



NOTICE OF DECISION ON A TYPE II LAND USE PERMIT

Decision: Approved with Conditions

Permit Type: Home Occupation

File No. Z0375-23-HO

Proposal: Renewal of a Home Occupation permit for Auto Pilot Auto Group LLC which sells and does minor repairs on automobiles.

Decision Date: December 14, 2023

Deadline for Filing Appeal: December 26, 2023, at 4:00 pm

Unless appealed, this decision is effective on December 26, 2023 at 4:00 pm.

Issued By: Mya Ganzer, Planner I, MGanzer@clackamas.us

Assessor's Map & Tax Lot(s): T2S R3E Section 35 Tax Lot 00520

Site Address: 17417 S Eaden Rd, Oregon City, OR 97045

Applicant: Darren Smith

Owner of Property: Richard Snider and Connie Snider

Zoning: RRFF-5

Community Planning Organization (CPO) for Area:
Redland-Fischers-Mill-Viola

Community Planning Organizations (CPOs) are part of the county's community involvement program. They are advisory to the Board of County Commissioners, Planning Commission and Planning and Zoning Division on land use matters affecting their communities. CPOs are notified of proposed land use actions and decisions on land within their boundaries and may review these applications, provide recommendations, or file appeals. If this CPO currently is inactive and you are interested in becoming involved in land use planning in your area, please contact Clackamas County Community Engagement at 503-655-8751.

OPPORTUNITY TO REVIEW THE RECORD: The submitted application is available for review online at <https://accela.clackamas.us/citizenaccess/>. Select the Planning tab and enter the file number to search. Select Record Info and then select Attachments from

the dropdown list, where you will find the submitted application. The complete application file is available for inspection at no cost by contacting the Planner listed on the first page of this decision. Copies of all documents may be purchased at the rate of \$2.00 per page for 8 1/2" x 11" or 11" x 14" documents, \$2.50 per page for 11" x 17" documents, \$3.50 per page for 18" x 24" documents and \$0.75 per sq ft with a \$5.00 minimum for large format documents.

APPEAL RIGHTS: Any party disagreeing with this decision, or the conditions of approval, may appeal this decision to the Clackamas County Land Use Hearings Officer. An appeal must include a completed County Appeal Form and a \$250.00 filing fee and must be **received** by the Planning and Zoning Division by the appeal deadline identified on the first page of this decision.

Appeals may be submitted in person during office hours (8:00 am to 4:00 pm Monday through Thursday, closed Friday and holidays). Appeals may also be submitted by email or US mail.

The County Appeal Form is available at www.clackamas.us/planning/supplemental.html. Any party or parties appealing this decision may withdraw their appeal at any time prior to the hearing or final decision by the Hearings Officer. A party wishing to maintain individual appeal rights may file an individual appeal and pay the \$250.00 fee, even if an appeal by another party or parties has been filed.

A person who is mailed written notice of this decision cannot appeal this decision directly to the Land Use Board of Appeals under ORS 197.830.

APPLICABLE APPROVAL CRITERIA: This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Section(s) 202, 316, 822 and 1307.

PUBLIC AND AGENCY COMMENTS:

Notice was sent to applicable agencies and owners of property within 500 feet. Comments received relating to the applicable approval criteria listed above are addressed in the Findings Section. Comments from the following were received:

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.

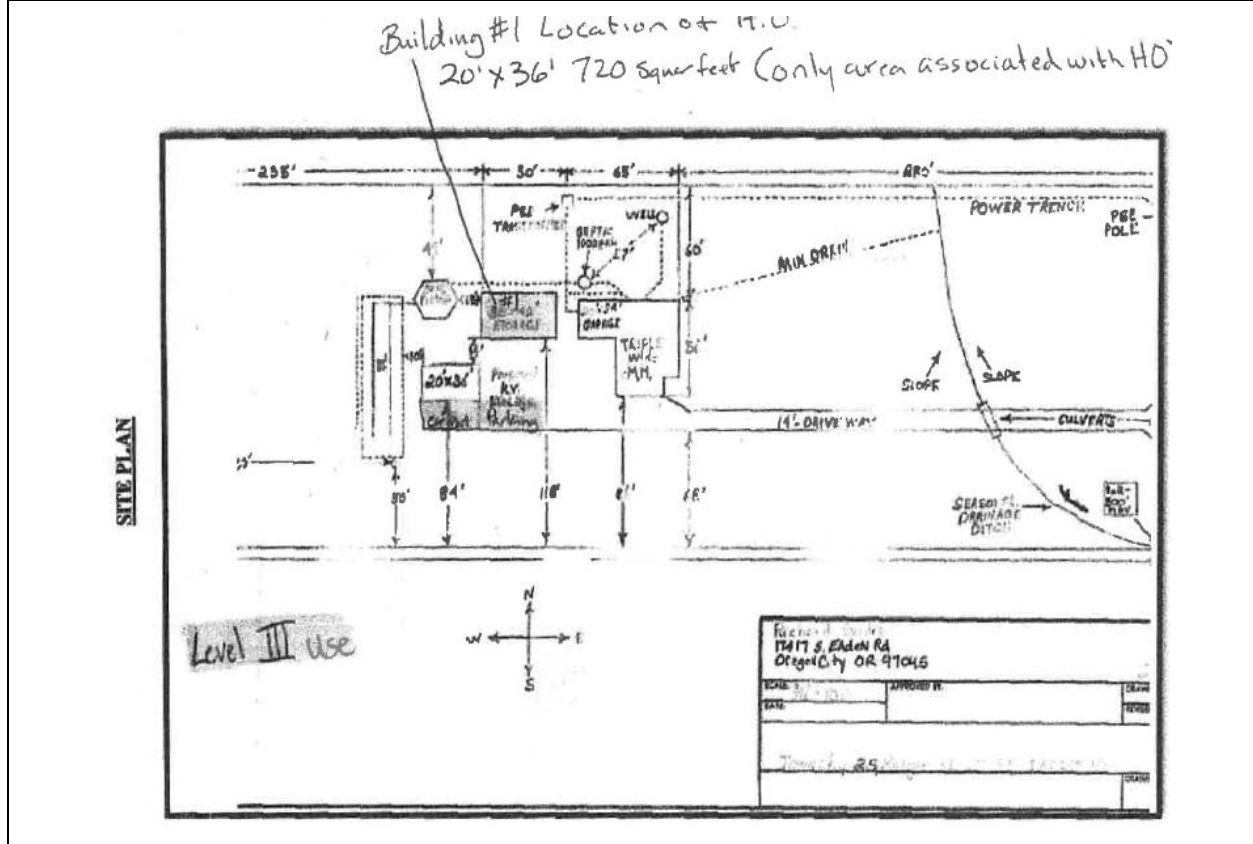
Clackamas County is committed to providing meaningful access and will make reasonable accommodations, modifications, or provide translation, interpretation, or other services upon request. Please contact us at 503-742-4545 or email DRenhard@clackamas.us.

503-742-4545: ¿Traducción e interpretación? | Требуется ли вам устный или письменный перевод? | 翻译或口译? | Cần Biên dịch hoặc Phiên dịch? | 번역 또는 통역?

Location Map



Site Plan



CONDITIONS OF APPROVAL

The conditions listed are necessary to ensure that approval criteria for this land use permit are satisfied. Where a condition relates to a specific approval criterion, the code citation for that criterion follows in parentheses.

1. Approval of this land use permit is based on the submitted written narrative and plan(s) filed with the County on 9/26/2023 and additional documents submitted on 11/16/23. No work shall occur under this permit other than which is specified within these documents, unless otherwise required or specified in the conditions below. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of any approval resulting from the decision described herein.
2. Approval of the home occupation is subject to the following requirements of the Zoning and Development Ordinance (ZDO) Section 822:
 - a. The operator shall reside full-time in a lawfully established dwelling unit on the tract on which the home occupation is located.
 - b. The home occupation shall have no more than five employees.

- c. Noise shall be regulated as follows:
- From 8:00 a.m. until 6:00 p.m., the average peak sound pressure level, when measured off the subject property, of noise created by the home occupation shall not exceed the greater of 60 dB(A) or the ambient noise level. During all other hours, the home occupation shall not create noise detectable to normal sensory perception off the subject property.
 - Noise generated by vehicles entering or exiting the subject property, but not by idling vehicles, shall be exempt from Subsection 822.04(C)(1).
 - Subsection 822.04(C)(1) shall not apply to noise detectable on public rights-of-way and railroad rights-of-way.
- d. The home occupation shall not create vibration, glare, fumes, or odors detectable to normal sensory perception off the subject property. Vehicles entering or exiting the subject property shall be exempt from this standard, but idling vehicles shall not.
- e. The home occupation shall not create visual or audible electrical interference in any radio, television, or other electronic device off the subject property, or cause fluctuations in line voltage off the subject property.
- f. No outside storage, display of goods or merchandise visible from outside the enclosed building space in which such goods or merchandise are stored, or external evidence of the home occupation shall occur, except as specifically allowed by Subsection 822.04.
- g. Signs for the home occupation shall comply with ZDO Section 1010, *Signs*.
- h. Vehicles associated with the home occupation shall not be stored, parked, or repaired on public rights-of-way. Parking spaces needed for employees or customers of the home occupation shall be provided in defined areas of the subject property. Such areas shall be accessible, usable, designed, and surfaced for parking.
- i. Hazardous materials shall not be present on the subject property in quantities greater than those normally associated with the primary uses allowed in the applicable zoning district, or in quantities greater than those exempt amounts allowed by the current edition of the Oregon Structural Specialty Code, whichever is less.
- j. A maximum of 1,500 square feet of accessory building floor space may be used for the level three home occupation
- k. The level three major home occupation shall not generate more than 30 vehicle trips per day

- I. The maximum number of vehicles that are associated with a level three major home occupation and located on the subject property shall not exceed five at any time, including, but not limited to, employee vehicles, customer vehicles, and vehicles to be repaired. Vehicles to be repaired shall be located within an enclosed building or in an area not visible from off the subject property. No more than one of the five vehicles permitted to be located on the subject property at one time shall exceed a gross vehicle weight rating of 11,000 pounds.

FINDINGS

The findings below identify the standards and criteria that are relevant to this decision, state the facts relied upon in rendering the decision, and explain the justification for the decision.

1. **PROJECT OVERVIEW:** This Home Occupation involves the selling and cosmetic repairs of automobiles for sale in an accessory structure on the property. The home occupation is associated with Auto Pilot Auto Group LLC and has been in operation at this location since 2017, approved in file Z0109-17.

2. **ZDO Section 316 Rural Residential Farm Forest 5-acre**

Subsection 316.03 of Table 316-1 allows for home occupations subject to Section 822 of the Clackamas County Zoning Development Ordinance.

Finding: The applicant has provided information to demonstrate compliance with Section 822.

3. **ZDO Section 202 Definitions**

Home Occupation: An occupation or business activity that results in a product or service and is conducted, in whole or in part, in a dwelling unit, an accessory building normally associated with primary uses allowed in the subject zoning district, or both. Home occupations do not include garage sales, yard sales, holiday bazaars, or home parties which are held for the purpose of the sale or distribution of goods or services unless such sales and parties are held more than six times in a calendar year or operate more than 24 total days in a calendar year.

Finding: The applicant is proposing to continue to use a detached garage building to store and do cosmetic repairs on automobiles intended for sale. The

structure is identified as an allowed use in Table 316-1 and the structure and use remain the same as in previous applications. This criterion is met.

4. **ZDO Section 822 Home Occupations**

822.04 Level Two and Three Major Home Occupations

A major home occupation requires review as a Type II application pursuant to Section 1307, *Procedures*, and shall be subject to the following standards and criteria:

A. **Operator**: The operator shall reside full-time in a lawfully established dwelling unit on the tract on which the home occupation is located.

Finding: The Home Occupation has two operators, Darren Smith, who lives on the property, and Richard Snider, who is one of the property owners. This criterion is met.

B. **Employees**: The home occupation shall have no more than five employees.

Finding: The Home Occupation has two employees, the two operators, as indicated by the applicant. The scope of the Home Occupation does not indicate that this, or the five employees allowed, would be exceeded. This criterion is met.

C. **Noise**: Noise shall be regulated as follows:

1. From 8:00 a.m. until 6:00 p.m., the average peak sound pressure level, when measured off the subject property, of noise created by the home occupation shall not exceed the greater of 60 dB(A) or the ambient noise level. During all other hours, the home occupation shall not create noise detectable to normal sensory perception off the subject property.
 - a. Noise generated by vehicles entering or exiting the subject property, but not by idling vehicles, shall be exempt from Subsection 822.04(C)(1).
 - b. Subsection 822.04(C)(1) shall not apply to noise detectable on public rights-of-way and railroad rights-of-way.
2. A noise study may be required to demonstrate compliance with Subsection 822.04(E)(1). If a noise study is required, measurements shall be made with a sound level meter. The sound level meter shall be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter, as specified in ANSI Standard 1.4-1971. The sound level meter shall contain at least an A-weighted scale, and both fast and slow meter response capability. Personnel making measurements shall have completed training in the use of the sound level meter, and measurement procedures consistent with that training shall be followed.

Finding: The Home Occupation has been in operation since 2017 and no excessive noise complaints have been brought to the attention of staff. The

applicant is proposing the same level of operation as indicated in the 2017 and 2020 application. Staff finds there is no evidence indicating an increase in noise level and that the previous noise levels will be exceeded. This criterion is met.

- D. Vibration, Glare, Fumes, and Odors: The home occupation shall not create vibration, glare, fumes, or odors detectable to normal sensory perception off the subject property. Vehicles entering or exiting the subject property shall be exempt from this standard, but idling vehicles shall not.

Finding: Applicant proposes the continued use of power hand tools for polishing and minor repairs. Due to the small nature of these types of power tools, they will not generate vibration, glare, fumes, or odors. Staff have previously found meeting this standard feasible and no changes in the services and scope of the Home Occupation are proposed in this application. This criterion is met.

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

Finding: The power tools used in the Home Occupation are minor in scope and will not cause electrical interference. Staff previously found it feasible for the home occupation to comply with standards in 822.05(E) if business activities and storage continue to take place in Building #1 identified on the site plan. No changes in the services and scope of the Home Occupation are proposed in this application. This criterion is met.

- F. Storage and Display: No outside storage, display of goods or merchandise visible from outside the enclosed building space in which such goods or merchandise are stored, or external evidence of the home occupation shall occur, except as specifically allowed by Subsection 822.04. Notwithstanding this provision, business logos flush-mounted on vehicles used in the daily operations of the home occupation are allowed.

Finding: Applicant states all materials and vehicles will be stored inside Building #1. This was previously stated, and approved, in 2017 and 2020 and no changes are proposed. This criterion is met.

- G. Signs: Signs shall be permitted pursuant to Section 1010, *Signs*.

Finding: Applicant indicates that the sign will continue to comply with Section 1010.06(B). The applicant proposes to continue to use the sign previously approved which is an 11"X7" posted inside the window of Building #1. This is well within the sign standards. This criterion is met.

- H. Parking: Vehicles associated with the home occupation shall not be stored, parked, or repaired on public rights-of-way. Parking spaces needed for employees or customers of the home occupation shall be provided in defined

areas of the subject property. Such areas shall be accessible, usable, designed, and surfaced for parking.

Finding: Parking space has been identified in front of building #3, which is used for personal storage. Aerial photos of the property indicate that this space is surfaced, usable, designed, and accessible for parking. Building #3 is at the end of the property approximately 400 feet driveway so vehicles will be well out of the public right-of-way. This criterion is met.

- I. Access: If the subject property takes access via a private road or access drive that also serves other properties, evidence shall be provided, in the form of a petition, that all other property owners who have access rights to the private road or access drive agree to allow the specific home occupation described in the application. Such evidence shall include any conditions stipulated in the agreement. A new petition shall not be required for a renewal application.

Finding: The property is accessed from a public road, S Eaden Road. There is no evidence of any easement or neighboring access on the property. This criterion is not applicable.

- J. Type of Buildings: Notwithstanding the definition of home occupation in Section 202, *Definitions*, in the AG/F, EFU, and TBR Districts, the home occupation shall be operated substantially in the operator's dwelling or other buildings normally associated with uses permitted in the applicable zoning district.

Finding: The property is zoned RRFF-5. This criterion is not applicable.

- K. Hazardous Materials: Hazardous materials shall not be present on the subject property in quantities greater than those normally associated with the primary uses allowed in the applicable zoning district, or in quantities greater than those exempt amounts allowed by the current edition of the Oregon Structural Specialty Code, whichever is less.

Finding: The applicant states that hazardous materials will not exceed those normally associated with household cleaning supplies. Staff previously found this feasible, and no changes are proposed. This criterion is met.

- L. Level Two and Three Major Home Occupations: Major home occupations are classified as level two or three. A level three major home occupation may be established only if at least 50 percent of the lots of record abutting the subject property are larger than two acres; however, a renewal application shall be evaluated based on the lot size analysis first applied to the home occupation. A lot of records are abutting if it is contiguous to the tract on which the home occupation is proposed, or if it is directly across an access drive, private road, or public or county road with a functional classification below that of a

collector. The following standards differ depending on whether the proposed home occupation is a level two or three:

Finding: The property is in the Watts Ranchettes subdivision #1655. All the abutting lots, also a part of the subdivision, are over 2 acres in size. The site qualifies for a Level 3 Home Occupation and will be reviewed as such.

1. Building Floor Space: The home occupation may be conducted in a dwelling unit, but—except in the case of a bed and breakfast homestay—is limited to incidental use thereof. For a level two major home occupation, a maximum of 500 square feet of accessory building floor space may be used for the home occupation, and for a level three major home occupation, a maximum of 1,500 square feet of accessory building floor space may be used for the home occupation. If only a portion of an accessory building is authorized for use in the home occupation, a partition wall at least seven feet in height, or a height as required by the County Building Codes Division, whichever is greater, shall separate the home occupation space from the remainder of the building. A partition wall may include a door, capable of being closed, for ingress and egress between the home occupation space and the remainder of the building.

Finding: Applicant indicates that building #1 is the only structure associated with the Home Occupation. It is 720 sq feet. The change of occupancy of this structure was a previous condition of approval and it has been met, as indicated in B0214917. This structure is a permitted structure and allowed use, and has commercial occupancy required for a Home Occupation. This criterion is met.

2. Traffic: A level two major home occupation shall not generate more than 20 vehicle trips per day, and a level three major home occupation shall not generate more than 30 vehicle trips per day.

Finding: The Home Occupation engages in automobile sales with no more than 4 vehicles being stored for sale on site at one time. This indicates that the maximum potential of one-way trips would be close to 16 if every car stored gets dropped off and picked up and sold in the same day. Due to the nature of automobile sales and the applicant's statement regarding the number of stored vehicles, staff find it feasible for vehicle trips to remain under 30 a day. This criterion is met.

3. Vehicles: Vehicles shall be regulated as follows:
 - a. Level Two: The maximum number of vehicles that are associated with a level two major home occupation and located on the subject property shall not exceed four at any time, including, but not limited to, employee and customer vehicles. A level two major home occupation shall not involve the use, parking, storage, or repair of any vehicle exceeding a gross vehicle weight rating of 11,000 pounds, except deliveries by parcel post, United Parcel Service, or similar in-town

delivery service trucks, and such deliveries shall be limited to no more than one per day.

- b. Level Three: The maximum number of vehicles that are associated with a level three major home occupation and located on the subject property shall not exceed five at any time, including, but not limited to, employee vehicles, customer vehicles, and vehicles to be repaired. Vehicles to be repaired shall be located within an enclosed building or in an area not visible from off the subject property. No more than one of the five vehicles permitted to be located on the subject property at one time shall exceed a gross vehicle weight rating of 11,000 pounds.

Finding: Applicant states that the Home Occupation will include a maximum of 4 vehicles associated with the Home Occupation will be on site. Since the applicant has previously indicated that the vehicles will be stored within Building #1 which is 720 square feet, which is the approximate size for a 4-car garage, staff finds it feasible that the home occupation will comply with this requirement. The nature and scope of the Home Occupation indicate that the amount of 4 vehicles will not be exceeded. This criterion is met.

4. Prohibited Uses: The following uses shall be prohibited as a major home occupation:
 - a. Marijuana production;
 - b. Marijuana processing;
 - c. Marijuana wholesaling;
 - d. Marijuana retailing;
 - e. As a level two major home occupation:
 - i. Repair of motorized vehicles and equipment, including the painting or repair of automobiles, trucks, trailers, or boats;
 - ii. Towing and vehicle storage business; and
 - iii. Any use that requires a structure to be upgraded to a more restrictive use, under the current edition of the Oregon Structural Specialty Code, than an automobile repair shop with open flame; and
 - f. As a level three major home occupation, any use that requires a structure to be upgraded to a more restrictive use, under the current edition of the Oregon Structural Specialty Code, than aircraft engine repair.

Finding: No prohibited activities are proposed. There is no evidence that the Home Occupation includes any of the activities. This criterion is met.