the barn for operations in support of the excavating business.
4. The use shall be operated by a resident of the property and employ no more than five (5) full or part-time employees.
5. The home occupation is personal to the applicant, and may not be transferred upon sale of the property.
6. The applicant shall have the access inspected and approved by the McMinnville Rural Fire Protection District.
7. Within one year of final approval, a single family dwelling shall be established (permitted and inspected) on-site and someone working in the business shall occupy the dwelling.
8. A new address shall be assigned for use of the most easterly driveway on the parcel.
9. The hours of operation shall be predominantly from Monday thru Saturday, 7:00 AM to 6:30 PM.
10. A review of the home occupation may be required one year following the date of final approval. The operation may be renewed for an additional two years if it continues to comply with the requirements of Section 1004.01 of the YCZO and the conditions of approval. A fee may be charged for renewal of the permit.
11. This approval is valid for one year following the date of final approval, and shall expire at that time unless the use has been initiated.
12. Modification of any of the above conditions requires approval under Section 1202.05 of the Yamhill County Zoning Ordinance. Violation of any of the above conditions may result in revocation of the conditional use permit with the process detailed in Section 1202.07 and 1202.08 of the Yamhill County Zoning Ordinance.