



Community Development Department

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STAFF REPORT

DATE: November 16, 2015

TO: Deschutes County Board of Commissioners

FROM: Peter Gutowsky, Planning Manager
Paul Blikstad, Senior Planner

RE: Work Session and Deliberation: Limited Use Permit (File No. 247-15-000001-LUP; 247-15-000298-A)

The Board of County Commissioners (Board) is conducting a work session on November 23 in preparation for their deliberation scheduled on November 30 for File No. 247-15-000001-LUP; 247-15-000298-A.

I. Background

The applicants submitted a Type 2 Limited Use Permit application to allow up to 6 annual weddings to be held on a 54-acre property, Exclusive Farm Use (EFU-TRB) zone, identified on County Assessor's Map 16-12-32, as tax lots 301 and 314. Tax lot 314 would host the weddings. This tax lot contains a dwelling, but no one resides in it. Hana Cooper resides in the dwelling on Tax lot 301.

Hearings Officer Stephanie Hicks on May 27, 2015 denied the application for a Limited Use Permit for commercial events facility in the Exclusive Farm Use Zone based on:

- Primary Use: Failing to meet its burden of proof demonstrating the primary use of the property over the last three years is a "farm use."
- Trees on Property: Not demonstrating the trees on the property were planted and grown on the subject property and demonstrating there is a connection between the trees and wedding events.
- Projected Revenue: Proposed commercial operations exceed 40% of the total projected farm use revenue on the subject property, a standard established by previous Hearings Officer decisions for meeting the incidental and subordinate criteria.

II. Issues Requiring Board Decision

The Board will need to determine if there is substantial evidence for the following:

- Is the primary use of the property a "farm use?"

- If “farm use” is the primary use, what is the gross farm income?
- If “farm use” is the primary use, is there a connection between harvesting trees on site and the wedding events?

1. Is the primary use of the property a “farm use?”

DCC 18.04.030 defines “farm use” in relevant part as the “current employment of land for the *primary purpose of obtaining a profit in money* by raising, harvesting and selling crops or by the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof.” (italicized emphasis added.)

Hearings Officer Decision

The Hearings Officer found that the primary use of the property over the last three years since the property has been used for wedding venues and vacation rentals is not a “farm use.” The record shows that income received and projected from these commercial activities is more than that receiving from farming, and that which can be projected to be earned in the future. The Hearings Officer also noted that to support applications for commercial uses in the EFU zone, three years of financial records are recommended so that findings may be made concerning income trends and establishing parameters.

Written Testimony Since Board Hearing

With the exception of a Schedule F, the applicant provided no additional evidence addressing hay sales. Regarding tree sales, the applicant, besides the Schedule F, provided a typed written invoice with copies of checks in the amount of \$4,700, \$2,550, and \$8,165 for 2015.

The applicant also provided a typed itemized list of income derived from vacation rental by owner (VRBOs) and weddings for 2014 (\$22,150) and 2015 (\$29,750).¹

Staff Comment

The applicant did not provide a minimum of three years of financial record to establish income trends for hay or tree sales. For comparison, the three applications relying on income to meet the incidental and subordinate standard, *Downs, Miller, and Brown* submitted farm income evidence as follows:

Downs: Included in the record the dollar amount of hay from the subject property for the years 2009, 2010 and 2011. Applicant included an affidavit that he expects to gross between \$18,000 to \$22,500 in hay sales from the farm use and that he will not charge more than \$2,000 for a wedding or commercial event.

Miller: Submitted into the record evidence of his gross farm income and income from the alpaca boutique for 2007, 2008, 2009, 2010, 2011, 2012, 2013.

Brown: Submitted into the record evidence of his gross farm income for 2011, 2012, 2013, and 2014 in the form of correspondence from his accountant Sandra McGregor-Caverhill, CPA.

¹ This income in staff's opinion cannot be counted as farm income. Furthermore, if the Board ultimately approves the application, VRBOs cannot be coupled with a limited use permit since DCC 18.16.042(C)(7) states no agri-tourism and other commercial event or activity may begin before 7:00 a.m. or end after 10:00 p.m.

2. If “farm use” is the primary use, what is the gross farm income?

Hearings Officer Decision – Hay Sales

The Hearings Office found that the record supports a finding that **\$16,310** for sales of 65.25 tons of hay at a market rate of \$250 per ton could have been made from the property in 2014.

The applicant submitted a typewritten and handwritten list of 2014 hay sales from their Central Oregon operation (354 tons total). The lists show names of customers (where available), amount, price and barn from which the sales were made (e.g. main barn, my barn, Scott’s barn, Peg’s barn). The list is not broken out to identify the properties on which the hay was grown. None of the totals of hay sales from the four individually identified barns matches the \$16,310 the applicant alleges to have earned in 2014 from hay sales on the property. Adding the figures set forth on the list submitted by the applicant results in the following:

Main barn – \$24,509
My barn – \$18,893
Peg’s barn – \$29,317
Scott’s barn – \$13,882

The applicant did not submit purchase orders, billings, receipts, bank deposits or tax returns to support its calculation of hay sales in 2014.

Hearings Officer Decision – Tree Sales

The Hearings Officer found that substantial evidence in the record supports a finding of **\$6,305** in tree sales was made by the applicant in 2014 from farm use sales.

The only evidence presented by the applicant is a handwritten ledger of Craigslist sales in 2014 and sales from two 2014 Spring Sale events, totaling \$40,310. The ledger does not include any information regarding customers, purchase orders, dates of sales, or billing information. The applicant presented no evidence of bank deposits from the tree sales, and no tax returns filed with the IRS. The “Craigslist” sales are broken down on the ledger to identify the stock sold, number and pricing. However, the entries for “Spring Tree Sale 1st” and “Spring Sale 2nd” are identified merely with a single line entry of the revenue allegedly made (\$21,775 and \$12,230, respectively), without any identification of the number and types of trees sold, the prices for such trees, or the customers to whom the trees were allegedly sold. Together, these two sales are alleged to have brought in \$34,005. Without more information, the Hearings Officer finds the applicant’s evidence of the Spring Sales not to be credible in light of all the evidence in the record. Moreover, the applicant did not present any evidence of tree sales in 2015, or tree sales in 2011, 2012 or 2013. As discussed in the findings above, substantial evidence in the record shows that sales of trees is incidental to the primary farm use, which is growing and harvesting hay.

Written Testimony Since Board Hearing – Hay Sales

With the exception of a Schedule F, the applicant provided no additional evidence addressing hay sales.

Written Testimony Since Board Hearing– Tree Sales

The applicant provided the following submittals to address tree sales:

- Pictures of aspens
- Typed written invoice for tree sales with copies of checks in the amount of:
 - \$4,700
 - \$2,550
 - \$8,165
- Schedule F

3. If “farm use” is the primary use, is there a connection between harvesting trees on site and the wedding events?

Written Testimony Since Board Hearing

The applicant provided the following submittals to address tree sales:

- Testimonial letters
- Photo of a married couple with large trees for wedding backdrops
- Photo of the dance floor with some of the trees for sale in pots along the back, framing the wedding seating area
- Letter from Mark Jarvis acknowledging tree varieties for sale at a wedding
- Letter from Andy Smith, arborist, stating he attended a wedding at the Cooper Ranch noticing the trees for sale sign, prompting him to recognize the ranch as a local resource for future tree purchases
- Spruce or Fir Tip syrup recipe as a future item to be incorporated into wedding events
- Pine Needle Tea recipe as a future item to be incorporated into wedding events
- Picture of a Bobcat pulling up Colorado Spruce Trees to be used to border the wedding area and frame the alter
- Pictures of the set up incorporating the Colorado Blue Spruce (as an example) as the backdrop for the wedding ceremony

III. Evolution of Relevant County Decisions

Table 1 and Matrix 1 (see page 8) summarize seven decisions that are relevant to the current application.

Table 1 – Relevant Land Use Decisions

Land Use Application	Overview
<u>Type 2 Limited Use Permit</u> (LUP-12-4; Duggan)	Commercial events to allow up to six annual weddings on an approximately 200-acre parcel in the EFU-TE Zone. Procedurally, County staff issued an administrative decision approving LUP-12-4 in August 2012.
<u>Type 2 Limited Use Permit</u> (LUP-12-2; Downs)	Commercial events to allow up to six annual weddings on an approximately 40-acre parcel in the EFU-AL Zone. Procedurally, County staff issued an administrative decision. The Board called up for review staff's findings and decision and after conducting a public hearing, approved LUP-12-2 in October 2012.

Land Use Application	Overview
<u>Type 2 Limited Use Permit</u> (LUP-13-1; <i>Ranch at the Canyons</i>)	Commercial events to allow up to six annual weddings on an approximately 1,700-acre parcel in the EFU-TE Zone. Procedurally, County staff issued an administrative decision approving LUP-12-4 in April 2013. This permit was never exercised.
<u>Conditional Use Permit and Site Plan Review</u> (CU-13-31, SP-13-19; <i>Newell</i>)	Commercial use in conjunction with farm use, to hold up to 3 horse shows annually on an approximately 20-acre parcel in an EFU-TRB Zone. Procedurally, a Hearings Officer issued a decision approving CU-13-31, SP-13-19 in April 2014.
<u>Conditional Use Permit</u> (CU-14-7; <i>Miller</i>)	Commercial use in conjunction with farm use, to sell alpaca products and incidental items on an approximately 43-acre property (two contiguous tax lots) in an EFU-TE Zone. Procedurally, a Hearings Officer issued a decision approving CU-13-31, SP-13-19 in October 2014.
<u>Type 2 Limited Use Permit</u> (247-14-000020-LUP; <i>Anspach</i>)	Commercial events to allow up to six annual weddings on an approximately 200-acre parcel in the EFU-TE Zone. Procedurally, County staff issued an administrative decision approving 247-14-000020-LUP in March 2015.
<u>Type 2 Limited Use Permit</u> (247-15-000061-A, 247-14-000202-LUP; <i>Brown</i>)	Commercial events to allow up to six annual weddings on an approximately 39-acre parcel in the EFU-TRB Zone. Procedurally, County staff issued an administrative decision denying the application. Applicant appealed and a Hearings Officer, after conducting a public hearing, approved 247-14-000202-LUP in May 2015.

The *Duggan*, *Downs*, *Ranch of the Canyon*, *Anspach* and *Brown* decisions are Type 2 Limited Use Permits, each requesting up to six weddings, subject to Deschutes County Code (DCC) 18.16.042, Agri-tourism and other Commercial Events or Activities Limited Use Permit.² The other two (*Newell*; *Miller*) are Conditional Use Permits, requesting commercial activities that are in conjunction with farm use. Unlike the Limited Use Permits, they are subject to DCC 18.16.030.³ The Hearings Officer in *Newell* and *Miller* cited recent case law, *Friends of Yamhill County*, 255 Or App 636, 651, 298 P 3d 586 (2013). Commercial activities in “conjunction with farm use” is not defined by statute, and is determined on a case by case, fact-specific basis. *Friends of Yamhill* explains how to determine whether proposed uses are properly considered commercial activities in conjunction with farm use.⁴

Duggan, *Ranch of the Canyons*, and *Anspach* received administrative decisions that did not factor income from the wedding event compared to farm income. Those decisions in retrospect were done in error. Starting with the *Downs* decision, the “incidental and subordinate” standard expanded, adding a fourth prong comparing income from commercial events and activities with

² Chapter 18.16. Exclusive Farm Use Zones. <http://weblink.deschutes.org/public/0/doc/78730/Page1.aspx>

³ Ibid.

⁴ Four elements of such uses are identified: (1) the commercial activity must be related to a farm use occurring the subject property; (2) the commercial activity must be incidental and subordinate to the farm use; (3) the commercial use must enhance the quality of the agricultural enterprise; and (4) the commercial use must promote the policy of preserving farm land for farm use.

farm use income.⁵ The *Miller* and *Brown* hearings officer decisions further revamped the “incidental and subordinate criteria” by providing additional guidance in determining whether the proposed weddings/events facility will be “lower in rank or importance or secondary to the farm use.” For Limited Use Permits the three notable criteria are listed below. The “incidental and subordinate” criteria is number three (#3).

1. Types and Operating Characteristics of Proposed Commercial Events and Activities
2. How the Proposed Commercial Events and Activities will be Related to and Supportive of Agriculture
 - Is there a farm use as defined in ORS 215.203(2) on the property
 - Weddings and other events are physically and/or economically logically connected to a farm use, and specifically to the existing operation
 - Participants at the wedding/events support the farm use through payment of fees, purchase, of farm products and services from the applicant
3. How the Proposed Commercial Events and Activities will be Incidental and Subordinate to the Existing Farm Use on the Property
 - Prong 1: Relative Timing and Duration of Wedding Events vis-à-vis Farm Use Operations
 - Prong 2: Intensity of the Facility Use in terms of Physical Space Required for Wedding Events
 - Prong 3: The types and locations of all permanent and temporary structures, access and egress, parking facilities, and sanitation and solid waste to be used in connection with agri-tourism or other commercial events or activities
 - Prong 4: Income from Wedding Events/Commercial Use Compared to Farm Use Income

As the Board determined in the *Downs* decision, “requiring the use of a farm product(s) from the subject property at each event is necessary to ensure that commercial events or activities are related to and supportive of agriculture.” The Board also found in *Downs* the proposed weddings and commercial events would be incidental and subordinate to their existing farm use in part because:

“The gross income of the farm use (grass hay) is \$18,000 to \$22,500 per year and the applicant’s charge for each event (\$2,000) times the 6 events (\$12,000) is less than 50% (35 to 40%) of the overall gross farm income.”
(Bold emphasis added.)

In applying the “incidental and subordinate” standard in the aforementioned *Miller* and *Brown* decisions, the hearings officer examined both the physical space for and income from the proposed commercial use. In *Brown*, a Hearings Officer interpreted the phrase “related to and supportive of agriculture” in the context of “commercial events and activities” under Section 18.16.042. In that decision, the Hearings Officer relied on the *Miller* decision and others, to rule that a commercial event or activity could be considered “related to and supportive of” farm use on the subject property solely because it provides supplementary income to the farmer (Underlined emphasis added).

⁵ Outside of *Downs*, the other two Limited Use Permits, because they consisted of large acreage (Duggan – 200 acres; Ranch of the Canyons - 1,700 acres), were not subject to Prong 4.

IV. Board Options

Staff provided Matrix 2 (see page 15) for the Board to assist them in evaluating the Limited Use Permit burden of proof and formulating a decision.

V. Public Hearing

The Board conducted a public hearing on October 26, 2015. The written record was left open until November 2, with a one week rebuttal period for everyone who has standing concluding on November 9.

VI. Additional Testimony and Rebuttal

The following individuals' submitted written testimony into the record from October 26 to November 2:

- Ralph and Linda Moskowitz's documents dated October 26 and November 2 (Attachment A)
- Paul Cooper's documents dated October 26, October 28, November 1, and November 2 (Attachment B)
- Phil Renyer (Attachment C)
- Charles Brown (Attachment D)
- Oregonians in Action (Attachment E)

These individuals' provided rebuttals by November 9:

- Charles Brown (Attachment F)
- Debbie Farmer (Attachment G)
- Connie Marshall (Attachment H)
- Linda Moskowitz (Attachment I)
- Sally Curey (Attachment J)
- Paul Cooper (Attachment K)

Matrix 1

Matrix 1

Commercial Activity or Events in Conjunction with Farm Use Matrix

Land Use Decision	DCC 18.16.042: Agri-tourism and Other Commercial Events or Activities Limited Use Permit		
<p>LUP-12-4; Duggan (August 2012)</p>	<p><u>Agri-tourism Finding:</u></p> <p>Staff found commercial event and activities must be related to and supportive of agriculture.</p>	<p><u>Economically Connected to Farm Use Finding:</u></p> <p>Staff found based on substantial evidence in the record that the proposed commercial weddings are related to and supportive of seeking a profit in money by the sale of beef, and produce such as corn, potatoes and pumpkins for the following reasons:</p> <ul style="list-style-type: none"> ○ People choose to have weddings in pastoral setting with its green fields, irrigation sprinklers, hay bailers, and associated sounds ○ Weddings are economically connected to this farm by the importance of sales of the applicants farm products at such events in the overall farm operation. ○ Weddings provide supplemental income for the farm use on the property 	<p><u>Incidental and Subordinate Finding:</u></p> <p>Staff found the farm use is conducted year round (365 days). The total amount of time for the wedding is less than 5% of the overall total amount of time for farm production each year.</p> <p>The area occupied for the wedding events is less than two acres, which represents just 6.4% of the area used for farming.</p>
<p>LUP-12-2; Downs (October 2012)</p>	<p><u>Agri-tourism Finding:</u></p> <p>Board found commercial event and activities must be related to and supportive of agriculture.</p> <p>The use of a farm product(s) from the subject property at each event is necessary to ensure that commercial events or activities are related to and supportive of agriculture.</p>	<p><u>Economically Connected to Farm Use Finding:</u></p> <p>Board found based on substantial evidence in the record that the proposed commercial weddings are related to and supportive of agriculture, specifically to a hay operation for the following reasons:</p> <ul style="list-style-type: none"> ○ People choose to have weddings in pastoral setting with its green fields, irrigation sprinklers, hay bailers, and associated sounds ○ Hay sales from contacts made with potential customers from attendees at weddings (networking) ○ Grass hay has become a common feature in cooking recipes, food preparation, and in dishes ○ Caterer will prepare one dish using hay ○ Weddings provide supplemental income for the farm use on the property 	<p><u>Incidental and Subordinate Finding:</u></p> <p>The Board found the gross income from the farm use (grass hay) is \$18,000 to \$22,000 per year and the applicant's charge for each event is (\$2,000) times the 6 events (\$12,000) is less than 50% (35 to 40%) of the overall gross income.</p> <p>The Board found the total amount of time of 6 weddings is less than 5% of the overall time for farm production each year (183 days). The area occupied by the wedding events is less than 3 acres, including the parking area. The property has 34 irrigated acres, therefore the area used for weddings is less than 10%.</p>

Matrix 1

Land Use Decision	DCC 18.16.042: Agri-tourism and Other Commercial Events or Activities Limited Use Permit		
<p>LUP-13-1; Ranch at the Canyons (April 2013)</p>	<p><u>Agri-tourism Finding:</u></p> <p>Staff found commercial event and activities must be related to and supportive of agriculture.</p>	<p><u>Economically Connected to Farm Use Finding:</u></p> <p>Staff found based on substantial evidence in the record that the proposed commercial weddings are related to and supportive of seeking a profit in money by the sale of hay and wine grapes grown on the property and cattle grazing on the site, for the following reasons:</p> <ul style="list-style-type: none"> ○ People choose to have weddings in pastoral setting with its green fields, irrigation sprinklers, hay bailers, and associated sounds ○ Weddings are economically connected to this farm by the sale of wine from the grapes grown on the property, and by the use of hay for a dish served at the events ○ Events bring people to the property who otherwise would not know about and allow for the sale of farm products grown on the site, including wine from the grapes and possible hay sales ○ Weddings provide supplemental income for the ranching operation 	<p><u>Incidental and Subordinate Finding:</u></p> <p>Staff found the farm use is conducted year round (365 days). The total amount of time for the wedding is less than 4% of the overall total amount of time for farm production each year.</p> <p>The area occupied for the wedding events is 1-3 acres, including the parking area. The farm contains 200 acres in hay cultivation, another 50 acres dedicated to livestock grazing, with 32 head of cattle grazing on additional acreage. Therefore, the wedding area represents just 0.4 to 1.2% of the area used for farming.</p>

Matrix 1

Land Use Decision	DCC 18.16.030(F). Conditional Use Permitted: Commercial Activities in Conjunction with Farm Use			
<p align="center">CU-13-31, SP-13-19; Newell (April 2014)</p>	<p align="center"><u>Commercial Activity Related to Farm use on the Property:</u></p> <p>Hearings Officer found property used for growing and harvesting hay and pasture grass and raising and training horses for shows and sale.</p> <p>Commercial Activity, the horse shows are directly related to providing a demand for the applicant's farm uses: raising, training, and selling horses for such shows.</p>	<p align="center"><u>Commercial Activity Enhances Quality of Agricultural Enterprise:</u></p> <p>Hearings Officer found by providing a venue for the types of farm use the applicant supplies, the horse shows would help increase demand for the applicant's farm uses. It also provides horse shows for people who travel outside the region.</p>	<p align="center"><u>Commercial Activity Promotes Preservation of Farm Land for Farm Use:</u></p> <p>Hearings Officer found except for the three house shows, there would be no detrimental impact on farm use of farm land.</p>	<p align="center"><u>Incidental and Subordinate Finding:</u></p> <p>Hearings Officer found the three horse shows would last 5-7 days each for a total of 15-21 days a year. The remainder of the year (90+%) the property would be in its underlying farm use and there would be no evidence of the commercial activity at all.</p>

Matrix 1

Land Use Decision	DCC 18.16.030(F). Conditional Use Permitted: Commercial Activities in Conjunction with Farm Use			
<p align="center">CU-14-7, LM-14-28; Miller (October 2014)</p>	<p align="center"><u>Commercial Activity Related to Farm use on the Property:</u></p> <p>Hearings Officer found property used for both the hay production and the alpaca breeding and raising that are occurring on the subject property constitute farm use.</p> <p>Commercial Activity, the sale of fleece from the applicants' alpacas and the sale of products made from their alpacas' fleece (and garments and other products made from fleece of alpacas not owned by the applicant) constitutes a commercial activity related to the farm use occurring on the subject property – i.e., the breeding, raising and sale of alpacas.</p>	<p align="center"><u>Commercial Activity Enhances Quality of Agricultural Enterprise:</u></p> <p>Hearings Officer found the proposed alpaca boutique will enhance the quality of the applicants' agricultural enterprise – i.e., the breeding, raising, marketing and sale of alpacas and the raising and sale of hay -- by providing a convenient market for these products.</p>	<p align="center"><u>Commercial Activity Promotes Preservation of Farm Land for Farm Use:</u></p> <p>Hearings Officer found the proposed commercial activity will promote the preservation of farm land for farm use. That is because it would operate out of an existing farm building on a portion of the subject property that is not irrigated or in cultivation.</p>	<p align="center"><u>Incidental and Subordinate Finding:</u></p> <p>Hearings Officer found the Board's <i>Downs</i> decision (LUP-12-2) could be read to mean that event or commercial activity is "incidental and subordinate" to the underlying farm use as long as its income does not exceed 50 percent of the farm income.</p> <p>However, the HO found that was not appropriate considering the fact-specific nature of the "incidental and subordinate" analysis in general, and in particular the fact that the commercial events or activities approved in <i>Downs</i> would be very infrequent. In contrast, where, as here, the proposed commercial activity is regular and permanent, and in light of its history and location has a strong potential to produce the majority of the applicants' income, the HO continued to believe that a numeric income limit was appropriate in this case.</p> <p>Nevertheless, in light of the <i>Downs</i> decision, the HO found it likely that if the decision were appealed, the Board would increase the numeric limit for the commercial income percentage to what was found "incidental and subordinate" in <i>Downs</i> – i.e., 35 to 40 percent.</p> <p>The HO conditioned approval of gross sales from the boutique to not exceed 40% of gross incomes from the farm use.</p>

Matrix 1

Land Use Decision	DCC 18.16.030(F). Conditional Use Permitted: Commercial Activities in Conjunction with Farm Use		
<p>247-14-000020-LUP; Anspach (March 2015)</p>	<p><u>Agri-tourism Finding:</u></p> <p>Staff found commercial event and activities must be related to and supportive of agriculture.</p>	<p><u>Economically Connected to Farm Use Finding:</u></p> <p>Staff found based on substantial evidence in the record that the proposed commercial weddings are related to and supportive of seeking a profit in money by the sale of beef, pork and lamb and produce such as corn, potatoes, and pumpkins, for the following reasons:</p> <ul style="list-style-type: none"> ○ People choose to have weddings in pastoral setting with its green fields, irrigation sprinklers, hay bailers, and associated sounds ○ Weddings are economically connected to this farm by the sale of the applicant's farm products at such events in the overall farm operation ○ Applicant's sell to the attendees of the ranch events beef, pork and lamb from their own stock as well as corn, potatoes and other products out of their farm store. The primary intent of these events is to expose people to the ranch and its offering, including grass-fed beef and lamb and heritage breed pork as well as other farm products that are available for sale to the public ○ Weddings provide supplemental income for the farm 	<p><u>Incidental and Subordinate Finding:</u></p> <p>Staff found the farm use is conducted year- round (365 days). The total amount of time for the wedding or other events is less than 5% of the overall total amount of time for farm production each yea.</p> <p>The area occupied by the wedding events is approximately two acres, including the parking area. The applicant has stated to staff that the farm has 155.75 acres of irrigation water rights, and all of that is taken up by the farming on the site. The number of acres slated for the weddings and events is therefore approximately 1.2% of that used for farming.</p>

Matrix 1

Land Use Decision	DCC 18.16.042: Agri-tourism and Other Commercial Events or Activities Limited Use Permit		
<p align="center">247-15-000061-A, 247-14-000202-LUP; Brown (May 2015)</p>	<p><u>Agri-tourism Finding:</u></p> <p>The Hearings Officer found commercial event and activities must be related to and supportive of agriculture.</p>	<p><u>Economically Connected to Farm Use Finding:</u></p> <p>Hearings Officer found based on substantial evidence in the record that the proposed commercial weddings are related to and supportive of seeking a profit in money by the sale of hay and horses to wedding/event guests, for the following reasons:</p> <ul style="list-style-type: none"> ○ People choose to have weddings in pastoral setting with its green fields, irrigation sprinklers, hay bailers, and associated sounds ○ Weddings are economically connected to this farm by the sale of hay and horses, and the use of a hay dish as a seasoning agent for food products ○ Events help to expose people to the farm, the horses and hay that are available for sale. ○ Weddings provide supplemental income for the farm 	<p><u>Incidental and Subordinate Finding:</u></p> <p>The Hearings Officer found the wedding/events only occur six times per year and for only 72 hours per wedding event – i.e. 24 days per year – the wedding/events. The area occupied for the wedding events is on two acres of the 39 acre property (5% of the area) and most the remaining acreage would be engaged in hay production and the raising and training of horses.</p> <p>Although evidence shows his projected wedding/event income would not exceed 34 percent of his previous gross farm income, in light of the board's <i>Downs</i> decision, a maximum of 40 percent for wedding/event income likely would be approved by the board.</p> <p>Applicant/Appellant required as condition of approval to assure gross income from 6 annual weddings/events does not exceed 40% of appellant's gross farm income, including boarding, training and sale of horses and the sale of hay raised on the property. In addition, appellant will be required as a condition of approval to provide to the Planning Division written documentation of compliance with the 40% income limitation by submitting by January 31st of each year annual income records for the previous year showing gross annual income for weddings/events and from horse boarding, training and sale and hay sales.</p>

Matrix 2

Matrix 2

Limited Use Permit / Board Analysis

Issue	Staff Comment	Board Analysis and Options
Is the primary use of the property a “farm use?”	Record shows that income received and projected from previous weddings and VRBOs (average from 2014 and 2015 income = \$25,950) is more than from farming. Applicant also did not provide a minimum of three years of financial records to establish income trends for hay or tree sales.	<ol style="list-style-type: none"> 1. Has the applicant demonstrated the primary use on the subject property is a farm? If not, the Limited Use Permit should be denied 2. If the primary use is a farm use, explain why.
Define how the wedding event is related to and supportive of agriculture.	<p>Evidence in the record and as determined by the Hearings Officer, found that the farm use is the growing, cutting and sales of hay. The record supports a finding that \$16,310 for sales of 65.25 tons of hay at a market rate of \$250 per ton could have been made in 2014.</p> <p>The Hearings Office found tree sales of approximately \$6,305 also occur on the subject property.</p>	<ol style="list-style-type: none"> 3. If the primary use is a farm use, has the applicant demonstrated, by a preponderance of evidence, that in addition to hay, the trees on-site were planted and grown on the subject property? If not, only hay can be counted. 4. If trees are demonstrated to be planted and grown on the property, what is the amount or gross income of tree sales?
Are weddings physically and/or economically connected to a farm use?	Evidence in the record and as determined by the Hearings Officer, found there is a connection between the proposed wedding events and the farm use of growing and harvesting hay for sale. Hay bales will be used as tables and chairs for wedding guests and/or back-drops for wedding photography. Hay will be prominently advertised for sale during wedding events. The commercial events will allow a supplemental income for the farming operation.	<ol style="list-style-type: none"> 5. Is there a connection between harvesting trees on site and the wedding events? If yes, tree sales can be counted as incidental income (see #6).
Should commercial activity income for a Limited Use Permit be a criterion for determining if it is an incidental and subordinate to the farm use?	<p>Starting with <i>Downs</i>, and further applied in the <i>Miller</i> and <i>Brown</i> decisions, Deschutes County’s Hearings Officer have determined that a commercial activity is “incidental and subordinate” to the underlying farm use when its income does not exceed 40 percent of the farm income.</p> <p>The Board’s determination to this question will set precedent for future Limited Use Permits.</p>	<ol style="list-style-type: none"> 6. Should commercial activity income for a Limited Use Permit be a criterion for determining if it is an incidental and subordinate to the farm use? If not, the application would be reviewed based on time and duration and physical space for wedding events. If commercial activity is counted, what is the incidental and subordinate amount (see #7)

Matrix 2

Issue	Staff Comment	Board Analysis and Options
<p>How is the wedding incidental and subordinate to the existing farm use, based on income from the weddings compared to the farm use?</p>	<p>Starting with <i>Downs</i>, and further applied in the <i>Miller</i> and <i>Brown</i> decisions, Deschutes County's Hearings Officer have determined that a commercial activity is "incidental and subordinate" to the underlying farm use when its income does not exceed 40 percent of the farm income.</p> <p>The Board's determination to this question will set precedent for future Limited Use Permits.</p>	<p>7. What is the incidental and subordinate amount?</p> <p>The applicant charges \$2,700 per wedding. Here are the percentage splits:</p> <p><u>If the Board determines gross income from hay only</u></p> <p>40% of \$16,310 = \$6,524; applicant receives approval for 2 weddings;</p> <p>45% of \$16,310 = \$7,340; applicant receives approval for 2 weddings;</p> <p>49% of \$16,310 = \$7,992; applicant receives approval for 2 weddings;</p> <p><u>If the Board reaffirms gross income from hay and trees as determined by Hearings Officer</u></p> <p>40% of \$22,615 (\$16,310 + \$6,305) = \$9,046; applicant receives approval for 3 weddings</p> <p>45% of \$22,615 = \$10,177; applicant receives approval for 3 weddings;</p> <p>49% of \$22,615 = \$11,081; applicant receives approval for 4 weddings;</p> <p><u>If the Board determines gross income from hay and trees based on applicant's typed written invoice for tree sales with copies of checks</u></p> <p>40% of \$31,725 (\$16,310 + \$15,415) = \$12,690; applicant receives approval for 4 weddings</p> <p>45% of \$31,725 = \$14,276; applicant receives approval for 5 weddings;</p> <p>49% of \$31,725 = \$15,554; applicant receives approval for 5 weddings;</p>

Attachment B

October 26, 2015

Board of County Commissions of Deschutes County
1130 NW Wall
Bend, Oregon 97701

Attn: Anthony Debone, Chair
Alan Unger, Vice Chair
Tammy Baney, Commissioner

RE: De Novo Appeal on Application 247-15-000001-LUP (247-15-000298-A) pursuant to
Title 22 of the Deschutes County Code – Paul and Hana Cooper, Applicants

Please accept the following additional exhibits to be included in the record regarding the above appeal.

Supplemental Exhibits:

- A-1 Pictures of Aspens – in ground, taken 10/23/2015 (2 pgs)
- A-2 Tree Sale Receipt and Check (2 pgs) – 4/17/15
- A-3 Tree Sale Receipt and Check (2 pgs) – 10/1/15
- A-4 Tree Sale Receipt and Check (2 pgs) – 10/14/15
- A-5 2015 VRBO (rental) and Wedding Income
- A-6 2014 VRBO (rental) and Wedding Income
- A-7 August 2012 Duggan Findings and Decision (24 pgs)
- A-8 Wedding Venue Rental Agreement – revised – reflecting \$400 night rental (4 pgs)
- A-9 Applicant Ranch Home Add – reflecting \$400 night rental charge
- A-10 Schedule 2014 Form 1040 (If this is not in the packet today, we ask that the record Be left open for submission of such. We have extreme difficulties with computers, e-mail and wi-fi and were unsuccessful in getting it forwarded to us in time).

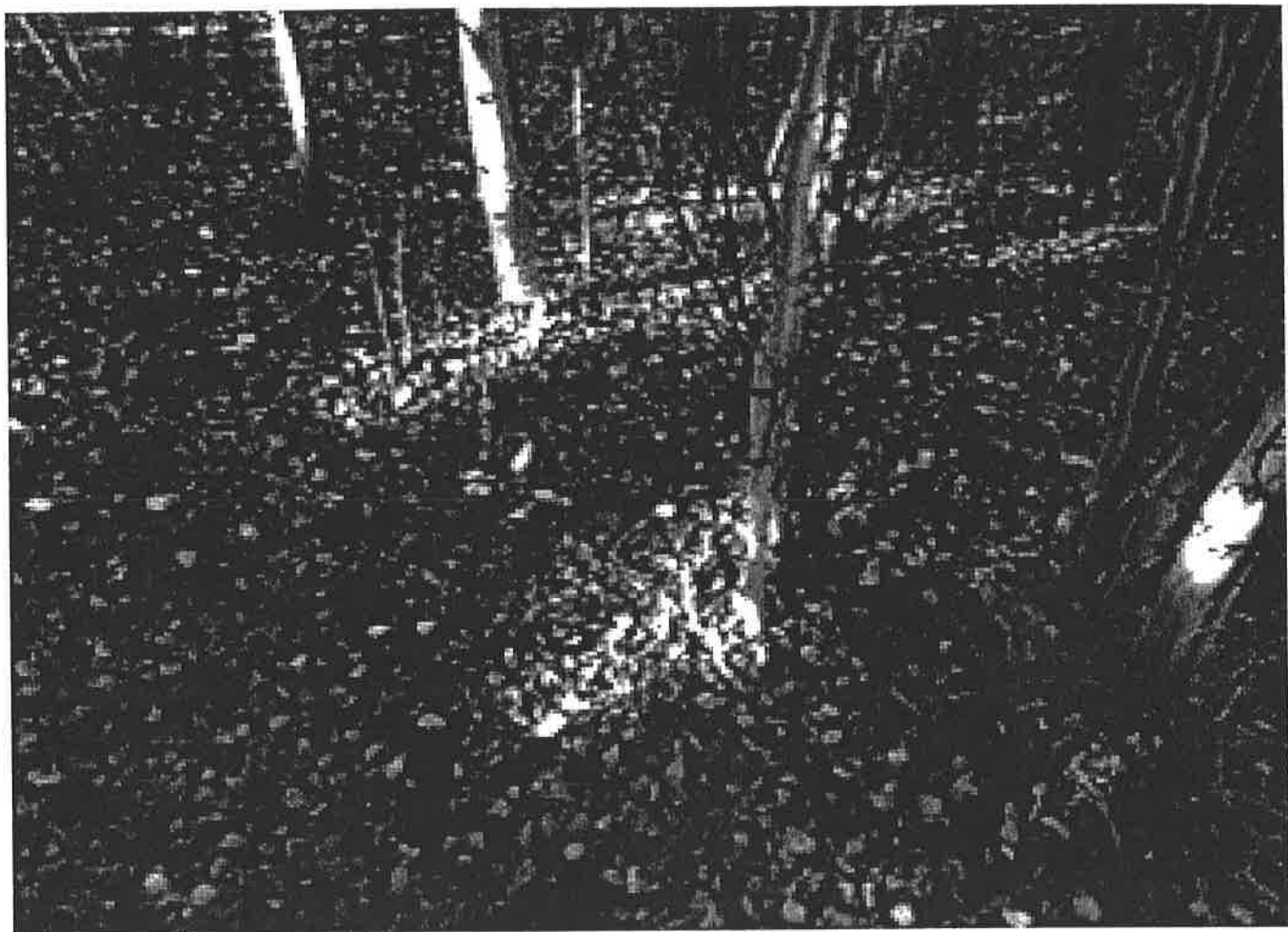
Thank you again for hearing this case. We look forward to receiving your decision.

Best regards,

Paul Cooper, co-applicant
Hana Cooper, co-applicant



Ex. A-1 (p.1)



Ex. A-1 (p. 2)

DATE 4-17-2015

PAUL COOPER

PO BOX 365

MONUMENT, OR. 97864

541-934-2423

FAX: 541-934-2307

loreencooper@centurytel.net

BLAKE LAWRENCE

PO BOX 401

MONUMENT, OR. 97864

Invoice: #356 Purchase of -20 – 2" to 3" Inch Aspen Trees \$85.00 each = \$1700.00
300 – 1" to 1 ½" Aspen Tree Whips x \$15.00 each = \$3000.00

TOTAL AMOUNT DUE = **\$4700.00**

THANK YOU FOR YOUR BUSINESS

PLEASE MAKE CHECK PAYABLE TO PAUL COOPER

Ex A-2 (p1)

BLAKE C LAWRENCE
PH. 541-634-2800
PO BOX 401
MONUMENT, OR 97864

24-22/1230

2632

DATE 4-21-15

PAY TO THE
ORDER OF

Paul Cooper

\$ 4,700.00

four thousand seven hundred dollars and 00/100

USbank.

All of **US** serving you®

MEMO Aspen Trees

Bill Lawrence

MP

⑆123000220⑆ 153659915885⑈2632

DATE 10-1-2015

PAUL COOPER
PO BOX 365
MONUMENT, OR. 97864
541-934-2423
FAX: 541-934-2307
loreencooper@centurytel.net

SEAN PETERSON
191251 BUCK CANYON RD.
BEND, OR. 97702




INVOICE #351-FOR TREES PURCHASED.

9- Choke Cherry Trees @ \$60.00 per tree =	\$540.00
15 - Blue Spruce Trees @ \$60.00 per tree =	\$900.00
2 - Swedish Aspen Trees @ \$100.00 per tree =	\$200.00
3 - Lodge Pole Pine Trees @\$75.00 per tree =	\$150.00
2 - Pin Oak Trees @ \$50.00 per tree =	\$100.00
12 - Ponderosa Pine Trees @ \$55.00 per tree =	\$660.00

TOTAL INVOICE =\$2550.00

THANK YOU FOR YOUR BUSINESS
PLEASE MAKE CHECK PAYABLE TO PAUL COOPER

Ex. A-3 (p.1)

SEAN PETERSON 22965 ARROYO CT. BEND, OR 97701 1912 1/2 Buck Canyon RD. Bend OR 97702		001018 24-7038/3230 OR 28353
Date <u>10-3-15</u>		
Pay to the order of <u>Paul Cooper</u>		\$ <u>2550.00</u>
<u>two thousand five hundred FIFTY Dollars and no</u> ¹⁰⁰ <u>hundredths</u>		 Security Features listed on back.
Bank of America 		
ACH R/T 323070380		
Pay to <u>Trees</u>		
⑆323070380⑆ 485005942047⑆ 1018		

DATE 10-14-2015

PAUL COOPER

PO BOX 365

MONUMENT, OR. 97864

541-934-2423

Fax: 541-934-2307

loreencooper@centurytel.net

QUALITY IRRIGATION AND LANDSCAPING LLC

PO BOX 4903

SUNRIVER, OR. 97707

INVOICE #362: PURCHASE OF TREES

15 - 2" - Swedish Aspen Trees @ \$110.00 per tree =	\$1650.00
26 - 2" Aspen Trees @ \$65.00 per tree =	\$1690.00
53 - 3/4" to 1 1/4" Aspen Tree whips @ \$20.00 per tree =	\$1060.00
13 - 3" Aspen Trees @ \$110.00 per tree =	\$1430.00
36 - 2" Canada Red Trees @ \$65.00 per tree =	\$2340.00

TOTAL INVOICE = \$8165.00

THANKS YOU FOR YOUR BUSINESS

PLEASE MAKE CHECK PAYABLE TO PAUL COOPER

Ex A-4 (p. 1)

CASH ONLY / ALL CHECKLOCK SECURITY FEATURES LISTED ON BACK INDICATE NO TAHERING OR COPIING

4870

Quality Irrigation and Landscaping LLC

Marjorie McCreary, Kevin Cozad
P.O. Box 4903, Sunriver, OR 97707

541-593-0344
LCB 8226

BANK OF THE CASCADES

57150 Beaver Drive
Sunriver, OR 97707
98-80211232

10.16.15

PAY TO THE
ORDER OF

Paul Cooper

\$ 8165.00

Eight thousand one hundred sixty-five & 09/100 DOLLARS

MEMO: Trees for 2015 season - Thanks!

Alt. J. M. M. M.

⑈004870⑈ ⑈123206024⑈ 02 36914 ⑈

2015 Cooper Ranch Projected Income – Farm Income Not Included

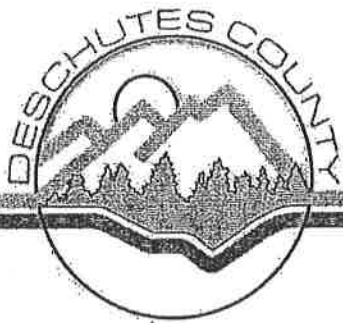
MAY - \$1200.00	VRBO
JUNE- \$2250.00	VRBO
JULY - \$1200.00	VRBO
JULY - \$3500.00	WEDDING
JULY - \$3500.00	WEDDING
AUG - \$3500.00	WEDDING
AUG - \$3500.00	WEDDING
AUG- \$3500.00	WEDDING
SEPT. - \$3500.00	WEDDING
OCT. - 0	
NOV. - 0	
DEC. - 0	
TOTAL -\$22,150.00 LESS CANCELED WEDDING	

Ex A-5

2014 COOPER RANCH INCOME –NOT INCLUDING FARM INCOME

JAN. - \$1200.00	VRBO
FEB. - \$1200.00	VRBO
MAR. - 0	
APRIL - 0	
MAY - \$3600.00	
JUNE- \$9750.00	VRBO AND ONE WEDDING
JULY - \$7000.00	TWO WEDDINGS
AUG. - \$3500.00	ONE WEDDING
SEPT. - \$3500.00	ONE WEDDING
OCT. - 0	
NOV. - 0	
DEC. - 0	
TOTAL -	\$29750.00

Ex A-1-



Duggan

Community Development Department

Planning Division Building Safety Division Environmental Soils Division

P.O. Box 6005 117 NW Lafayette Avenue Bend, Oregon 97708-6005
(541)388-6575 FAX (541)385-1764
<http://www.co.deschutes.or.us/cdd/>

FINDINGS AND DECISION

FILE NUMBER: LUP-12-4

APPLICANT/OWNER: Michael and Diann Duggan
3836 NE Smith Rock Way
Terrebonne, OR 97760

REQUEST: The applicant is requesting a Type 2 Limited Use Permit for a commercial events/activities facility on a 200-acre parcel in the Exclusive Farm Use zone.

STAFF CONTACT: Paul Blikstad, Senior Planner

I. APPLICABLE CRITERIA:

Title 18, Deschutes County Zoning Ordinance
Chapter 18.16, Exclusive Farm Use Zone
Title 22, Deschutes County Development Procedures Ordinance
Oregon Revised Statutes 215.296

II. BASIC FINDINGS:

- A. **LOCATION:** The subject property has an assigned address of 3836 NE Smith Rock Way, Terrebonne, and is identified on Deschutes County Assessor's Map 14-13-24 as Tax Lot 400.
- B. **LOT OF RECORD:** The subject property is a legal lot of record pursuant to being Parcel 2 of Partition Plat No. 2003-60.
- C. **ZONING:** The subject property is zoned Exclusive Farm Use – Terrebonne subzone (EFU-TE). This property is designated Agriculture on the Deschutes County Comprehensive Plan.
- D. **SITE DESCRIPTION:** The subject property is approximately 200 acres and has an existing dwelling and barn, as well as an open air structures for the farm-related commercial uses on the site. The site is accessed from an existing driveway off of NE Smith Rock Way. The topography of the site is generally level, and the site includes

Quality Services Performed with Pride

Ex. A-7 (p. 1)

The applicant will need to coordinate with the Road Department regarding temporary signage or use of certified flaggers for larger events, defined as events with an expected attendance of 250 or more.

Transportation system development charges (SDC's) are triggered by building permits and the applicant is not proposing any new structures. Even if there were new structures the SDC's approved under Board Resolution 2008-059 would not apply for the same reasons DCC 17.16.115 does not apply. The events are episodic, not continual in nature and thus do not consume roadway capacity.

3. Deschutes County Environmental Health: Mobile food unit owned by Duggan is approved. Water system is currently approved. See attached letter re: mobile food unit connection to existing sewage system.

Will require quarterly sampling/reporting for coliform bacteria and annual nitrate.

4. County Assessor: Currently under deferral.
5. Pacific Power and Light, Deschutes County Road Department, Redmond Fire and Rescue: No comment responses.
6. The following agencies did not respond to the notice: Central Oregon Irrigation District, Central Electric Cooperative, County Building Division, Centurylink, Oregon Department of Environmental Quality, Oregon Department of Agriculture.

H. **PUBLIC COMMENTS:** The Planning Division sent notice of this proposal to all property owners within 750 feet of the subject property. One letter was received in opposition to the application. The letter was concerned with the noise created by the use.

I. **NOTICE REQUIREMENTS:** The applicant complied with the posted notice requirements of Section 22.23.030(B) of Deschutes County Code (DCC) Title 22. The applicant submitted a Land Use Action Sign Affidavit, dated August 21, 2012, indicating the applicant posted notice of the land use action on August 2, 2012.

J. **REVIEW PERIOD:** This application was submitted on July 26, 2012. This application was deemed complete and accepted for review on August 22, 2012.

K. **LAND USE HISTORY:** The subject property includes the following prior land use applications:

CU-03-24/SP-03-20, Conditional Use Permit and Site Plan for the existing pumpkin patch use on the site.

CU-03-25/MP-03-8, Conditional Use Permit for a nonfarm dwelling, and a Partition to create a 4.06-acre nonfarm parcel from the parent parcel.

S-04-4, Sign Permit for a farm sign.

AD-08-18/SP-08-29, Administrative Determination and Site Plan for a farm stand. This application was withdrawn.

14-13-14D, 100	Court	53.97	1978	Pasture	Yes
14-13-14D, 101	Irby	4.29	2000	None	No
14-13-14D, 102	Ormond	3	No	None	No
14-13-14D, 200	McLaughlin	3.58	1934	Pasture	Yes
14-13-14D, 400	Swift	9.9	1980	Pasture	Yes
14-13-14D, 401	Abbas	.42	No	None	No
14-13-14D, 402	Abbas	42.51	1966	Pasture	Yes
14-13-14D, 403	Abbas	2.02	1954	None	No
14-13-14D, 404	Armson	2.02	1980	None	No
14-13-14D, 405	Loy	18.54	1989	Pasture	Yes
14-13-14D, 406	Abbas	7.09	2002	None	No
14-13-23, 100	D&B Mac LLC	120.67	No	Hay/Pasture	Yes
14-13-23, 101	D&B Mac LLC	29.52	No	None	No
14-13-23, 102	Sheldon	44.61	No	Hay/Pasture	Yes
14-13-23, 103	Sheldon	3.74	No	None	No
14-13-23, 200	Deschutes County	159.35	No	None	No
14-13-23, 201	COID	39.67	No	None	No
14-13-23, 202	Clement/Lantz	18.77	No	None	No
14-13-23, 203	Peebles	39.64	No	None	Yes
14-13-23, 204	Clement/Lantz	21.33	No	None	No
14-13-23, 300	Abbas	51.2	1980	Hay/Pasture	Yes
14-13-23, 301	Abbas	3.93	1930	None	No
14-13-23, 302	Roy	4.12	1981	None	No
14-13-23, 303	Rodgers	3.72	1900	None	No
14-13-23, 306	Abbas	3.77	1979	None	No
14-13-23, 307	Abbas	4.63	1999	None	No
14-13-23, 400	Kelley	8.91	1979	Pasture	Yes
14-13-23, 401	Abbas	2.32	2006	None	No
14-13-24, 100	Stream	76.56	1990	Pasture	Yes
14-13-24, 200	Laurance	39.09	1944	Pasture	Yes
14-13-24, 300	Stewart	36.55	1955	Pasture	Yes
14-13-24, 401	Hinton	4.06	2004	None	No
14-13-24, 600	Woodward	10.1	1950	None	No
14-13-24, 601	Dunn	9.6	1979	Pasture	Yes
14-13-24, 700	Rawlins	9.69	1925	Pasture	Yes
14-13-24, 800	James	10	1988	Pasture	Yes
14-13-24, 904	Elrod	18.77	No	Pasture	Yes
14-13-24, 1000	Neal	15.6	1981	Pasture	Yes
14-13-24, 1001	Neal	1	No	None	No
14-13-24, 1103	Jager	68.48	2002	Hay/Pasture	Yes
14-13-24, 1200	Mills	1.85	1996	None	No
14-13-24, 1300	Newton Properties	36.74	No	Pasture	Yes
14-13-24, 1400	Newton	25.4	No	None	No
14-13-24, 1401	Newton/Wasche	2.91	1975	None	No
14-13-25, 100	Ferguson	40.23	1977	Pasture	Yes
14-13-25, 200	Schoaff	39.09	1900	Hay/Pature	Yes
14-13-25, 300	Aprill	5.63	1999	None	No
14-13-25, 400	Edmonds	3.68	2006	None	No

2. Section 18.16.042 Agri-Tourism and other Commercial Events or Activities Limited Use Permit

- A. ***Agri-tourism and other commercial events or activities related to and supportive of agriculture may be approved in an area zoned for exclusive farm use only if the standards and criteria in this section are met.***

FINDING: The applicant is proposing a commercial events or activities facility, which will consist of conducting weddings or other events at the site. The standards under DCC 18.16.042(C) are addressed below.

B. ***Application. The application shall include the following.***

1. ***The General Provisions information required in DCC 22.08.010.***

FINDING: County Assessor's records indicate the applicants are the owners of the subject property. The applicant has submitted the Limited Use Permit application form, a burden of proof statement addressing the criteria in DCC 18.16.042, the correct filing fee, and has submitted the affidavit attesting to the fact that the land use action sign was posted on the property on August 2, 2012.

2. ***A written description of:***

a. ***The proposal.***

FINDING: The applicant has addressed the above standards on page 3 of the burden of proof statement. The applicant states that up to 6 commercial events/weddings will be held on the property per calendar year. The applicant has also stated that weddings or events are generally held on Saturdays. The applicant's burden of proof states that the day before the wedding or event includes preparation of the site, including setting up chairs and tables. The weddings will have a maximum of 500 people in attendance. The applicant states that activities for weddings or events is from approximately 10:00 a.m. to 10:00 p.m., when the event is finished. The following day (generally Sunday) consists of final clean-up that involves a few people, with everything picked up and done by 5:00 p.m. Access and egress, parking facilities, and sanitation and solid waste operational characteristics are addressed below.

b. ***The types of agri-tourism and other commercial events or activities that are proposed to be conducted, including the number and duration of the agri-tourism and other commercial events and activities, the anticipated maximum daily attendance and the hours of operation, and how the agri-tourism and other commercial events or activities will be related to and supportive of agriculture and incidental and subordinate to the existing farm use on the tract.***

FINDING: The applicant addressed 2(b) above with the following statements in the burden of proof:

Senate Bill (SB) 960, approved by the State Legislature in 2011, is the legal basis for DCC 18.16.042. SB 960 establishes the "related to and supportive of agriculture" standard, as well as the "incidental and subordinate to a farm use" standard. The law, however, does not define these terms or phrases. Staff has not found the "related to and supportive of agriculture" standard defined elsewhere in state law or Land Use Board of Appeals (LUBA) decisions. Several LUBA decisions address the "incidental and subordinate to a farm use" standard, but each case appears to be applicable to the particular circumstances of the subject application, property, and local regulations.

Therefore, to better understand and apply the meaning and intent of these terms and phrases, staff looks to the following sources:

1. The Oregon Department of Land Conservation and Development's "Guide to Wineries and Events in EFU Zones" dated, March 1, 2012;
2. The Webster's New World Dictionary; and
3. The Association of Oregon Counties (AOC) Farmland Activities Task Force Final Report and Recommendations, dated December 13, 2010. This report was the basis for SB 960 and is included in the State Legislative record for SB 960 and Deschutes County's record for the ordinance adopting DCC 18.16.042.

Staff summarizes each of these sources in order.

1. DLCD's "Guide to Wineries and Events in EFU Zones" states:

"Q: What does 'related to' and 'supportive of' agriculture mean in SB 960? What about 'incidental and subordinate'?"

A: We interpret 'related to' and 'supportive of' to mean that the proposed agri-tourism or other commercial event or activity is physically and/or economically logically connected to, and supports, an existing on-site farm operation. For example, 'related to' could mean that the proposed event involves a product that is produced on site that has a meaningful and significant relationship to the proposed event. 'Supportive of' could involve the generation of supplemental income to support a farm. 'Incidental and subordinate' means that the event or activity is strictly secondary and ancillary to on-site farming in terms of income generated, area occupied, and off-site impacts."

2. Webster's New World Dictionary defines:

Related: "connected or associated, as by origin or kind"

Supportive: "that gives support, help or approval"

Incidental: "happening as a result of in connection with something more important; secondary or minor"

Subordinate: "inferior to or placed below another in rank, power, importance, etc.; secondary"

"(2)(a) As used in this section, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof..."

Staff finds this element of the criterion is met because the primary use of the property is to seek a profit in money by the sale of beef, and produce such as corn, potatoes and pumpkins.

2. How is the commercial event related to and supportive of agriculture?

DLCD's interpretation of "related to" and "supportive of" mean that the commercial event or activity is "physically and/or economically logically connected to, and supports, an existing on-site farm operation." The agency's Guide states, "'related to' could mean that the proposed event involves a product that is produced on site that has a meaningful and significant relationship to the proposed event. 'Supportive of' could involve the generation of supplemental income to support a farm."

Staff poses a series of questions and answers/findings to address this issue.

Do commercial events include commercial weddings?

Staff finds the answer to this question is "yes," commercial events include commercial weddings. The text amendment to adopt SB 960 into Deschutes County Code (DCC) also included a new definition of "commercial event or activity." As defined in DCC:

"Commercial event or activity" means any meeting, celebratory gathering, wedding, party, or similar uses consisting of any assembly of persons and the sale of goods or services. It does not include agri-tourism. In DCC 18.16.042, a commercial event or activity shall be related to and supportive of agriculture.

In addition, while weddings have historically occurred on farms throughout Central Oregon and across the state and nation, they are not considered a traditional farm activity. In public testimony on Deschutes County Ordinance 2012-004 adopting SB 960 and new definitions into Deschutes County Code from several sources, including AOC, Oregonians In Action, the Oregon Farm Bureau, and others, weddings were clearly contemplated as an allowed use as a commercial event or activity under SB 960 for properties with an existing farm use. The AOC Task Force Final Report and Recommendations supports this testimony in its principles (listed above), which call for "economic activities that support farm use," "activities associated with 'farm use,'" and "consideration of traditional and nontraditional farm activities." Weddings are an economic activity that support a farm use, a nontraditional farm activity, and an activity associated with a farm use.

In comments to Deschutes County during consideration of Ordinance 2012-004, DLCD Policy Analyst Michael Morrissey and Farm/Forest Specialist Katherine Daniels, wrote:

"We aren't sure a wedding meets a definition of agri-tourism, but it isn't hard to see it as an 'other commercial event.' The department believes that 'related to and supportive of agriculture' (together with 'incidental and subordinate') is specific to the site. That means there needs to be on-site farming taking place, and that any wedding activities must

The applicant's burden of proof statement demonstrates compliance with this standard based on the amount of time and land used for the weddings compared to that of the farm use.

Specifically, the applicant is applying for six (6) days each year to conduct weddings or other events. A few hours the day before and a few hours the day after the six (6) days would be used for set-up and take down. The applicant indicates that the farm use is conducted year round (365 days). The total amount of time for the wedding or other events is less than 5% of the overall total amount of time for farm production each year.

The area occupied by the wedding events is less than two acres, including the parking area. The applicant has stated to staff that the farm has 155.75 acres of irrigation water rights, and all of that is taken up by the farming on the site. The number of acres slated for the weddings and events is less than 10 acres. Therefore, the area used for weddings and other events is approximately 6.4% of that used for farming.

X Staff finds that the wedding and other event time periods and land area are incidental and subordinate to the farm use on the property.

In sum, staff finds a qualifying farm use on the subject property, and that the commercial weddings and other events are related to and supportive of agriculture and incidental and subordinate to the existing farm use.

Staff finds this criterion is met.

- c. ***The types and locations of all permanent and temporary structures, access and egress, parking facilities, and sanitation and solid waste to be used in connection with the agri-tourism or other commercial events or activities.***

FINDING: The applicant addressed c., above, on page 4 of the burden of proof as follows:

"The applicants intend to primarily utilize the existing barn and area immediately adjacent to the barn. Within this area, there is adequate space for vehicle loading and maneuvering. This area will be effectively screened from surrounding properties by the expanse or distance to surrounding properties and the existing vegetation and terrain difference. For these three reasons, the applicants believe that the proposed events will have a minimal if any impact on adjacent properties.

The applicants believe that the traffic generated by the maximum six events will be light and sporadic and can be accommodated by the existing NE Smith Rock Way which the applicants estimate currently operates well below the design capacity of the road."

Staff finds that the applicant has adequately described the structures on the property, as well as access and egress, parking and sanitation. Any solid waste would be disposed of at the County landfill. Staff has imposed conditions of approval to address this standard.

Staff finds this criterion is met with the conditions of approval.

FINDING: The applicant states that they are willing to sign the consent document. Staff finds that this requirement is met with a condition of approval that the consent form be submitted to and approved by the Planning Division prior to the first commercial event.

C. Approval Criteria.

- 2. Type 2. Up to six (6) agri-tourism and other commercial events or activities in a calendar year on a tract may be approved by a limited use permit that is personal to the applicant and is not transferred by, or transferred with, a conveyance of the tract, if in compliance with:**

- a. Minimum lot or parcel size: 10 acres.**

FINDING: As indicated in foregoing findings, the subject property is approximately 200 acres. Staff finds this criterion is met.

- b. Agri-tourism event may not, individually, exceed a duration of 72 consecutive hours, excluding set-up and take down of all temporary structures and facilities. The limitation on the hours of operations is included within the duration of 72 consecutive hours.**

FINDING: The applicant states that "these events are limited predominately to the weekend. However, there may be the occasional week day event as well. All events will be limited to a maximum of 72 consecutive hours." This standard can be met with a condition of approval.

- c. Commercial events or activities may not, individually, exceed a duration of 30 consecutive hours, excluding set-up and take down of all temporary structures and facilities. The limitation on the hours of operations is included within the duration of 30 consecutive hours.**

FINDING: The applicant has stated in the burden of proof that each proposed event will last between 10-12 hours in consecutive duration, and the events will be conducted on six calendar days each year. Set up and take down will occur for a few hours the day before and the day after the commercial event is conducted.

Staff finds this criterion is met and imposes a condition of approval based on the application submitted limiting commercial events to the applicants proposal – 6 calendar days each year, excluding the set-up and take down of all temporary structures and facilities.

- d. Must be incidental and subordinate to existing farm use of the tract, and shall be related to and supportive of agriculture.**

FINDING: The findings for this criterion are addressed above. Staff incorporates those findings herein by reference. Staff finds this criterion is met.

- e. Set-up and take down of all temporary structures and facilities shall occur up to one business day prior to the agri-tourism and other commercial events or activities and one**

significantly increase the cost of accepted farm practices. Staff believes that existing farm uses will not be impacted by the events/wedding and that the events will not have any adverse impact on the hay operations, livestock or grazing activities.

Staff finds this criterion is met.

- i. Limited Use Permits approved under this section expire two years from the date of approval.*
- j. Limited Permits may be renewed for an additional two years subject to:*
 - i. An application for renewal; and*
 - ii. Demonstration of compliance with conditions that apply to the limited use permit and applicable provisions in this section, DCC Chapter 18.16.042.*

FINDING: The approval for LUP-12-4 would be valid for two years from the date of approval. The date of approval would be after the review process is completed, including all appeals. The possibility for renewal exists, based on submittal of an application, and findings made demonstrating compliance with the conditions of approval as well as the then-current Deschutes County Code and state law. Staff finds this criterion is met.

- 4. The area in which the agri-tourism or other commercial events or activities are located shall be set back at least 100 feet from the property line.*

FINDING: The commercial events or activities areas all are at least 100 feet from the property line, as evidenced by the site plan drawing and air photo in the record. The only exception to this is the entrance driveway into the site, which is closer than 100 feet at the front of the property. Staff finds that the entrance road is not part of the "activities" of the event/wedding venue site.

Staff finds this criterion is met.

- 5. Notification of agri-tourism and other commercial events or activities.*
 - a. The property owner shall submit in writing the list of calendar days scheduled for all agri-tourism and other commercial events or activities by April 1 of the subject calendar year or within 30 days of new or renewed limited use permits, if after April 1, to Deschutes County's Community Development Department and Sheriff's Office, and all property owners within 500 feet of the subject property.*
 - b. The list of calendar dates for all agri-tourism, commercial events activities may be amended by submitting the amended list to the same entities at least 72 hours prior to any date change.*
 - c. If such notice is not provided, the property owner shall provide notice by Registered Mail to the same list above at*

- b. *Driveways extending from paved roads shall have a paved apron, requiring review and approval by the County Road Department.*
- c. *The parcel, lot or tract has direct access as defined in DCC Chapter 18.16.042(B)(3)(c).*
- d. *Adequate traffic control must be provided by the property owner to address the following:*
 - i. *There shall be one traffic control person for each 250 persons expected or reasonably expected to be in attendance at any time.*
 - ii. *All traffic control personnel shall be certified by the State of Oregon and shall comply with the current edition of the Manual of Uniform Traffic Control Devices.*

FINDING: The subject property has direct access to NE Smith Rock Way, which is a paved County road. This will require a paved driveway apron under "b" above. The driveway into the site is a cinder surface, and the parking area in front of the barn is wood chips, which will prevent dust from becoming a problem. The approval will be subject to the requirements for adequate traffic control under "d(i and ii)" above.

11. Health and Safety Compliance

- e. *All permanent and temporary structures and facilities are subject to fire, health and life safety requirements, and shall comply with all requirements of the Deschutes County Building Safety Division and the Environmental Soils Division and any other applicable federal, state and local laws.*
- f. *Compliance with the requirements of the Deschutes County Building Safety Division shall include meeting all building occupancy classification requirements of the State of Oregon adopted building code.*

FINDING: The structures on the site, if used for the anticipated events, must meet all fire, health and life safety requirements.

Staff finds this criterion is met and imposes a condition of approval that all permanent and temporary structures and facilities comply with all State of Oregon adopted building code requirements and all Environmental Soils Division requirements.

12. The maximum number of people shall not exceed 500 per calendar day.

FINDING: The applicant states that the average attendance is expected to be well below the 500 limit. Staff finds this criterion is met, and imposes a condition of approval that specifies no more than 500 people for all parts of any particular event or wedding, including any catering service, is permitted.

13. Agri-Tourism and other Commercial Events or Activities shall not be allowed:

- g. *Within the County adopted big game winter ranges during the months of December through March.*

- collector street, and 100 feet from a property line fronting on an arterial street.*
- B. Each side yard shall be a minimum of 25 feet, except that for a nonfarm dwelling proposed on property with side yards adjacent to property currently employed in farm use, and receiving special assessment for farm use, the side yard shall be a minimum of 100 feet.*
 - C. Rear yards shall be a minimum of 25 feet, except that for a nonfarm dwelling proposed on property with a rear yard adjacent to property currently employed in farm use, and receiving special assessment for farm use, the rear yard shall be a minimum of 100 feet.*
 - D. In addition to the setbacks set forth herein, any greater setbacks required by applicable building or structural codes adopted by the State of Oregon and/or the County under DCC 15.04 shall be met.*

FINDING: The applicant is not proposing any new structures or additions to existing structures. These setbacks are not applicable to the limited use permit.

IV. CONCLUSION:

Based on the foregoing Findings, staff concludes the proposed limited use permit can comply with the applicable standards and criteria of the Deschutes County zoning ordinance if conditions of approval are met.

V. DECISION:

APPROVAL, subject to the following conditions of approval.

VI. CONDITIONS OF APPROVAL:

1. This approval is based upon the application, specifications, and supporting documentation submitted by the applicant. Any substantial change in this Limited Use Permit will require review through a new Limited Use Permit application. No more than six (6) commercial events shall be conducted each year beginning on the date of this approval.
2. The six (6) commercial events shall be limited to six (6) calendar days each year, excluding set-up and take down. No activity for a commercial event shall be conducted before 7:00 a.m. or after 10:00 p.m, and shall be limited to a maximum of 30 consecutive hours.
3. **Prior to initiation of use**, the applicant shall:
 - a. Provide in writing a consent to allow law enforcement, public health, fire control officers and code enforcement staff to come upon the premises for which the Limited Use Permit has been granted for the purpose of inspection and enforcement of the terms and conditions of the Permit, and Chapter 8.08 of the county code, noise control.

VII. DURATION OF APPROVAL:

The applicant shall complete all conditions of approval and initiate the proposed event facility within two (2) years of the date this decision becomes final, or obtain an extension of time pursuant to Section 22.36.010 of the County Code, or this approval shall be void.

This decision becomes final twelve (12) days after the date of mailing, unless appealed by a party of interest.

DESCHUTES COUNTY PLANNING DIVISION



Written by: Paul Blikstad, Senior Planner



Reviewed by: Nick Lelack, Planning Director

Dated this 23rd day of August, 2012

Mailed this 23rd day of August, 2012

COOPER CONTRACTING

VACATION /WEDDING VENUE RENTAL AGREEMENT

Guest Name (HEREINAFTER "Guest")

Home Phone:

Address:

Work/Cell phone:

1-

City, State and Zip Cod

Email Address:

Total Number of Occupants

Arrival Date:

Departure Date:

RENTAL PROPERTY INFORMATION

Mailing Address:
PO BOX 365
Monument, Oregon 97864

Property Mgmt. Contact:
Paul Cooper
541-934-2423/fax: 541-934-2307

Rental Rate: \$400.00 per nt. X nights.

= \$.00

Cleaning Fee \$ 250.00

= \$250.00

Lodging Tax: .09% x \$.00

= \$.00

Animal Charge: \$100.00 per pet

= \$.00

Deposit for reservation hold/security

= \$500.00

TOTAL DUE: Including security/reservation deposit. Refundable

\$.00

THIS VACATION RENTAL AGREEMENT (this "Agreement") is between Paul & Loreen Cooper ("Owner") and Terry Furst

1. Rental: Owner agrees to rent to Guest, and Guest agrees to rent from Owner, Paul Cooper/Loreen Cooper Ranch between _____
2. Check IN: Wed. 4:00 pm unless otherwise agreed
3. Check Out: Sun. 11:00 am unless otherwise agreed
4. Full payment due 60 days with in occupancy unless other wise agreed
5. NOISE ORDINANCE: Must have outdoor music turned off by 10:00 pm and not to exceed a reasonable level
6. DO NOT: Park on the grass
7. If anything is missing or broken it will be deducted from the deposit

Ex A-8 (p.1)

8. **Dumpster on site:** If more than one dumpster load, extra charge (\$35.00) will be deducted from deposit.
9. **No RV's, campers etc.**
10. **Garbage:** You must pick up and dispose of all trash this includes cigarette butts. If we have to pick up trash you will be charged accordingly.

11. IF RULES ARE NOT FOLLOWED YOU WILL FORFEIT YOUR DEPOSIT

12. If anything is broken or missing you will be billed or it may be deducted from deposit

Confirmation of Reservation: Payment for Rental: This Agreement, fully signed by Guest, must be received by Owner with the reservation deposit or full payment within 10 days after making the reservation, or the reservation will be canceled without notice at the discretion of Owner. The rental must be paid in full at least 60 days prior to occupancy unless otherwise agreed by Owner. If the rental is not paid in full by this date, then the reservation may be cancelled without notice at the discretion of Owner, and Guest will be subject to the cancellation policy set forth in Section 4 below. Owner accepts money orders, cashier's checks, certified checks (if received more than 30 days prior to occupancy) a \$50.00 service fee will be charged for all returned checks.

13. **Deposit:** The reservation deposit will automatically convert to a damage/security deposit upon guest's arrival at Cooper Ranch. If all rules aren't followed you may forfeit your deposit. The damage/security deposit will be returned to Guest within 20 days after Guest's departure; subject to Owner's right to use the damage/security deposit to pay for any damage, over abundance or trash, not following discussed regulations of property to Cooper Ranch caused by Guest or his/her family or invitees. If Owner does use the deposit to pay for damage caused by Guest, Owner will provide Guest an itemized reconciliation of that use. The amount of the damage deposit is not intended to limit the Guest's liability for damage to Cooper Ranch, and Guest agrees to pay for any and all damage to Cooper Ranch caused by Guest or his/her family or invitees, including, but not limited to breakage, theft, unnecessary maintenance and excessive cleaning beyond what would be ordinary upon departure.

14. **Cancellation policy:** Please contact Owner as soon as possible in the event you must cancel or change your reservation. All cancellation or change requests must be in writing and are effective when received by Owner. If you cancel your reservation more than 45 days prior to your occupancy, you will forfeit your reservation deposit but you will be entitled to a refund of all rental fees and other charges. If you cancel your reservation less than 45 days prior to your occupancy, you will forfeit your reservation deposit and all advance rental fees and other charges of Owner is not able to re-rent Cooper Ranch for the same time period. Owner will make good faith efforts to re-rent Cooper Ranch in the event of a cancellation, but given the unique nature of Cooper Ranch; re-rental cannot be promised or assured. Shortened stays at Cooper Ranch shall be treated as a cancellation of the occupancy period not used by Guest.

15. **Travel insurance:** To protect against the loss of your rental payments, travel insurance is strongly recommended. Contact your local insurance agent about travel insurance policies and complete his/her vacation plans for any reason whatsoever.

16. **Right of Entry:** Owner reserves the right to enter Cooper Ranch, at its sole discretion, at any time during Guest's occupancy to investigate disturbances, check compliance with Rule and Regulations and to make needed repairs.
17. **Indemnification:** Guest agrees to indemnify, defend and hold Owner and affiliated entities (i.e. Cooper Contracting, etc.) harmless from and against any losses, liabilities, claims, demands, damages, thefts, costs or expenses whatsoever arising from or related to or in connection with use of Cooper Ranch by Guest, his/her family and any invitees of Guests, except for any caused by the willful or intentional, acts of Owner.
18. **No Responsibility:** Owner is not responsible for events or occurrences beyond its control, whether man made or natural. Water shortage, flooding, loss of power, water or plumbing system breakdowns, pest infestations, appliance malfunctions, telephone, internet service or interruption of heating due to service or equipment failure, mandatory evacuations of the area by State of Oregon or Deschutes County due to fires or other potentially dangerous situations will not result in a refund.
19. **Rules and Regulations:** Guest must comply, and cause his/her and invitees to comply, with the Rules and Regulations for Cooper Ranch, which are attached to this agreement, and incorporated by reference.
20. **Miscellaneous:**
- 20.1** This Agreement contains the entire agreement for the parties with respect to the rental of Cooper Ranch and the other matters covered by the terms of this Agreement and supersede all prior written and oral negotiations and agreement. Any modifications, changes, additions, or deletions to this Agreement must be approved in writing by Owner and Guest.
- 20.2** Any provision of this Agreement that is held to be invalid shall not affect the validity or enforceability of any other provision in this Agreement. Failure of either party at any time to require performance of any provision of this Agreement shall not limit the party's right to enforce the provision. Waiver or any breach of any provision shall not be a waiver of succeeding breach of the provision or a waiver of the provision itself or any other provision.
- 20.3** This Agreement may not be assigned by Guest and any attempted assignment of the Agreement by Guest shall be void. Guest may not sublet all or any part of Cooper Ranch during the term of this Agreement.
- 20.4** This Agreement shall be governed by and construed in accordance with the laws of the state of Oregon. Guest hereby submits to venue in the Circuit Court of Deschutes County, Oregon in the event of any litigation arising out of this Agreement or Guest's use of Cooper Ranch. If any arbitration or litigation is instituted to interpret, enforce, or rescind this Agreement, including but not limited to any proceeding brought under the United States Bankruptcy Code, the prevailing party on a claim will be entitled to recover with respect to the claim, in addition to any other relief awarded, the prevailing party's reasonable attorney's fees and other fees, costs, and expenses of every kind, including but not limited to the costs and disbursement specified in ORCP 68 A (2), incurred in connection with the arbitration, the litigation, any appeal or petition for review, the collection of any award, or the enforcement of any order, as determined by the arbitrator or court, in addition to all other sums provided by law.

EX. A-8 (p.3)

I have read and agree to comply with the terms of this Agreement and the Rules and Regulations for Cooper Ranch.

Guest Signature: _____ DATE: _____

Ex. A-8 (p. 4)

10/17/2015

List your property

Loreen C. Help

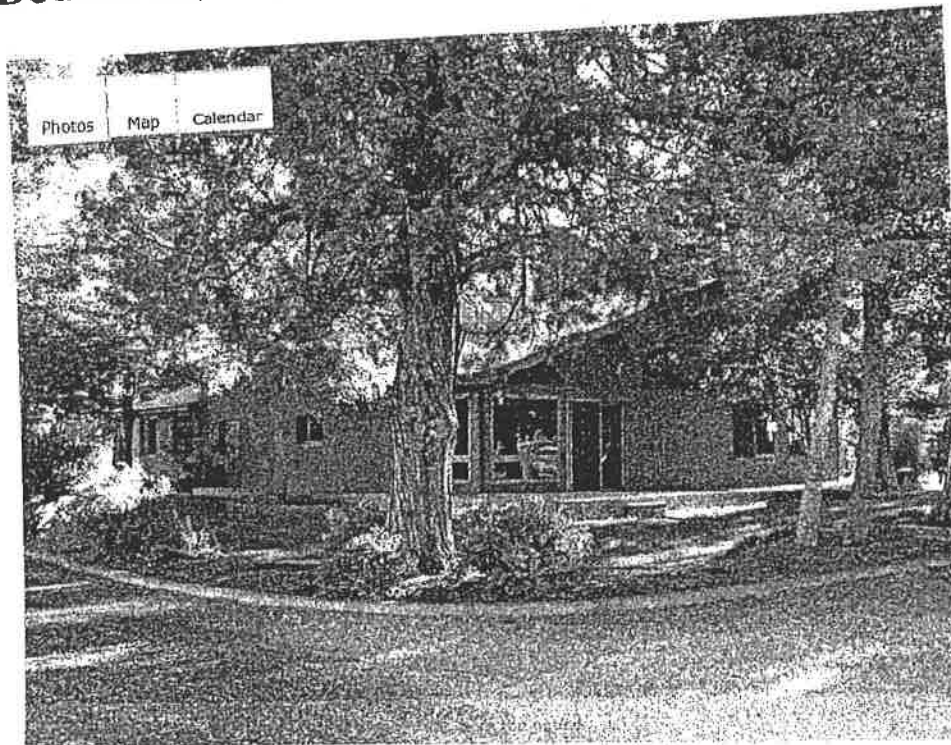
Recent favorites

Hi Loreen, Responding within 24 hours makes you much more likely to turn an inquiry into a booking.

View your response score now

VRBO Listing #388132

Private Quiet Large Country 54 Ac Ranch Home - 4 Bedroom/2.5



Overview | Reviews | Rates | Calendar | Location | Manager Info | Photos

Minimum stay:
Internet:

3 nights Pets considered:
Yes Wheel chair accessible:

Yes
N/A

Property description

This is a spacious rustic ranch home. It has 4 bedrooms and 2.5 bath. Sleeps up to 15 and has large spacious kitchen living area and game room. It is the perfect getaway for a family, corporate retreat, family reunion, weddings, golf vacations, hunting trips. We are located down a long private driveway which insures the peace and quiet you are looking for. We are within minutes of dining, shopping and

Avg. Nightly \$400

Arrival Departure

2 adults

Minimum stay: 3 nights

Get an instant quote

Save to my favorites

Reviews ★★★★★ 12
Sleeps 15
Bedrooms 4
Bathrooms 2.5
Property type Chateau /
Country
House



Manager
Member since: 2011
Speaks: English

Send email

Response time Within a few days

Response rate 30%

Calendar last updated 08/24/2015

Phone number Show phone number

Ex A-9

SCHEDULE F
(Form 1040)

Department of the Treasury
Internal Revenue Service (99)

Profit or Loss From Farming

► Attach to Form 1040, Form 1040NR, Form 1041, Form 1065, or Form 1065-B.
► Information about Schedule F and its separate instructions is at www.irs.gov/schedulef.

OMB No. 1545-0074

2014

Attachment
Sequence No. **14**

Name of proprietor

Social security number (SSN)

Paul Cooper

A Principal crop or activity

B Enter code from Part IV

► 111100

C Accounting method:

☒ Cash

☐ Accrual

D Employer ID number (EIN), (see instr)

Hay

E Did you 'materially participate' in the operation of this business during 2014? If 'No,' see instructions for limit on passive losses. ☒ Yes ☐ No

F Did you make any payments in 2014 that would require you to file Form(s) 1099 (see instructions)? ☐ Yes ☒ No

G If 'Yes,' did you or will you file required Forms 1099? ☐ Yes ☐ No

Part I Farm Income — Cash Method. Complete Parts I and II (Accrual method. Complete Parts II and III, and Part I, line 9.)

1 a Sales of livestock and other resale items (see instructions)	1a		
b Cost or other basis of livestock or other items reported on line 1a	1b		
c Subtract line 1b from line 1a		1c	
2 Sales of livestock, produce, grains, and other products you raised		2	137,237.
3 a Cooperative distributions (Form(s) 1099-PATR)	3a		
3 b Taxable amount		3b	
4 a Agricultural program payments (see instructions)	4a		
4 b Taxable amount		4b	
5 a Commodity Credit Corporation (CCC) loans reported under election		5a	
b CCC loans forfeited	5b		
5 c Taxable amount		5c	
6 Crop insurance proceeds and federal crop disaster payments (see instructions)			
a Amount received in 2014	6a		
6 b Taxable amount		6b	
c If election to defer to 2015 is attached, check here. <input type="checkbox"/>		6d	
6 d Amount deferred from 2013			
7 Custom hire (machine work) income		7	
8 Other income, including federal and state gasoline or fuel tax credit or refund (see instructions)		8	
9 Gross income. Add amounts in the right column (lines 1c, 2, 3b, 4b, 5a, 5c, 6b, 6d, 7, and 8). If you use the accrual method, enter the amount from Part III, line 50 (see instructions)		9	137,237.

Part II Farm Expenses — Cash and Accrual Method. Do not include personal or living expenses (see instructions).

10 Car and truck expenses (see instructions). Also attach Form 4562.	10		23 Pension and profit-sharing plans	23	
11 Chemicals	11		24 Rent or lease (see instructions):		
12 Conservation expenses (see instructions)	12		a Vehicles, machinery, equipment	24a	
13 Custom hire (machine work)	13		b Other (land, animals, etc)	24b	5,800.
14 Depreciation and section 179 expense (see instructions)	14	153,634.	25 Repairs and maintenance	25	9,683.
15 Employee benefit programs other than on line 23	15		26 Seeds and plants	26	
16 Feed	16		27 Storage and warehousing	27	
17 Fertilizers and lime	17		28 Supplies	28	24,098.
18 Freight and trucking	18		29 Taxes	29	22,901.
19 Gasoline, fuel, and oil	19		30 Utilities	30	24,972.
20 Insurance (other than health)	20		31 Veterinary, breeding, and medicine	31	
21 Interest:			32 Other expenses (specify):		
a Mortgage (paid to banks, etc)	21a	15,191.	a Bank Charges	32a	54.
b Other	21b	988.	b License and fees	32b	570.
22 Labor hired (less employment credits)	22		c Office expense	32c	1,250.
			d VRBO costs	32d	1,100.
			e	32e	
			f	32f	
33 Total expenses. Add lines 10 through 32f. If line 32f is negative, see instructions				33	260,241.
34 Net farm profit or (loss). Subtract line 33 from line 9				34	-123,004.

If a profit, stop here and see instructions for where to report. If a loss, complete lines 35 and 36.

35 Did you receive an applicable subsidy in 2014? (see instructions) ☐ Yes ☒ No

36 Check the box that describes your investment in this activity and see instructions for where to report your loss.

a ☒ All investment is at risk.

b ☐ Some investment is not at risk.

BAA For Paperwork Reduction Act Notice, see the separate instructions.

FD1Z0212L 12/23/14

Schedule F (Form 1040) 2014

Ex A-10

October 28, 2015

Board of County Commissioners of Deschutes County
1130 NW Wall
Bend, Oregon 97701

Attn: Anthony Debone, Chair
Alan Unger, Vice Chair
Tammy Baney, Commissioner

RE: De Novo Appeal on Application 247-15-000001-LUP (247-15-000298-A) pursuant to
Title 22 of the Deschutes County Code – Paul and Hana Cooper, Applicants

Dear Commissioners:

While at the hearing on Monday I intended to provide testimony about and clarification of our tree growing operation on the subject property. Given the complexities of the issues, and the time constraints, we never got to this particular issue. Thank you for leaving the record open for such testimony.

A little history with regard to the subject property may go a long way in helping you to understand the tree growing operation. Early on, in about 1984, I became a reforestation contractor and worked with a partner. In 1988, I went out on my own as an independent contractor. At the end of each season there were saplings left over and rather than watching them be tossed away, we accepted the excess trees and began planting them on our Bend property. The trees included Ponderosa, Lodge Pole and Larch, and we planted a few hundred each year. At that time all the trees were planted in the ground. We nurtured them, year round, by watering them, weeding them, fertilizing them at least annually, and spraying them for pests when needed. Tree farms don't require daily maintenance.

In 1993, we ordered 2,000 bare-rooted Aspen whips to add to the farming business and they were planted in the ground. After that, we learned that planting all of the trees in the ground wouldn't allow us to have a year round tree selling business. Because so, we started putting some of the trees in pots and then added new varieties such as Hornbeams, Big Leaf Linden, Black Cherry and Pines. Incidentally, not all of the trees we have were grown along Simon Road, as the Winston Ranch HOA seems to believe. In fact, at least three quarters of the trees were planted on the East side of the property, where they couldn't have even been and can't be seen by Winston Ranch property owners.

In about 2003, I started a landscaping business and that's when we started bringing in nursery stock which came to the subject property in pots. However, unknown to the neighbors at Winston Ranch, any nursery stock that was brought in was brought in only because it was ordered for specific landscaping jobs that had already been bid on and won. The stock would be delivered to our Bend property and then relatively shortly thereafter moved and delivered to the landscaping site.

In 2007, I applied for a nursery permit because I had so many trees on the property, in pots and in the ground. That permit was granted (over the objection of the very same Winston Ranch HOA). Some of the trees each year were transferred from soil to pots. We did and do have trees of all sizes and they are of varying ages. After all these years, most of the trees are mature and of course look fully grown but are of varied ages and various heights.

Paul Cooper

November 1, 2015

Board of County Commissioners of Deschutes County
1130 NW Wall
Bend, Oregon 97701

Attn: Anthony Debone, Chair
Alan Unger, Vice Chair
Tammy Baney, Commissioner

RE: De Novo Appeal on Application 247-15-000001-LUP (247-15-000298-A) pursuant to
Title 22 of the Deschutes County Code – Paul and Hana Cooper, Applicants

Dear Commissioners:

Because the scope of issues being addressed by the Board on appeal is unrestricted, we wanted to provide the following testimony and information which addresses the issues/complaints raised by the Winston Ranch HOA letters. My apologies for the length of this letter, but if I am denied this permit, I wanted to make sure the record on appeal is complete.

First, we'd like to point out that there were letters submitted in favor of the proposed permit. Letters in support of the proposal were submitted by the Kim, Lynch, Campbell, Foster, Leshaw and Marshall families. They noted that the noise, access and liability issues are clearly manageable, that the farm presents the perfect wedding spot, and that I am an experienced farmer running a "top flight outfit." Mr. Campbell understands that the main source of my income is from farm use. The Fosters were initially concerned but ultimately satisfied that such concerns will be handled, including sound levels and possible fire danger. The Leshaw's confirmed that the issues regarding Simon Road and the music/noise and resolutions for such problems proposed by me were reasonable and agreeable.

I believe all if not almost all of the opposition letters came from folks living in Winston Ranch. Some of the HOA letters in opposition alleged that false information was supplied in the attempt to get a quick approval of the permit. Please know that the information which was challenged in the initial permit application was subsequently corrected and/or clarified. There was no intention to mislead anyone or lie about the facts. Any information that was submitted at the time of the initial application that was questioned or unclear was corrected and clarified to Mr. Blikstad's satisfaction and Mr. Blikstad found that the concerns were all addressed and/or resolved by the time of the initial hearing. Mr. Blikstad did recommend clarification of income, but aside from that, he recommended approval of the permit with conditions of approval.

The most substantive letter was submitted by Mr. Renyer as President and on behalf of the Winston Ranch HOA. Interestingly, while he lives in Winston Ranch, he admitted that noise wasn't a major factor for him. His primary concern centered on the potential use of Simon Road for access to attendees of the weddings. As the record already establishes, access to our property for the weddings is off of Old Bend Redmond Highway, not Simon Road. The Simon Road issue won't be addressed further in this letter. Mr. Renyer did admit that I made contact with some of the Winston Ranch

homeowners and that I was "courteous" and gave assurances to resolve their/HOAs concerns. Addressing Mr. Renyer's stated concerns in total will address most of the concerns of the whole.

Mr. Renyer noted his dislike that I had weddings on my property without a permit prior to this past summer. He was right. I did have weddings for a few summers, and then realized I needed a permit. He was upset that I didn't contact neighbors and give prior notice of this permit request, but we were advised by Staff that notice was neither required nor necessarily helpful in this type of process. An additional concern was that the approval of this permit request would negatively affect his property value, but there is no evidence that approving a permit allowing 6 weddings a summer would have any effect on neighboring property values.

Ultimately, Mr. Renyer's letter makes apparent the reason why the folks at Winston Ranch might not personally support my permit request. As noted in his letter, I didn't voluntarily agree to contribute to the Simon Road improvements. The request was made years ago, and prior to my moving to Monument. It is interesting to me, however, that the letters in opposition specifically admit that not all of the Winston Ranch home owners have contributed to their own Simon Road improvements. Why would they expect me, a neighbor not part of their Winston Ranch HOA, to pay for improvements on their road (simply because we used that back road from time to time) when their own HOA members aren't paying for improvements? This issue does seem to be the fuel for their at times hostile objection to my permit.

Mr. Renyer raised issues of potential liability for accidents and trespassing, but I know of no legal basis for such a concern or why the Winston Ranch HOA would be liable for anything if this permit is granted. To be clear, we do not discount the concerns that the Old Bend Redmond Highway may be dangerous and that the traffic coming into our property would be increased during the weddings. But we aren't talking about hundreds of cars daily. We are talking about 50 to 75 cars at most coming into the property (not all at the same time or exiting at the same time) and on only 6 Saturdays out of the year. The stated concerns about the weddings causing traffic backup for miles is absurd.

Other issues raised by Mr. Renyer are clearly personal, without merit and have no relevance to this permit application. He asserts safety concerns for folks sitting on bales of hay. How is sitting on a bale of hay dangerous? Many of Mr. Renyer's complaints are based on either misunderstandings of how my farm operates, challenges to the facts, or faulting me for not completely understanding how to go about submitting proof to support my permit request. His last letter accuses me of falsifying data. I am not a college educated man. I work hard and try to make a living by farming. I have no experience in politics, accounting, tax forms or the like and I relied heavily upon recommendations or advice from Staff in submitting my permit. During the process I clarified and corrected data to make sure that we accurately represented the tonnage of hay produced only the subject property. I did this to make sure we accurately and corrected represented the data and income from the property and for no other reason. Needless to say, I learned a lot in this process and will make every attempt in the future to keep better records of income from both the tree and hays and make sure we can track what is produced only on this property.

We do harvest a lot of hay, and while the initial application indicated 1,000 tons were harvested by my business, which is true, the application didn't make clear how much of that was grown and harvested on the property subject to the permit request. As stated, we have corrected that information. We didn't put 1,000 in an attempt to intentionally mislead. We simply neglected to break down the total hay production to that grown and harvested on the subject property in Bend. It doesn't help that

the Schedule F tax form asks for "farm income", and not the total farm income per line item of product grown and harvested on the land. The total hay grown and harvested on the Bend property was accepted to the Hearing Officer's satisfaction and we agree with her findings in that regard. All in all I believe we have addressed Mr. Renyer's concerns.

The letter submitted by the Moskowitz family brings up an issue not raised by anyone involved directly in the process to date. Neither Staff nor the Hearing Officer made any reference or noted any concern about the fact that the application for the permit involved 2 adjoining tax lots. There is nothing in SB 960 nor the legislative history, let alone the statutes or rules, that require that the permit apply to only one tax lot. To suggest now that that might be a basis for non-approval of a permit is prejudicial to me and would cause a financial hardship. I've spent almost what I make in one year worth of weddings on this process so far. Were we advised by any method that this issue would or could be a basis for denying the permit at the appeal level, we would have dropped this application and started over. Instead, we have now paid an enormous amount of money (\$5,000 for the initial hearing and another \$7,500 for the prior attorney) to get this far. If a permit application may only involve one tax lot at a time, notice of such should be required to all potential applications prior to the appeal process.

The Moskowitz letter makes assumptions about how much hay I produce on this property, without any knowledge of the facts. They assumed that storing hay is a fire hazard, which if true would present hazard issues for every hay farmer in America. And, if it were a hazard, it comes with or without the weddings. He assumes that the nursery permit is still active, and asserts that I have more than one business on this EFU property, but, again, he doesn't know the facts. The nursery permit is not active. He disagrees with my gross income statement, but how would he know how much money I make on my farms? We know that Moskowitz's take daily walks along Simon Road and have personal knowledge that the trees were in fact planted both in the ground and in the pots. To say otherwise is a lie. They know we've planted trees during the past 7 to 8 years. He uses google earth pictures to substantiate his conclusion that we don't have enough parking. Yet, he hasn't come on to my property, nor does he have access to my property. Clearly, based upon other pictures and the Staff site visit, we have plenty of room for the attendee vehicles. Moskowitz simply doesn't want us to have weddings on our property and unfortunately it appears they are misrepresenting their observations and will make up anything and speculate to oppose the permit. This is disturbing to us.

The Newman letter voices concerns regarding noise, liability for excessive traffic and his fear of mixing commercial with country living. Everyone understands that people move to the country for peace and quiet. However, SB 960 allows for such a permit on my 54 acres. It's legal to have these weddings if the permit is approved and all conditions of approval are met. The noise and traffic issues are addressed by conditions of approval.

The Farmer letter notes concerns that we would have more than 6 events. However, we don't want more than 6 events and the permit is for up to 6 events, not more. The Farmers subsequently withdrew their opposition.

The Williams letter simply alleges that my application doesn't meet the requirements. He too cites Google Earth and questions the 1,000 tons of hay figure in the initial application (prior to clarification), noise control, and potential access via Simon Road. These issues have been clarified and/or resolved.

The Gerloff letter notes their concern with the hours of operation (how late the wedding parties will go), the serving of alcohol, and the safety and security of the neighborhood. The rule provides that the weddings events must stop by 10:00 pm. Alcohol liability shouldn't be of any legal concern to the neighbors. However, anyone drinking and driving poses a hazard on the road. There does not appear to be any legitimate concern for the safety and the security of the neighborhood. In fact, there is no real neighborhood involved in this situation. The wedding site is in the middle of 54 acres.

The Phillips letter is interesting. Mr. Phillips is a land planner/architect who doesn't even currently live in Winston Ranch but has renters in his Winston Ranch home. He wasn't even aware of SB 960 and the fact that this type of a permit is available.

The Johnson letter implies we can't meet the requirements of the permit because weddings don't qualify as agri-tourism. Johnson is obviously misinformed. They state that they have seen little in the way cultivation or tree sales, but unless they are monitoring our property hourly or daily, how would they? In fact, the tree sales are off and on throughout the year and not daily or even weekly. There would be no such regular "cultivation" as they suggest.

The Hills/Powell letter complains that weddings aren't sales events. I don't know what that means. They complain about the potential noise, alleged use of firearms, use of the highway, alcohol impaired drivers, fire, smoke, candles, lanterns, hot car exhausts, event monitoring, and they don't want this permit to be approved because they don't want others to do it either. They simply don't like the new law. Who said anything about firearms and candles, or lanterns? Most of their concerns have been addressed above, but they take it one step further and suggest that hot car exhaust will cause fires on our property. They are reaching.

The Ashley letter references noise and traffic concerns, but mostly his belief that weddings should be in commercial areas and not on farms, and asserts that weddings on a private ranch somehow damages the neighborhood. His letter simply addressed his dislike for the idea of such a permit.

The Thompson letter reiterates concerns about the noise and traffic issues, health and safety concerns, and the worry that others in the area might apply for a similar permit. Aside from these already addressed issues, he is worried about the environmental impact on local wildlife. What possible environmental impact will there be on wildlife? If we have to prohibit rice throwing, we are certainly willing to do that as a condition.

The McHendry letter asserts that allowing weddings on my 54 acres farm will lessen neighboring property values and creates a nuisance. How? He complained he didn't get notice, but notice was sent. He asserts that the area is 'more densely' populated than meets the eye. What? He asserts that a total of 6 events will be hard to control. They haven't been hard to control so far. And, to the best of our knowledge, NONE of these Winston Ranch residents have filed formal complaints about prior weddings on our property. He argues that the weddings don't lead to hay sales, but he clearly is wrong because I have and do make money off of contacts from weddings from both tree and hay sales. His opinion is based upon assumptions and misinformation, not to mention bias against me and the permit idea.

The Nemeth letter asserts that Winston Ranch will be adversely affect by the noise, traffic and increased "safety concerns" for pedestrians. Simon Road is a small narrow road that borders Winston Ranch and runs North to South along the West end of my property. How does a wedding, whose attendees don't use Simon Road, cause a safety concerns for pedestrians on Simon Road? Access to the subject property for the weddings is off of the Old Bend Redmond Highway, not Simon Road. This is just another absurd allegation.

The Brown letter notes concerns regarding traffic and noise level enforcement, but these issues are and can be addressed by the conditions of approval. Mr. Brown submitted a second letter a few days prior to the Board hearing. He is clearly angry that instead of making me cancel the proposed weddings for this summer, I was allowed to go ahead and let the weddings go forward. He clearly would have been in favor of ruining 6 couple's wedding by cancelling their venue at short notice. Nothing will make Mr. Brown happy with regard to this permit application. His letter also reflects his anger at my placement of no trespassing signs on my fences that line my property. He seems to think that our signs are preventing him access to his irrigation canal, which is ridiculous. I've had no trespassing signs on our fences for years, and that hasn't stopped anyone from Winston Ranch from accessing their canal to date. I haven't violated any law by putting up no trespassing signs. Mr. Brown also submitted comments in a letter the day after the hearing questioning my ability to produce so many tons per acre. Clearly, his bias against me and my farm are evidenced in his letters as he will say practically anything to get this permit denied. What other reason does he have to so quickly question my hay production?

The general theme of the opposition letters is legitimate concern for noise, traffic control, and whether I've produced accurate and qualified data for the income analysis. Some of those from Winston Ranch who supplied letters against my permit application are biased against me because of the apparent standing dispute regarding Simon Road. It's unfortunate. I believe that had the road dispute not been present, this permit request would have indeed been unopposed and likely approved months ago.

This process has shown itself to be very difficult for a simple minded farmer. I want to make some supplemental income from weddings on my property. I came into this not knowing anything about how to apply, and have obviously learned as the process has continued. I understand the process and now understand the requirements to submit data pertaining to farm use and income from the subject property only. My record keeping prior to this process didn't require such a stringent separation and tracking of income. I now know that I have to keep better records of what is produced on the subject property and have to be able to show the income from just this property. I will improve my record keeping in hopes that if this permit is granted the renewal process won't be so difficult and agonizing.

Thank you for allowing me to address the letters in this manner.

Paul Cooper

Paul Blikstad

From: Sharon Ross
Sent: Monday, November 02, 2015 10:57 AM
To: _CDD Planning Division; Tony DeBone; Tammy Baney; Alan Unger; David Doyle
Subject: FW: Cooper Application
Attachments: HOA Letters.docx

From: CUREY Sally A * DCBS [<mailto:Sally.A.Curey@oregon.gov>]
Sent: Sunday, November 01, 2015 8:41 PM
To: Sharon Ross
Cc: 'loreencooper@centurytel.net'
Subject: Cooper Application

Hi Sharon. Here is another letter from Paul Cooper. He is submitting this to the Board Members to review in the appeal process. This particular letter addresses the opposition letters and explains why the Winston Ranch folks are angry about the permit.

Please get them copies for their records.

Paul will be submitting one more letter with exhibits tomorrow, Monday, by 5:00 pm. The exhibits will include 2 letters reflecting the sale of trees from contacts during weddings, a few recipes that will be provided to the wedding attendees that incorporates some of the tree products into the wedding events. Additionally, I expect a few pictures from prior weddings this past summer that show that the trees for sale are in fact being used as backdrops for the formal wedding pictures. Finally, the Coopers will be creating center pieces to be used on the tables for the wedding receptions made from tree products grown on the farm. Paul may have a few other things as well.

As always, thanks again for your help. Sally Curey

November 2, 2015

Board of County Commissioners of Deschutes County
1130 NW Wall
Bend, Oregon 97701

Attn: Anthony Debone, Chair
Alan Unger, Vice Chair
Tammy Baney, Commissioner

RE: De Novo Appeal on Application 247-15-000001-LUP (247-15-000298-A) pursuant to
Title 22 of the Deschutes County Code – Paul and Hana Cooper, Applicants

Final Submission of Additional Exhibits/Evidence and Testimony – Record closes today

Dear Commissioners:

Again, thank you for your time and thoughtful consideration of the record and our request for a Type 2 Limited Use Permit. One of the key issues raised by the Board at the hearing was whether the commercial events on our property are “related to and supportive of” the farm use/agriculture. The question posed was, “how are the trees related to the weddings?” The premise was that each of the items grown and harvested on the property, both the hay and the trees, had to be related to the weddings in order for the income from such to be included in the evaluation of whether the commercial events were “incidental and subordinate” to the farm use. In other words, is the income from the weddings less than the income from both the trees and hay (farm use)?

To be clear, we were under the impression that as long as the hay was deemed related to and supportive of, all “farm use income” would be considered in the income analysis. Because so, we didn’t provide specific information/evidence/testimony regarding the trees specifically at the hearing below. While we disagree with the HO, it wasn’t until we received the Hearing Officer’s decision that this issue came to light. Therefore, we provide the attached exhibits which reflect that the trees truly are related to and supportive of the weddings, and visa versa.

Please accept the following additional exhibits to support the application for the Type 2 Limited Use Permit.

Supplemental Exhibits:

Ex. B-1 Picture of Couple who got married at the Cooper Ranch, Summer 2015. Please note that the couple is using our larger trees for wedding photo backdrops.

- Ex. B-2 Photo of the dance floor at the Cooper Ranch, during a wedding, Summer 2015. Please see that some of our trees for sale are in pots along the back of the dance floor, framing the wedding seating area by the dance floor. These types of trees are in fact for sale and advertised for sale on the Cooper Ranch.
- Ex. B-3 Letter from Mark Jarvis, Central Oregon resident, to the Board, explaining the fact that his son was married at the Cooper Ranch this summer, 2015, and that he saw the trees for sale sign at the wedding. Further, he explains that he has made arrangements for the purchase of some of the trees for his family ranch in Grant County.
- Ex. B-4 Letter from Andy Smith, a local Tree Arborist, explaining that he attended a wedding at the Cooper Ranch and noticed the trees for sale sign, later took a walk around the premises, and acknowledged the large variety of trees available for sale. He indicates in his letter that because of the weddings, he learned of this local resource for trees and that he kept the contact information for future purchase of trees.
- Ex. B-5 Spruce or Fir Tip Syrup – we found a recipe that incorporates the use of fir and/or spruce tips into a syrup. We intend to make this syrup for each of our weddings to be used as an accompaniment with their bottled water, or to be used in their cocktails during the wedding. We have both Fir and Spruce trees growing on our property and both are for sale. (2 pgs)
- Ex. B-6 Pine Needle Tea – we found this recipe as well that incorporates pine needles in a tea. We plan on making such tea with bottled water for our guests at the weddings. We have Pine trees on our property that are for sale.
- Ex. B-7 Pictures of the Bobcat on the Cooper Ranch property pulling up the Colorado Spruce Trees to be used to border the wedding area and frame the alter. (2 pgs)
- Ex. B-8 Pictures of the set up incorporating the Colorado Blue Spruce (for example) as the backdrop for the wedding ceremony. These trees are for sale at the ranch. As you can see, the pictures do not include the ornamental or decoration items for covering up the pots, as we will leave that decorating decision to the bride and groom. However, table clothes, lace, or other items may be available to use as decorative cover. We will let them decide. Additionally, it's possible that the trees have lights on them for a late evening wedding. (3 pgs) This particular framing of the chairs and alter faces the large pond and the view of the mountains.

Each of these exhibits reflect the fact that the trees have been used in past weddings, and going forward in the future can and will be used for photo backdrops, wedding ceremony framing, and used to make alters for the bride and groom, as well as to make syrup and teas from the tree products.

We understand that the Board also has a few questions regarding the home rental and we would like to respond to those questions as follows:

1. Are folks who book wedding events required to also rent the house during the days of the event? No. There is absolutely no requirement that people who book a wedding date are required to rent the house at the same time.
2. If no, has there ever been a wedding event where the wedding party (or someone associated with the wedding party) did not rent the house? Yes, in fact, there have been a few weddings that did not include rental of the home.

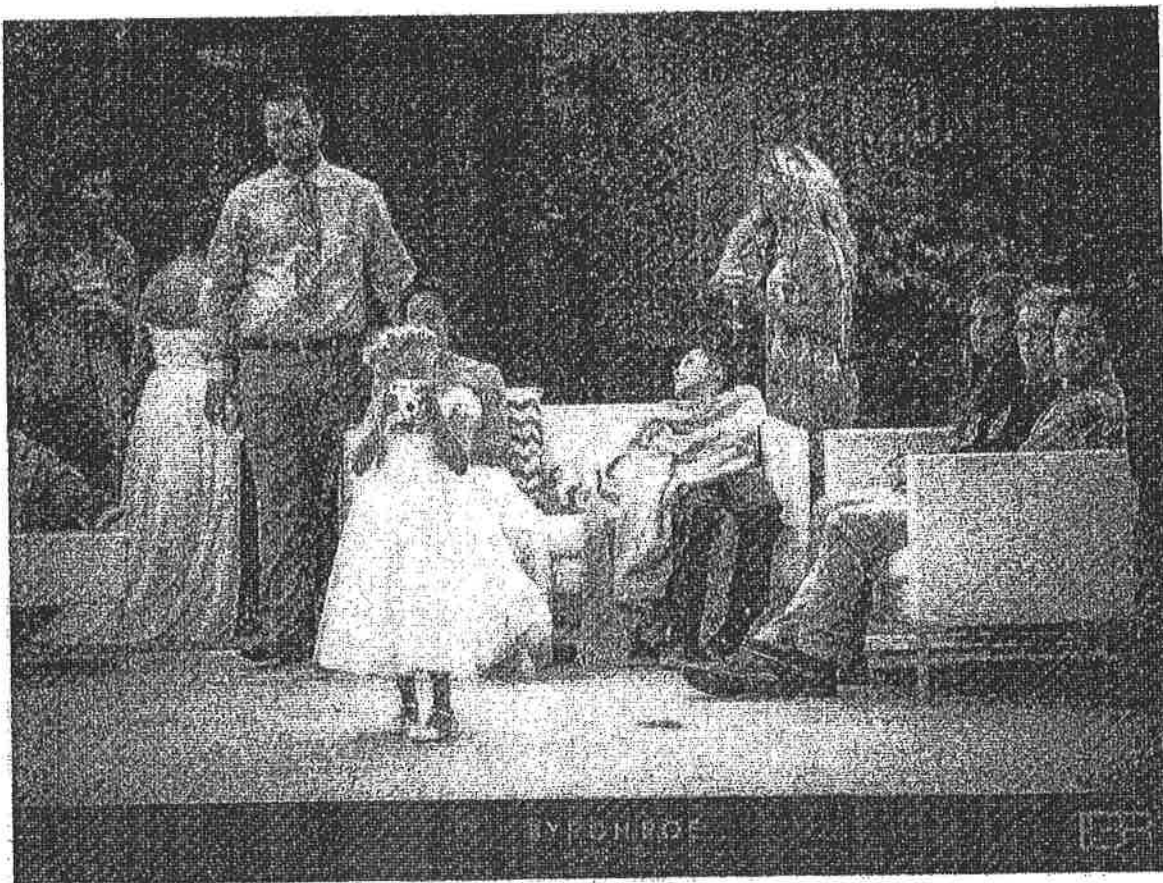
If you have any additional questions or concerns, let us know. Final argument is due next Monday, November 9, 2015. We will submit a final written argument by that date.

Best regards,

Paul Cooper
Hana Cooper
Co-Applicants



Ex. B-1



Ex. B-2

ATTN: Deschutes County Commissioners

I am writing on behalf of the Cooper Ranch Wedding facility.

My son was married at this site on August 15, 2015. From the first trip to the facility we were hooked. The beautiful country setting, large gorgeous trees and open spaces and isolated to the world was the perfect setting and backdrop for this glorious outdoor wedding.

Both the bride and groom, being raised in Bend, all they wanted was a beautiful outdoor setting but as we found early in our venue search there were limited facilities but certainly none that appealed to our families like the Cooper Ranch. The wedding and reception went off amazingly well and wedding party and guests had a spectacular time.

In addition to the amazing facility in my conversations with the Cooper family, I noticed a Trees For Sale sign which has led to negotiations of our family to purchase trees for transplanting to our family ranch in Grant County Oregon. The Cooper family went so far as to dig and pot some smaller trees for landscaping the reception area. As a contractor, equipment operator it was fun for me to watch his tree spade pluck those trees just adding to my enjoyment.

I am fully aware of the on going battle for the approval of Outdoor Wedding Facilities in Deschutes County. I have attended weddings at other facilities on small acreages in the past. I am sure there have been problems with approval of smaller facilities and the problems that they may cause. Larger acreages, surrounded by other acreages of like size makes the Cooper Ranch Wedding facility a perfect location for hosting an outdoor wedding and reception.

After going through this experience, I sincerely hope Deschutes County will continue to allow Cooper Ranches to host weddings and receptions and similar sized and appropriate properties can provide our young and up and coming families in Central Oregon the chance to have their weddings in a spot as serene as Cooper Ranch and Tree Farm.



Sincerely, Mark Jarvis
63400 Silvis Road
541 480 5593

Ex-B-3

DATE: 10-30-2015

ATT: Deschutes County Commissioners

In mid-July I attended a wedding function at the Cooper Ranch. My profession is a Consulting Arborist. When I drove in the Cooper Ranch drive way I noticed a sign that said trees for sale. That afternoon/evening I took a walk around the premises and saw the variety of trees that were available for sale. I am always searching for new outlets for trees and because this is a local source it is a very valuable source to me, my customers and other contractors in the Central Oregon area. As we know there are always people looking to purchase new trees. I took the phone and address and contacted the Coopers for future purchase of their trees.

Sincerely,

Andy Smith

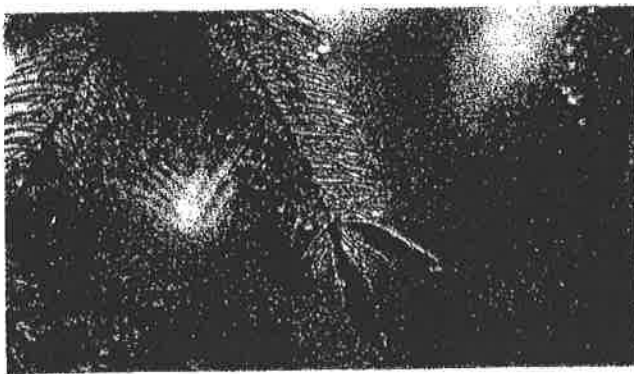
Tree Arborist & Consultant

541-480-3494

Ex B-4

Spruce or Fir Tip Syrup

by Hank Shaw



Design Pics

Ever eat a tree? I know, I sound like Euell Gibbons. But really, you can eat the fresh growing tips of spruce or fir trees in any number of ways. My favorite is steeped in a simple syrup. The syrup smells like a pine forest, tastes a little citrusy — more so if you add lemon juice — and adds a wonderful woodsy note to glazed pheasant, grouse or chicken.

Spruce tip syrup is even better mixed with ice cold water, carbonated or no, and a hint of lime or lemon juice. And it makes a fascinating cocktail mixed with gin.

To gather spruce or fir tree tips, look in springtime for the light-colored ends of the trees: These are the new growth shoots from the tree. Older shoots get too resinous to be very tasty. Work your way around the tree and pick from scattered places so you don't damage the tree — and never pick the top of a young tree, or you can possibly stunt its future growth.

This syrup should be kept in the fridge, where it should last about 4 months.

Ingredients

- 2 cups water
- 2 cups sugar
- 2 cups fir or spruce tips
- 1-2 tablespoons lemon juice (optional)

Instructions

1. Bring the sugar and water to a boil in a lidded pot, stirring to make sure all the sugar is absorbed.
2. When it hits a boil, turn off the heat. Stir in the spruce tips and lemon juice, if using, cover the pot and leave to cool.
3. The longer you steep the syrup, the stronger spruce flavor you'll get. I let it steep overnight.
4. Strain the syrup through cheesecloth and bottle.

Reprinted from *Hunter, Angler, Gardener, Cook* by Hank Shaw. All rights reserved.
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Prep time: 15 minutes

Cook time: 1 hour

Total time: 1 hour, 15 minutes, plus time to steep

Yield: 1 pint



Hank Shaw is a former chef who is now a full-time forager and writer. His work has been published in Food & Wine, Organic Gardening, The Art of Eating, Field and Stream, Gastronomica, Meatpaper, Edible Sacramento, the Stockton (CA) Record, Pheasants Forever magazine and Delta Waterfowl Magazine. He is the author of *Hunt, Gather, Cook: Finding the Forgotten Feast*.

How to Make Pine Needle Tea

Pine needle tea is made from (surprise!) pine trees. It contains significant amounts of vitamin C (up to five times as much as a lemon^[1]). Moreover, it is refreshing and can serve as a decongestant.^[2] Here is how to do it.

Frontier Business Edge

Business Internet w/ 99.9% Network Uptime & 3-Year Price Guarantee!

Ingredients

Approximately 1 cup of water

A bunch of fresh pine needles from a green white pine (*Pinus strobus*) (see "Tips" and "Warnings" below for collection advice)

Steps

- 1 Put the water into a pot and bring it to a boil. Or, boil the water in a kettle. Use whichever method you're used to.

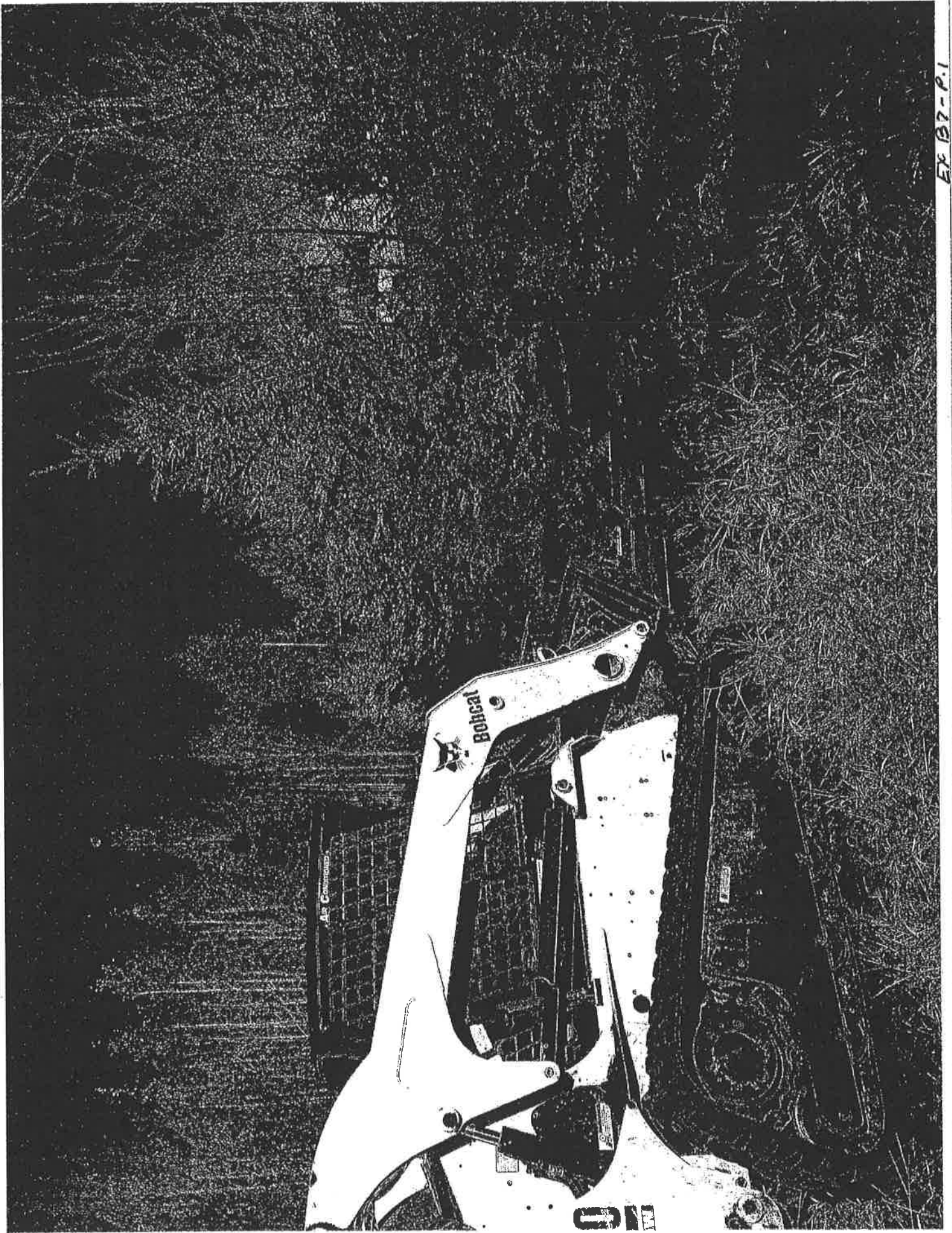
- 1 Flat stomach rule: obey
Cut down a bit of stomach fat every day by using this 1 weird old tip.

- 2 Gather the pine needles, clean them, and then put them in the cup or mug.

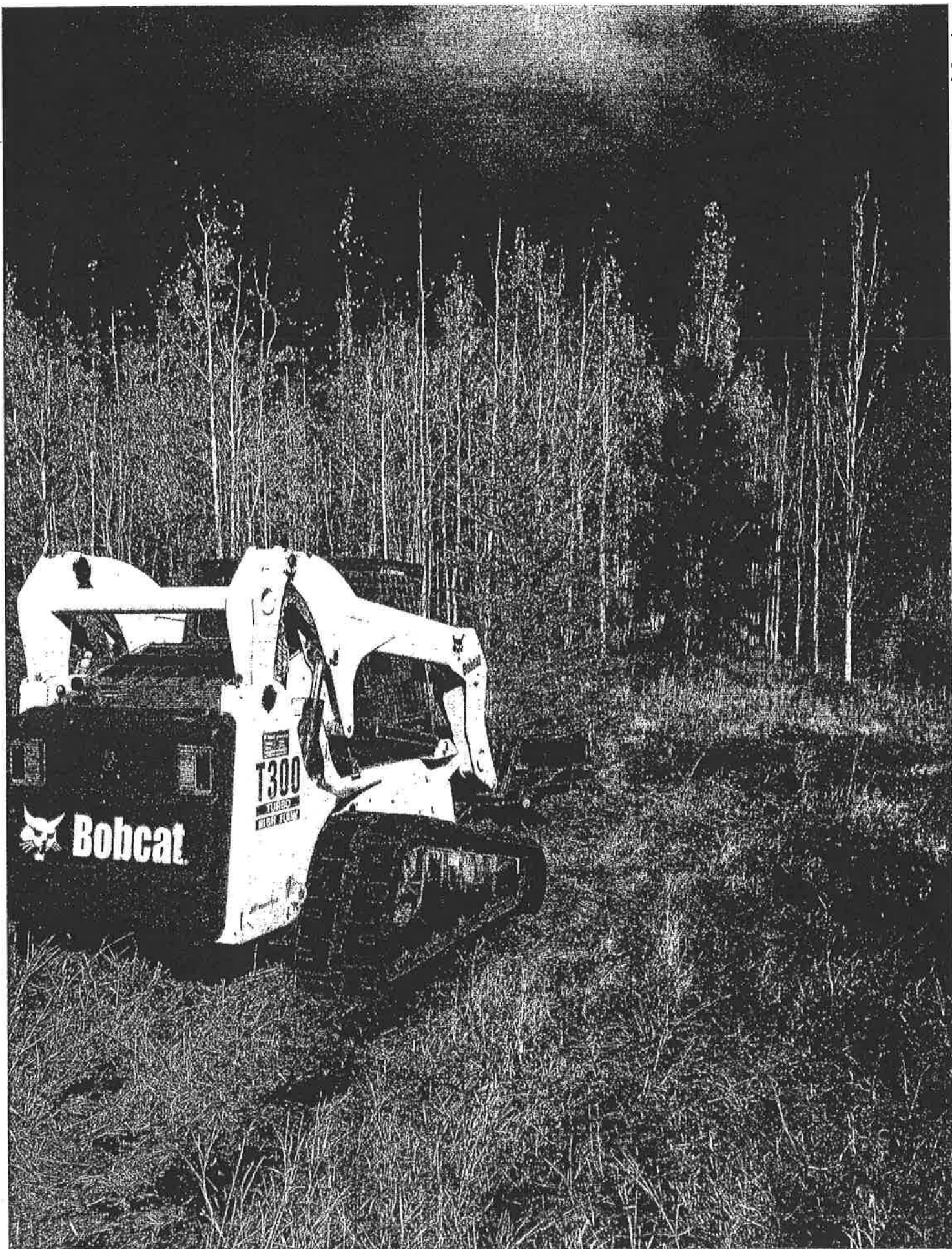
- 3 Pour the boiling water into the cup while the pine needles are in it and stir until the color of the pine needles starts to pale.

- 4 For more flavor, add the juice of 1 lemon or a squirt of lemon juice. Also try a squirt of honey or stir in a sugar cube.

- 5 Filter the pine needles out with a fork and drink up!



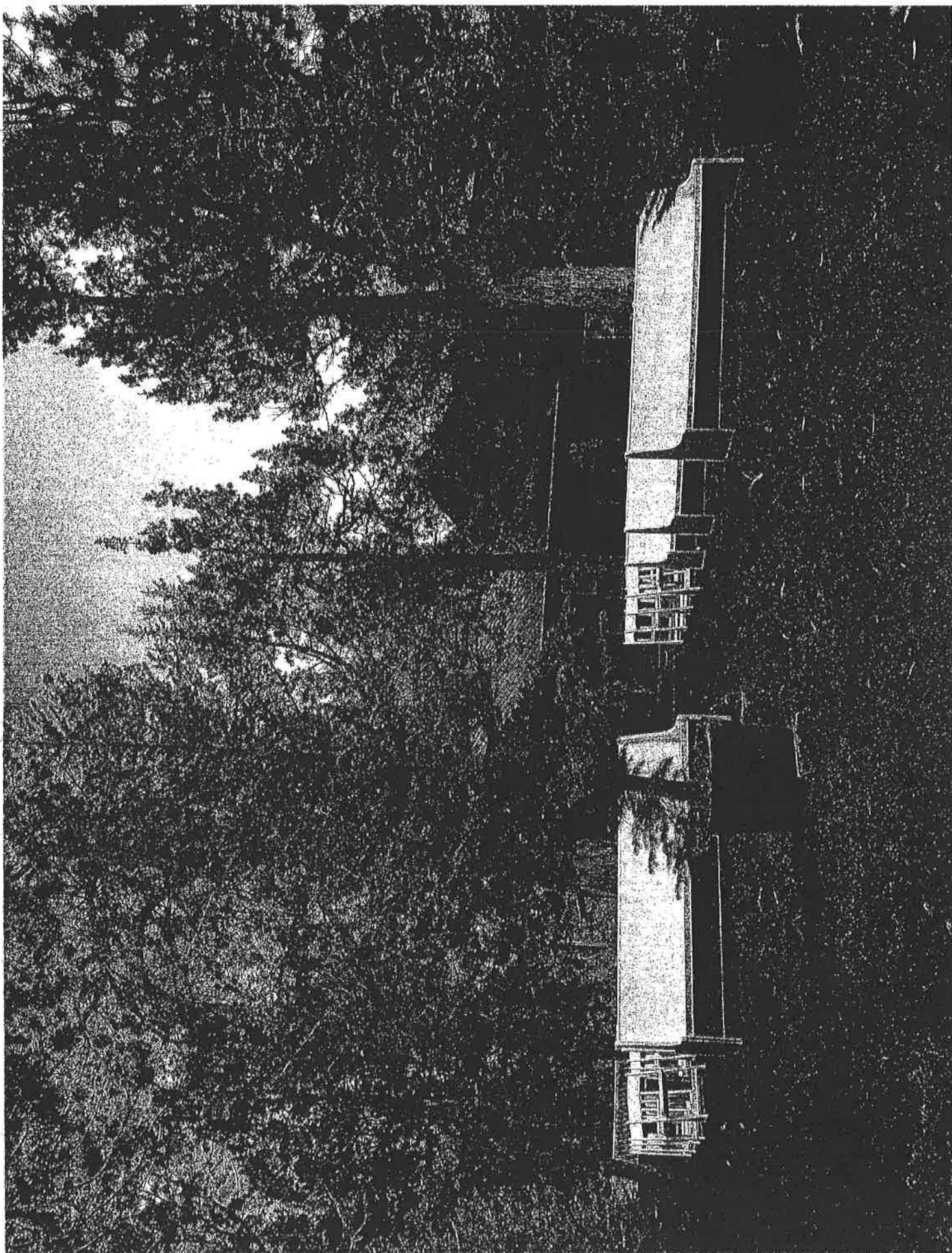
EX 137-P.1



EX. B-7 (P.2)



EX B-8 (P.1)



















Attachment K

November 9, 2015

Board of County Commissioners of Deschutes County
1130 NW Wall
Bend, Oregon 97701

Attn: Anthony Debone, Chair
Alan Unger, Vice Chair
Tammy Baney, Commissioner

RE: De Novo Appeal on Application 247-15-000001-LUP (247-15-000298-A) pursuant to
Title 22 of the Deschutes County Code – Paul and Hana Cooper, Applicants

Applicant's Final Argument

Dear Commissioners:

Please accept this letter as Applicant's Final Argument in the above referenced appeal. The applicant appealed the Hearing Officer's May 26, 2015 Decision to deny a Type 2 Limited Use Permit for a commercial events/activities facility on its 54 acre property in the EFU zone.

Three key issues must be addressed: (1) is there farm use on the subject property; (2) are the wedding events related to and supportive of agriculture; and (3) are the wedding events incidental and subordinate to the existing farm use on the property.

Farm Use and Related to and Supportive of Farm Use:

After reviewing prior decisions, including Brown, Crescent Moon, and Downs, and considering those sources, the Hearing Officer found that to demonstrate the proposed wedding events are related to and supportive of the farm use on the property the applicant must show (a) the existence of farm use on the subject property; (b) that there is more than a marginal connection between the farm use – hay production and sales of trees grown on-site and the wedding events; and (c) that the participants of the wedding events support that farm use through the payment of fees, purchase of farm products and services from the applicant.

Clearly, there is farm use on the property. The Hearing Officer concluded that there is farm use as established by the growing, cutting and sales of hay. She wasn't so convinced that the growing and harvesting of trees on the property also qualified as farm use. Evidence was not submitted at the Hearing regarding the trees, per se, because it was applicant's understanding that only one farm use had to be identified on the property to meet this requirement. The Hearing Officer interpreted the definition of "farm use" to require the trees to have been planted in the ground. The Hearing Officer

ignored the evidence presented by the applicant reflecting the large inventory of trees on the property and simply decided there wasn't sufficient evidence that the trees were in fact grown on site. The Hearing Officer stated that the applicant didn't produce any testimony or evidence of current tree-growing operations.

We could not find any rule, statute or case precedent that required more than one stated "farm use" on the property.

Regardless, the applicant has now provided information via a testimonial letter from applicant explaining the history of the past and current tree growing and harvesting operation which should satisfy the Board members on the issue of whether the trees are grown and harvested on the subject property. Pictures were submitted and admitted into the record to establish that the trees were, in fact, planted in the ground, and are still in the ground and in pots. This evidence contradicts the testimony of neighbors who asserted that the trees were either brought in for a previous nursery business, all grown in pots, or grown on the applicant's other Monument property and brought to Bend. After the hearing, and since the Hearing before the Hearing Officer, evidence by way of testimony, letters and pictures have been submitted into the record to supplement existing evidence, such as the current tree inventory, to substantiate a conclusion that there currently is growing and harvesting of trees on the property and that such qualifies as farm use.

The Hearing Officer also determined that the applicant failed to meet its burden of proving that the primary use over the past three years since the property has been used for weddings and vacation rentals is farm use. First, we couldn't find any statute, rule or case precedent that required an applicant supply 3 years of income records, including tax records, bank statements and the like. Other cases did not require such proof and in fact relied upon estimates of income and predicted income. Second, however, given the current record as a whole, including the additional testimony and the additional proof and clarification of income from farm use income, i.e., income from tree and hay sales, as compared to the income from the wedding income, it is clear that the "primary use" of the property has indeed been and is "farm use." The applicant has submitted the income statement from the rental of the home for the two past years, and it clearly does not play a large role in the total gross income from the property.

The Hearing Officer also determined that there was a "connection" between the wedding events and the farm use of growing and harvesting hay, but she didn't find that there was the same "connection" between the wedding events and the farm use of growing and harvesting trees. We have since shown the direct connection between the trees and the weddings, but even so, this might be a place where the Board needs to make a policy determination to be applied to all applications. Does each and every "farm use" have to be "related to and supportive of" the commercial event? We don't think so, but if you decide that to be the case, we have proven such by the recent submission of further testimony, written evidence and pictures.

The evidence before the Hearing Officer was scant as to the relationship between the trees and the weddings, but the supplemental evidence offered and admitted into the record now supports a conclusion that there is indeed a connection between the weddings and the trees, similar to that of the hay. The supplemental evidence regarding the trees reflects that the trees are used as photographic backdrops for formal pictures, and used as props during the wedding and reception. Further, the trees can and will be used/offered to create an altar for the couple's ceremony (as shown in the pictures). Contact information for purchasing of the trees is available and advertised on the property.

Additionally, the record includes evidence that the weddings lead to contacts which lead to tree sales. And, the trees will be further showcased by the recipes made from the trees to make tea and syrup, as noted in the exhibits. Ultimately, the Hearing Officer concluded that the applicant's proposed wedding events are related to and supportive of the farm use on the subject property, particularly and only in reference to the hay. But, given the supplemental evidence regarding the trees and how they are incorporated into the weddings and the receptions, and the sales and sales contacts that come from the wedding events, they too should be deemed farm use.

Incidental and Subordinate to the Existing Farm Use:

The Hearing Officer ultimately determined that the applicant failed to prove that the wedding events would be incidental and subordinate to the existing farm use on the property. A review of the prior cases involving applications for Type 2 LUPs reveal that there are 3 possible ways to evaluate whether the wedding event is incidental and supportive of the farm use.

First, a comparison can be made regarding the number of days in a year that the wedding events occur, which is 6, and compare it with the number of days of farm use on the property. Because the applicant grows and harvest both hay and trees, the total days used for farm use exceeds 200. Therefore, by this standard, the wedding event is incidental and subordinate to the farm use.

Second, a comparison can be made regarding the acreage used for the wedding event (about 4) and the acreage used for farming, over 30. Clearly, by evaluating the acreage figures, the wedding event acreage is incidental and subordinate to the farm use.

This is the second issue where the Board may need to make a policy decision that is applied across the board to all Type 2 LUP applications, whether opposed or not. As noted previously, the unopposed decisions do not address anything other than the first two tests for determining incidental and subordinate, i.e., acreage comparison and days per year comparison. Were the Board to decide that those two comparisons are all that is required to meet this test, then Mr. Cooper's application should be approved. However, all applications, opposed or not, should be required to meet only these two tests, not an additional income test.

We note that SB 960 focuses on the idea of allowing farmers to make more income from their property. Therefore, we certainly don't object to a test which requires an income comparison. We just want to make sure that all applicants, not matter who, and no matter whether opposed or unopposed, have to jump through the same hoops for permit approval.

The final test is an income comparison which compares the total income from farm use to the total income from the wedding events. As we have seen and determined, unopposed applications for this same type of permit do not require an income analysis, as there is no reference to income in the decisions on unopposed application approvals. However, in the situations where the applications are opposed, for one reason or another, Hearing Officers have completed varied income analyses to determine whether the income from the wedding events are incidental and subordinate to the income from the farm use. We assume the Board will, then, have yet another decision to make. The Board needs to evaluate the prior and inconsistent HO decisions and declare a minimum standard to be applied, including those unopposed permit applications, to determine whether an applicant can satisfy the requirement that the income from the wedding events are incidental and subordinate to the income

from the farm use. The question is, what is that standard? What does incidental and subordinate mean?

We have previously submitted, in the hearing memorandum just prior to the Board hearing, the numbers necessary to evaluate whether the income from the weddings is incidental and subordinate to the farm use income. The total income from the weddings is calculated based upon six weddings at \$2,700 each, for a total of \$16,200 per year. This figure is different than initially provided, as previously explained, because Staff advised us that the rental income for the home is separate and distinct from the wedding event income. After deducting the estimated two nights' home rental at \$400 per night from the initial per wedding income of \$3,500, we arrived at the total income per wedding of \$2,700. Additionally, we have made it clear that rental of the home is not required when booking the ranch for the weddings. In fact, we have had people rent the ranch for the wedding without rental of the home as well.

The 2014 income from the hay was \$16,312.50. If only the hay is considered in the comparison, the income from the farm use is *more than* the income from the weddings, and thus incidental and subordinate. However, it is our position that the income from the trees, too, should be considered in the analysis. Mr. Hunnicutt addressed this issue in his last submittal letter. The income from the trees in 2014 was \$40,310. While the Hearing Officer did not accept the full income from the trees, she did accept part of it. We assert that there is no reason not to believe the applicant's statement of income from the trees, despite having no specific documentation proving a deposit, for example, of the stated sums. If you believe some, you should believe all. The HO found the applicant credible for some of the tree income but not all, which makes no sense. The applicant has explained the lack of such documentation is based upon multiple factors. First, the applicant's tax accountant only asked him for the total farm income when preparing the Schedule F. Second, he had no reason to expect to have to prove every penny made from a tree sale (though he did have the exact figures, just not any proof of a deposit anywhere that matched that total). Third, because he has multiple endeavors in progress, and multiple accounts, the applicant manages his money income among all those accounts, not just one. Therefore, there is no way to track or prove the specific income as listed on the 2014 tree sale income sheet. The income was spread among multiple accounts. Further, the tree sales were paid for with cash or checks, with some of the checks simply being cashed. In 2014, he had no reason to think there was any need to copy every check received for the purchase of trees. The applicant is clearly aware of the current need to track income from the trees, and has already begun better record keeping behavior. In fact, the applicant has established/proven income to date from 2015 tree sales to be \$15,415 and such is proven by copies of invoices and checks. Because the 2015 year is not yet over, and an additional tree sale is expected by year's end, this isn't the total of tree sales for the year.

We expect a total income from both hay and tree sales for 2015 to be roughly \$45,515. Income from the weddings was \$16,200. Therefore, the income from the wedding event is less than 40% (approximately 36%) of the farm income and would meet the requisite incidental and subordinate requirement under either a Downs analysis or the analysis supplied in the letter/argument/testimony submitted by Mr. Hunnicutt, i.e., less than 50%.

We believe the Hearing Officer misinterpreted the holding in Downs. In Downs, the decision read, "The gross income of the farm use (grass hay) is \$18,000 to \$22,500 per year and the applicant's charge for each event (\$2,000) times the 6 events is (\$12,000) less than 50% (35 to 40%) of the overall gross farm income." The Downs permit was approved by concluding that the farm income (ESTIMATED between \$18,000 to \$22,500) *was less than 50%* of the overall gross farm income. What should also be

noted is that in other decisions there was no specific requirement of proof of income for a 3 year period of time, and income was not always based upon exact records. Why should this applicant be held to a more stringent and different standard? This may be another standard that the Board would consider making, i.e., what specific proof is to be required of every applicant, opposed or not, to prove farm use income?

Applying the same analysis to the facts herein (and noting specifically that the income figures in Downs were in fact estimated (not proven), we get the following:

The gross income of the farm use (hay and trees) is \$45,515 per year and the applicant's charge for each event (\$2,700) times the 6 events is (\$16,200) less than 50% (roughly 36%) of the overall gross farm income. Under the Downs analysis, the applicant has met the requirement that the wedding event income is incidental and subordinate to the farm use income and the permit should be approved, with conditions.

Conclusion:

We believe that standards for approving these Type 2 LUPs needs to be applied even handedly to all applicants. Further, it shouldn't matter whether the application is unopposed or opposed.

What is farm use?

What does "grown and harvested" mean? Do the products have to be "planted" in the ground to qualify?

Does the income from each product grown and harvested on the land have to be "related to and supportive of" agriculture before the income from such is included in the income analysis?

What evidence shall be required from every applicant to evaluate whether the commercial event/wedding income is incidental and subordinate to the farm use income?

We believe that the evidence proves that both the hay and trees qualify as farm use and that our proposed wedding events are related to and supportive of agriculture and the stated farm uses. Further, we believe that the stated income from 2014, and that the projected income from 2015, both reflect that the wedding event income is incidental and supportive of the farm use income, by use of either the "less than 50%" standard or the "less than 40%" standard.

We acknowledge that the 2014 tree sales figures are not proven by bank receipts and tax records. Record keeping obviously wasn't our strong suit. However, we hope to have put your mind at ease with regard to the reliability of those figures. If the Hearing Officer trusted our representations with regard to some of the tree sales figures, we believe she has/had no reason not to believe the Spring tree sales figures were/are accurate as well. We have already implemented additional procedures to track the sales of hay and trees from the subject property so that if and when this permit is granted, any future application for renewal of said application will be much less complicated. Our 2015 tree sales records prove that effort is being made to document sales and income. Please take due care in your consideration of this request and we hope you find that the requisites of permit approval have been satisfied.

Thank you for your time in considering this permit request. We understand that some policy decisions will need to be made. We are willing to comply with each and every condition of approval as recommended by Staff, and as suggested/recommended by the Hearings Office. We hope that you grant this permit request so that we can supplement our income by allowing 6 couples a year an opportunity to get married in a beautiful, tranquil setting.

Best regards,

Paul Cooper
Hana Cooper
Co-Applicants

Paul Blikstad

From: Sharon Ross
Sent: Monday, November 09, 2015 1:00 PM
To: Tony DeBone; Tammy Baney; Alan Unger; David Doyle; Paul Blikstad
Subject: FW: Cooper Final Argument.docx
Attachments: Final Argument.docx

From: CUREY Sally A * DCBS [<mailto:Sally.A.Curey@oregon.gov>]
Sent: Monday, November 09, 2015 11:34 AM
To: Sharon Ross
Cc: 'loreencooper@centurytel.net'
Subject: Cooper Final Argument.docx

11/9/2015 –

Sharon – please find attached the Final Argument for the Cooper TYPE 2 LUP application appeal.

Please forward it to the Board by the end of today, as today is the deadline.

Thanks again for all your help.

Best regards,

Sally Curey

Attachment A

October 26, 2015

To: Deschutes County Commissioners

Ms. Tammy Baney

Mr. Alan Unger

Mr. Tony DeBone

Re: Paul and Hana Cooper Application

247-15-000001-LUP

Appeal #15-298-A

Dear Commissioners,

We ask that you uphold the decision of the hearings officer, Ms. Stephanie Hicks, and deny approval of the Cooper's limited use permit for holding weddings on their EFU property. After reading Ms. Hicks' decision, one can see that she took considerable care and effort to research data applicable to this application and didn't arrive at her decision lightly. We'd also like to address some of the statements made on the Notice of Appeal that was filed in June, plus a couple of concerns of our own.

1. Trees being raised and harvested on the property. The trees on the applicant's property were **brought** to the property about 2005 except for a few fir trees that were **brought** in about 4 years ago. Shortly after the retail nursery permit was granted in 2007, the bottom fell out of the housing market in Bend and the national recession hit. The Cooper's put both of their properties up for sale and it was on the market for a couple of years. The Cooper's also moved to Monument around 2006 where they currently live, except for Hana, and grow hay. A 2013 Google Earth map image (**Exhibit A**) shows that they also have or had nursery stock on that property. The point being, we feel the trees were never **brought** to the property for "*nurturing and maturation*". We believe the trees were brought to the property in hopes of reselling them during the housing boom and then selling them through the permit approved retail nursery that they never started. As of this date, the trees visible from Simon Road, which are most of the trees, are still the same undisturbed trees that were brought in over 9 years ago, except for the culling and burning of dead trees at the beginning of this year.

2. Tree sales income. Ms. Hicks was correct in disqualifying all or most of the income from tree sales. A hand-written list of tree sales is not proof of income from tree sales on this property alone. Without **proof** of income from tree sales the sales should be disqualified. There should at least be something listed on their federal tax return, accounting records, receipt of sales records, bank deposits, etc. showing the sale of trees per property. The applicant states on their hand-written 2014 tree sales list that the majority of trees were sold at 2 public spring tree sales totaling \$34,005. Based on their average listed price per tree, that's approximately 900 trees. That many trees being sold in one year would have been an obvious reduction in their inventory, especially along Simon Road that is within Winston Ranch. Traffic hauling the trees out would also have been obvious along Simon Road. No such traffic was witnessed in 2014. How do we know that trees from their Monument property weren't

brought to their Tumalo property for these "sales"? Plus, the exhibits the applicant supplied (Tree Inventory as of March 25, 2015 and 2014 Tree Sales) contradict at times. For example, if the wholesale price of a Colorado spruce is \$85 (per exhibit) and sell it at \$45 (per exhibit), how is that sale credible? They'd be losing money on the sale. Many similar examples are present on the 2 exhibits. Also, if they sell trees because of advertising at the wedding events, why are those sales not mentioned on this list?

At the public hearing on March 31, 2015, applicant's representative stated that *"the Coopers have year-round sales. They have got landscaping clients. They are open to the public. They also have several big weekend sales per year."* If this kind of sales were going on all the time and every year, why has there been no dent in the number of trees on the property and where is the proof of sales? What about sales figures for more than just 2014. What does "open to the public" mean if they aren't running a retail nursery? Can we just drive in and buy a tree at any time?

3. Hay sales income. Because the applicant has amended the income from hay sales a couple of times and finally settled on \$16,312.50, even that income is not proven. It's possible they just took the high price of quality grass hay of \$250 per ton and multiplied it by 65.25 tons. Their 2014 Schedule F form for the IRS does not divide the income between the properties in Bend and Monument or hay cut on other people's property, or whether income is from hay sales, tree sales, past wedding events, or house vacation rentals. The actual income for hay sales could even be less. Let's not forget the letter from Mr. Tygh J. Campbell that's included in the record. Being a hay broker, he would have purchased hay at a price lower than \$250 in order to resell it at the going retail price. We have a neighbor that buys hay (not from Cooper) for his cows and says \$250 is the highest price for grass hay. He pays less for less quality grass hay for his cows. My point being, the Coopers have never shown any proof of actual income from hay or tree sales **just from the subject property**. They have only shown a hand written, then typed list of people that bought 369 tons of hay all at the same price. Likewise for tree sales. No receipts of sales were provided. With so many neighbors opposing this permit, the county should not just take someone's word for such an important factor in qualifying for this limited use permit. The applicant should submit reliable and verifiable sales records and for more than just one year.

4. Connection between tree sales and wedding events. The applicant, in their appeal, says the Hearings Officer *"erred in disqualifying all or part of the income from tree sales in the equation for whether the proposed wedding activity was "incidental and subordinate" to the farm use on the property on the grounds that the Coopers did not show a connection between the tree sales and the weddings"*. It seems that if the applicant is going to use the income from tree sales to support their position that it also be required that the tree sales be incorporated into the weddings. As Ms. Hicks stated in her decision, the Coopers did not show a connection between the tree sales and the weddings. It seems odd that the applicant now says they don't need to show more than one connection between what is produced or raised on the property and the weddings, yet they submitted an addendum of burden of proof in which they wanted to include future growing of flowers on site to include in the wedding and offer for sale. That sounds like a contradiction.

5. Primary use of property. Ms. Hicks was correct in her finding that farming was not the primary use of the property from an income point of view. With 18 weddings over the past 3 years, as stated by the

applicant in an email (already included in the record), that's an income of \$22,500 or more per year. Add in any income from vacation rentals as currently advertised on multiple internet sites, and that brings non farming income considerably over the stated \$16,312 hay sales. Applicant states that vacation rentals were sporadic and incidental. There is no proof of this. Applicant states that if the application is approved they will not rent the property as a vacation rental. Ads are still up on many Internet sites for vacation rental of this property. As of October 15, 2015, the VRBO calendar was last updated on August 24, 2015, showing the website is still active (**Exhibit B**). Since the Coopers no longer live on Lot 314, what's to stop them from continuing to rent the property for vacation rentals on days not rented for wedding events? There's no way to monitor this. For the approval of this application and according to county code, there can only be one commercial use of the property.

6. Overnight Use of Property. The applicant's appeal application mentions that any members of the wedding party staying overnight after the wedding *"does not constitute an unlawful after-hours agritourism or commercial event"*. However, we agree with Ms. Hicks' view on this point. It seems no different than the applicant renting out the house for a vacation or event rental. See **Exhibit C** that shows a wedding couple inviting their guests to camp on the property after the reception. DCC 18.16.042.C.8 explicitly says "Overnight camping is not allowed." Applicant's appeal states that Ms. Hicks *"erred in finding and/or concluding that applicant would realize additional income from the rental of the property in addition to the \$3500 wedding event fee plus \$250 cleaning fee."* How? It seems only logical and good business to charge extra for the overnight stay, which means more income (**not** reported by applicant) that is **not** farm income.

7. Required 20 foot road. The applicant has stated and shown a photo that the driveway/road used as the entrance for their property is more than 20 feet wide. Google Earth images already entered into the record dispute this, especially where the road crosses an irrigation ditch. **Exhibit D** (previously entered into the record) shows the entrance at 16 feet and that measurement includes what would be considered the shoulder. As you can see in the photo, the road beyond the gate does not widen. It's understandable that Google Earth images may be imprecise but we don't think it would be by that much. So, we request that the staff go back to the property and measure the width of the road in various places themselves. We are unable to do this without trespassing. This would also allow the staff to see if the road was widened since they were there last time, which is against county code. According to county code, the **entire** road is supposed to be 20 feet wide **excluding** the shoulders. Plus, according to Ms. Fancher's statement at the hearing, if cars are parked on the side of the road, the road needs to be 26 feet wide.

8. Use of Simon Road. We believe the applicant when they state that Simon Road will not be used by wedding guests or by those putting on the wedding. However, guests do get lost and can't find their way to the wedding sight. Some of the weddings held this summer at the applicant's property had some guests get lost and were on Simon Road within Winston Ranch trying to find their way to the wedding site. We and other Winston Ranch homeowners walking on Simon Road at the time politely directed the guests to the proper entrance on the Old Bend-Redmond Highway. Since this is nearly impossible to prevent, we request you uphold the decision of the hearings officer and deny this appeal.

9. Noise level. Loud music has been a concern for us and for those neighbors closest to the subject property. Ms. Farmer has testified to the fact that it has been so loud for her that she has called the sheriff. On Friday, July 17 of this year, for those whose properties border Simon Road, music was extremely loud until 7:50 PM and that wasn't even the wedding day. If you should reverse Ms. Hicks' decision, please include her three conditions of approval regarding the noise level.

A similar 2012 application from *Kerry and Deborah Downs* (File #LUP-12-2) approved by the three of you has been mentioned several times from both sides. Downs gave a similar argument as the Coopers. However, Downs showed 3 years of income, although the D.I.A.L website doesn't show if those records were substantiated. And to further link the hay production to the wedding event, Downs also deemed it necessary or helpful to submit an addendum stating, *"we will have a caterer prepare a dish for each one of our events which incorporates the hay grown on our property, so that our guests may sample a dish prepared using hay."* It seems the Downs felt that just advertising hay for sale didn't seem to be enough of a connection to the wedding to meet the requirements of their permit application. As we stated in a previous letter, selling hay doesn't require a wedding. It's easy to sell hay in Central Oregon. Plus, does the applicant require the wedding couples to have hay bales as part of the wedding? Does every wedding couple want signs posted **advertising** hay and trees for sale on their very special day? If they don't, then how does this support the farm? Photos of a wedding held this summer were posted online at the following web address: <http://www.studio-br.com/2015/08/16/monique-tyler-cooper-ranch-wedding-photography-bend-oregon/> Not one photo shows a single bale of hay being used. Likewise in the wedding video of 2013 at this web address: <https://vimeo.com/76148030>

The applicant also didn't deem it necessary to follow county code (18.16.042.C.5) for the weddings held this summer by notifying everyone within 500 feet of their property of the dates and times of the wedding events. Was the county notified of these dates?

We feel that Deschutes County may still be trying to define the requirements for granting this type of permit. Each permit is unique and needs to be addressed on its own merits. This application raises several concerns by many neighbors, Ms. Hicks, and Ms. Fancher that feel this application doesn't meet the requirements of the code as mentioned above and previously submitted into the record. We fervently hope that you stand by Ms. Hick's decision to deny this application. If, however, you choose to reverse her decision, we hope you at least make **all** of her conditions of approval part of your decision.

Thank you.

Sincerely,


Ralph and Linda Moskowitz
20195 Winston Loop
Bend, OR 97703-8990

Cc: Paul Blikstad



Cooper Monument House

© 2015 Google

Google earth

Imagery Date: 7/7/2013 44°50'14.52"N 119°25'08.48"W elev: 2088 ft eye alt: 3877

A

Bend, Central Oregon, Oregon

Arrival



Depart



☐ I don't have dates yet



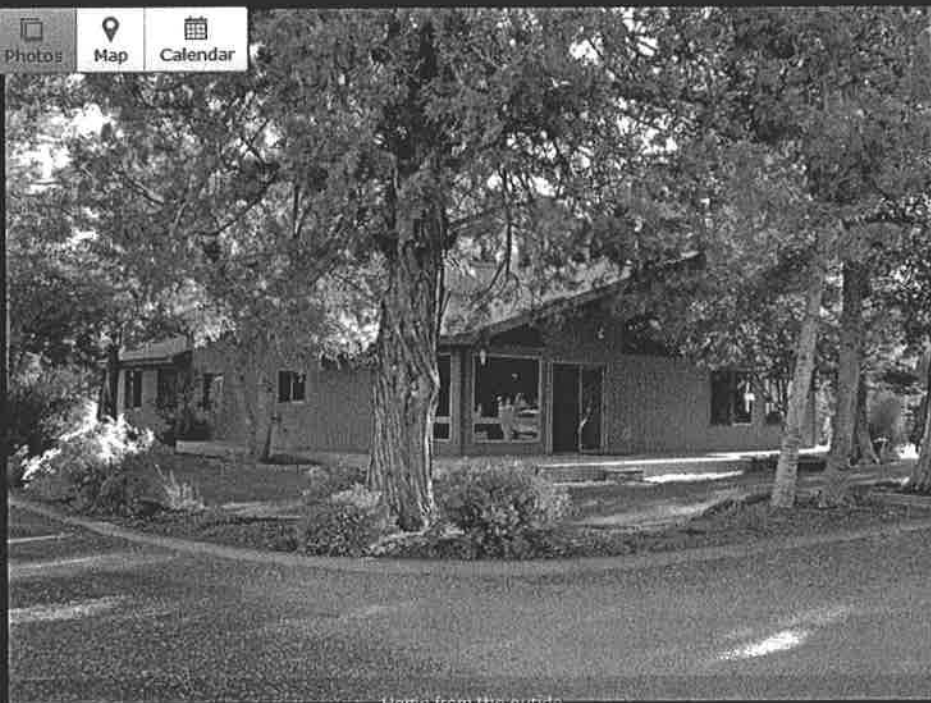
[Browse properties](#) Home ▸ USA ▸ Oregon ▸ Central Oregon ▸ Bend ▸ VRBO Listing #388132

5



Private Quiet Large Country 54 Ac Ranch Home - 4 Bedroom/2.5

Photos Map Calendar



Home from the outside



Avg. Nightly **\$400**

Arrival



Departure



2 adults



Minimum stay: 3 nights

Get an instant quote

♥ Save to my favorites

Reviews	★★★★★ 12
Sleeps	15
Bedrooms	4
Bathrooms	2.5
Property type	Chateau / Country House



Manager
Member since: 2011
Speaks: English

Send email

Response time Within a few days

Response rate 50%

Calendar last updated 08/24/2015

Phone number Show phone number

Overview Reviews Rates Calendar Location Manager Info Photos

B

BOOKMARK + SHARE

our wedding

jessica & michael

september 26, 2015 8 days to go!

welcome

Ceremony

about us

The Cooper Ranch

64655 Old Bend-Redmond Hwy
Bend, OR 97701

our proposal

[view map](#)

ceremony

wedding party

our registries

Information for our guests

bed bath & beyond

The Cooper Ranch was the first location Michael shared with me and turned out to be PERFECT for what we wanted. We looked at the ranch a few days later and didn't need to see anymore. The Cooper Ranch is located on 54 acres on the Old Bend-Redmond Hwy just minutes from Bend, Oregon. Beautifully landscaped our ceremony will be held near a pond with a fantastic view of those beautiful Three Sisters.

guest information

photo album

guest book

rsvp

Driving directions

honeymoon

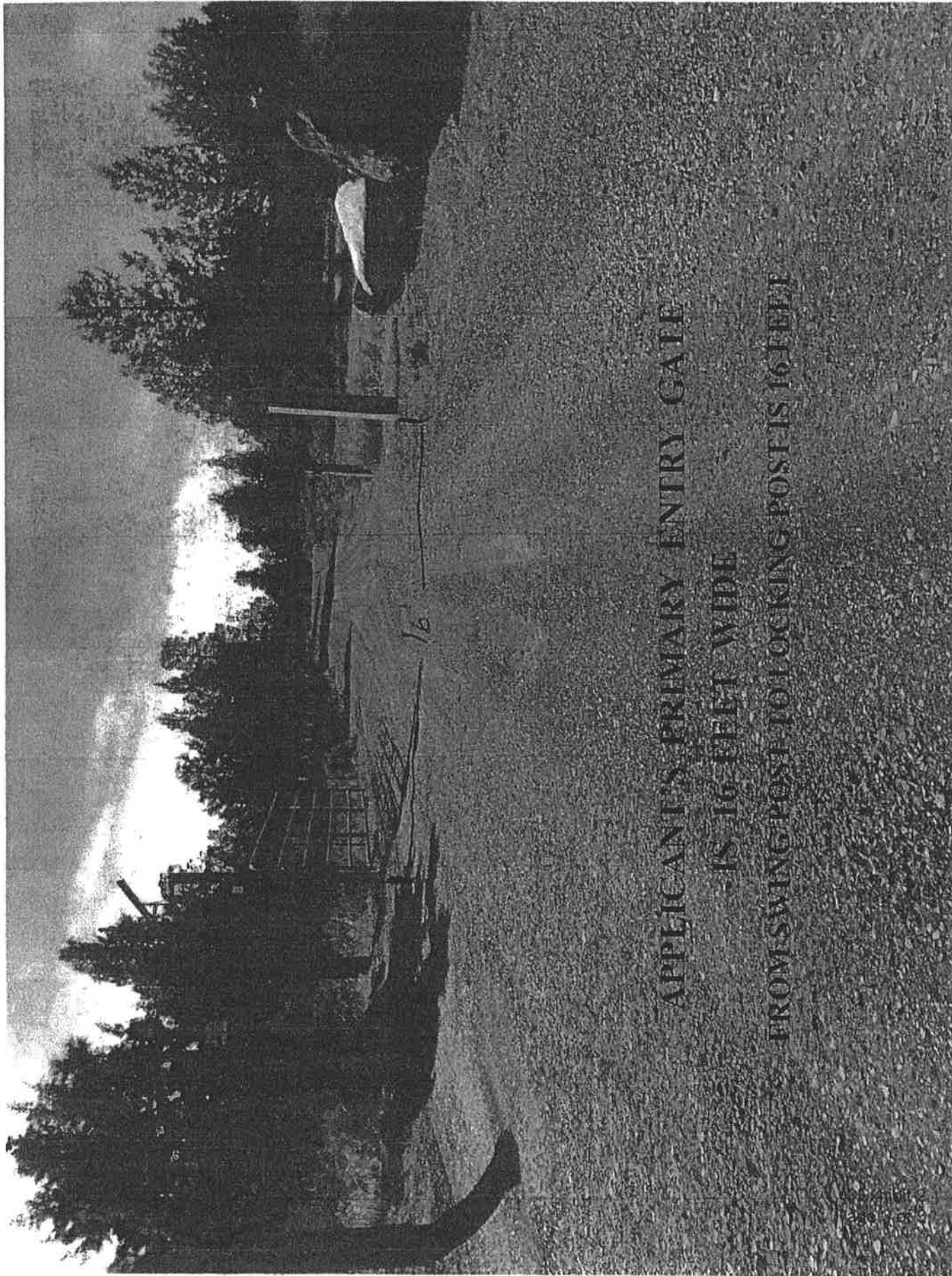
Additional information

map of events

Not only will the reception be just a few steps behind the ceremony, all you fantastic guests who want to stay will have the opportunity to camp on the property and to party till the music stops!

RECEIVED

C



APPLICANT'S PRIMARY ENTRY GATE

IS 16 FEET WIDE

FROM SWING POST TO LOCKING POST IS 16 FEET

D

November 2, 2015

To: Deschutes County Board of County Commissioners

Mr. Tony DeBone

Ms. Tammy Baney

Mr. Alan Unger

Dear Commissioners:

We are not attorneys and are trying our best to argue this case according to the requirements of the Deschutes County Code. Hopefully, you will forgive our inadequacies. The applicant has changed their written testimony so many times with regards to income and amount of hay grown that, we feel the county should require at least 3 years of documentation for this income when it is so crucial to the approval of this application. Applicant argues that records of hay production and income were not kept separate for each property they own nor for the haying they do for other landowners. Proper accounting records weren't kept for hay sales, tree sales, house rentals, and past wedding events. We could go back and forth on this issue forever. Income for the hay operation is still unsubstantiated. It's still just an estimate because the applicant still has no records as to how much hay is actually produced on their Bend property.

At the bottom of page 3 of the applicant's hearing memorandum dated October 23, they state "that all of the trees and plants brought onto the property in 2007 for the prior nursery operation have long since been sold..." This statement is not accurate. Yes, we cannot see the applicant's entire property from Simon Road and our statements about their trees on their Bend property **always** referred to the trees that are visible from Simon Road. But those trees that are visible from Simon Road (photos were included in previous statements) are the same trees brought in around 2006 or 2007. There are 8 other Winston Ranch homeowners that have lived here since 2007 or before that could verify this. We have enjoyed the beauty of those trees all these years.

Applicant requests that income from "hay and trees sales be proven by proper and more stringent documentation at the time of the 2 year renewal application." This seems like putting the cart before the horse. Evidence should be provided **before** an application is approved, not after.

Trying to define and "fine tune" a relatively new ordinance is quite a challenging job for the Board. We appreciate your efforts. Requiring the trees to be connected to the wedding events is one of the challenges. We feel that if the applicant wishes to include the income from the sale of trees that the trees also need to be connected to the wedding events. From what I've read on the Down's case, they raised and sold **only** hay. They linked some of the hay sales to the weddings, **AND** they also were going to have a dish prepared using hay and served at each event. (See page 3 of the final decision of LUP-12-2)

The DD Ranch/Duggan/Anspach application (LUP 124 and 247-15-000020-LUP) showed the connection by serving beef grown on the ranch to the attendees of their events. They also sold other produce **grown** on the ranch to the event attendees.

With regards to the vacation rentals, we disagree with the applicant. They still currently advertise on various websites that their property is being **commercially rented** for a "getaway for a family, corporate retreat, family reunion, weddings, golf vacations, hunting trips" for up to 15 people. (VRBO.com website). Also, for "Ski Trip, Hunting Trip, Golf Trip, Family Vacation, Corporate Retreat, Wedding or Wedding Reception, Horse Vacation or Horse Show, Rest and Relaxation" on the Bend Ranch Vacation Rental website. Whether VRBO's are regulated by the county or not, this seems to be an additional **commercial** use of this EFU property when only one is allowed if this permit is approved.

Applicant states they will no longer make the home available for such retreats if you find that this type of rental is a commercial event. How would this be enforced? Also, the applicant now wishes to subtract any income from overnight stays by the wedding party from the income of the actual wedding event. So now, according to applicant, the wedding fee may only be \$2700 if the wedding party stays 2 nights in the house. Another example of the applicant constantly changing the income earned. We feel if the wedding party or guests stay in the house overnight that this is a continuation of the wedding event which code requires must end by 10 PM. It brings into question as to when does the wedding event end and when do the guests/or wedding participants just become guests of those renting the house and the partying continues.

On Oct. 26, applicant submitted a **new** "Vacation/Wedding Venue Rental Agreement". We're confused. Does this replace the wedding venue agreement submitted April 14, 2015? Or, is this an addition to that agreement? Talk about blurring the lines. Now, according to applicant, the wedding party may rent the house to stay in for 2 nights. If the wedding party rents the house for one or more nights can the wedding party and guests now use the water and bathrooms in the house during the time the wedding is being held which isn't allowed according to their first wedding venue agreement they submitted? Would the county Health Department allow this? This seems like a slippery slope. The wedding permit the County received July 24, 2014 for an August 2014 wedding states "a private well is not an approved source" of water. According to applicant's rental/wedding venue agreement submitted Oct. 26, occupancy starts at 4PM or earlier if notification is given beforehand. That's the same time period the wedding events would probably be held.

Also, at the top of page 3 of the applicant's original burden of proof statement they say, "...all people/participants/attendants will vacate the site by 10:00 PM." If they rent out the house to the wedding participants, this statement is no longer true.

The applicant's latest letters to the Board dated October 23 and October 28, make it sound like we have a personal grudge against them. This couldn't be further from the truth. We've lived here at Winston Ranch for 30 years. As stated previously, we moved to the country for the

peace and quiet of country life, raise a few animals (which we did for about 15 years), and enjoy nature. We believe that the applicant would fight just as hard if someone applied for a similar permit right next to their property in Monument. We argued against the retail nursery permit in 2007 because we knew if the nursery was allowed there would be increased traffic on Winston Ranch's private road. We are arguing against this permit for that same reason and the increased noise that will inevitably occur. We try to be neighborly to ALL of our neighbors, including the Coopers. We used to buy hay from Paul Cooper when we were raising sheep. We've always waved or said our hellos when crossing paths on our walks along Simon Road. Maybe unknown to the Coopers, we and other Winston Ranch members argued on their behalf in 2000 when the then Board of Directors of Winston Ranch tried to prohibit the Coopers from legally using Simon Road. That board of directors eventually resigned and the problem was resolved.

Again, we ask that you deny approval of this application.

Thank you.

Ralph and Linda Moskowitz
20195 Winston Loop
Bend, OR 97703

Received 10-27-15

Tammy Baney

Oct. 24, 2015

Re: Permit #247-15-000001-LUP Appeal

Dear Ms. Baney:

This is a brief message to inform you that as a resident of the Winston Ranch Property Owners Associate I would like for you to uphold the decision of Ms. Stephanie Hicks regarding the above referenced case. I believe Ms. Hicks spent considerable time and effort in coming to that decision. It is the correct decision. There was far too much conflicting data sent to her office and presented at the original hearing.

I'd like for you to consider these items in particular:

1. The Coopers broke the law, intentional or unintentional, when they had the weddings without a permit.
2. They presented conflicting information during their public hearing presentation and the original application i.e. income on property and sale of trees as one example only.
3. They were allowed to have the weddings throughout the summer in order to prevent a hardship on the wedding goers. (A reward to Cooper)
4. The law was written so that this type of activity can be allowed where appropriate, however the law wasn't written so that individuals can present unsubstantiated data to get around the law and then go ahead with the activities.

Please take this under consideration. We will see you at the meeting Monday.

Phil Renyer

Paul Blikstad

From: Charles Brown <charliebrown@uci.net>
Sent: Thursday, October 29, 2015 2:11 PM
To: Paul Blikstad
Subject: Fwd: Subject Permit #247-15-000001LUP, Comment on

Paul,
Sorry, forgot to include you on the initial mailing.
Charlie

----- Forwarded Message -----

Subject: Subject Permit #247-15-000001LUP, Comment on

Date: Thu, 29 Oct 2015 13:23:11 -0700

From: Charles Brown <charliebrown@uci.net>

To: Tammy Baney <Tammy.Baney@deschutes.org>, Tony DeBone <Tony.DeBone@deschutes.org>, Alan Unger <Alan.Unger@deschutes.org>

CC: Phillip & Sadie Renyer <sprenyer@hotmail.com>, Paul McKendry <PMcKendry@msn.com>, Chris/Deborah Williams <chris@cascadepartners.com>

Deschutes County Commissioners,

At the Monday 10/26 hearing on the above referenced permit application the applicant, Cooper, testified that he had produced 9 ton of hay per acre this year. That seems rather impressive.

Contacting the forage specialist with the County Extension Agency I was informed that the average for the Tumalo area would be about 4 to 4.5 ton per acres. The agent was not aware of any production of 9 ton per acre outside of the Lower Bridge area or perhaps Madras.

So it would seem that Cooper might provide information regarding his production techniques to the Extension Agency as it might allow them information to upgrade hay yields of other area farmers.

Charles C. Brown

Paul Blikstad

From: Charles Brown <charliebrown@uci.net>
Sent: Thursday, November 05, 2015 10:59 PM
To: Tammy Baney; Tony DeBone; Alan Unger; Paul Blikstad
Cc: Phillip & Sadie Renyer; Paul McKendry; Chris/Deborah Williams
Subject: Response to Cooper letter dtd 11/1/15 for Permit #247-15-000001LUP

Commissioners:

In reviewing Cooper's letter to the Commission dated November 1st, I see that he has expanded his creative accounting into the field of creative writing. However, as part of creative writing I believe that creation of "facts" is no more appropriate than creation of evolving numbers. I will only speak here to items in the letter to which I have direct knowledge so as to not add further to the creative aspects of the issues.

Where Cooper perceived that not all the Winston Ranch Home Owners (WRHO) "have contributed to their own Simon Road improvements" is a mystery. The road improvements are paid by the WRHO and since all the members are paid up obviously this statement is in error. What is true is that many of the other non-WRHO neighbors have also contributed to this expense. And at one time in a phone call with my wife, Cooper "promised" to also contribute. So much for that. But perhaps it is the definition. Cooper references "simply because we used that back road from time to time" but which near neighbors state is daily. Their rental property, where Hana now lives, uses Simon Road on a daily basis as have all previous tenants.

Cooper references the Hillis/Powell noise issue, including firearms, among other issues. Cooper inquired who said anything about firearms? If I recall correctly, that was part of the original advertising. I have no objection to such, just that it was Cooper who initially raised the use of such. And of course fire from car catalytic heaters is always a concern for all property everywhere.

It is interesting that he stated I personally was "angry" about the additional weddings being permitted for the past summer. Not at all – just thought it was an odd way to penalize past illegal behavior.

In the same paragraph I supposedly reflected my "anger" about the posting of an additional "no trespassing sign" by the irrigation ditch. The significant issue was the substantial additional heightening of the fencing across the ditch. Certainly not anger producing but I was more amused at the sophomoric and illegal behavior so demonstrated.

Had Cooper managed to raise an anger reaction he would have no doubts as to such. In our last face to face conversation about the permit application Cooper stated he has been told he intimidates people. He then asked me directly if he intimidated me? I replied that, "There were not many things that intimidated me," said with a smile I assume he understood that he was not one of them. I thought it an unusual question at the time. Perhaps a more informative question would have been whether I either trusted him or whether I respected him.

The ending sentence of the paragraph analyzing my behavior was the statement that, "Clearly, his bias against me and my farm are evidenced in his letters as he will say practically anything to get this permit denied." Interesting as my thoughts about Cooper are the same regarding his testimony to get this permit approved.

Cooper concludes his letter with the self-effacing statement that he is "...a simple minded farmer." Anyone naive enough to accept such statement at face value has not done their homework.

It is now the responsibility of the Commission to decide whether such permit should be issued in view of the hearings officer's findings. Further, what the implication of such decision will be on other future requests that will surely evolve. And, if approved, with what conditions.

I wish you all well.

Charles C. Brown, Ph.D.

Paul Blikstad

From: Debbie Farmer <didifarmer@hotmail.com>
Sent: Friday, November 06, 2015 4:34 PM
To: rlmusk100@yahoo.com
Cc: Paul Blikstad
Subject: FW: Paul Cooper
Attachments: Paul Cooper ltr2.docx

Linda Moskowitz,

Please find the second letter I sent through email only, to Mr. Blikstad, on April 13, 2015, attached to this email. Mr. Blikstad did not respond to let me know he had received it. It was not possible for me at that time to take a copy in to the office. I can only assume he did receive it. Or hope that he received it.

As the letter states, I was opposed to having the Events. As of now November 6, 2015, I am still opposed to having the Events.

Paul did come to see me and we walked the property line between our properties. I did not withdraw my opposition and I am not sure where he got that idea. My hope is that they can find some other way to generate income. I DO NOT dislike them. I am just not happy having Events on a regular, ongoing basis out my back windows.

Thank You,

Debbie Farmer
cc: Paul Blikstad at
paul.blikstad@deschutes.org

From: didifarmer@hotmail.com
To: paul.blikstad@deschutes.org
Subject: Paul Cooper
Date: Mon, 13 Apr 2015 18:56:25 -0600

Dear Mr. Blikstad,

Please see attached letter regarding the Permit for Paul Cooper and Hana Cooper.

I have not been on the website. Someone said my property was somehow noted as being in favor of the permit.

Not sure how that happened. ?????

I am still OPPOSED to the permit.

Thank You,
Deborah Farmer

Deborah Farmer

64695 Old Bend Redmond Hwy

Bend, OR 97701

Deschutes County Planning Division

117 NW Lafayette Ave

Bend, OR 97701

RE: File Number: 247-15-000001-LUP

Location: 64655 Old Bend Redmond Hwy, Bend; County Assessor's Map 16-12-31, Lot 314

Applicant: Paul Cooper, Hana Cooper

Proposal: Limited Use Permit for a Type 2 commercial events or activities facility on 54 acres
in the Exclusive Farm Use Zone.

April 13, 2015

Dear Mr. Paul Blikstad,

I am writing this letter to reaffirm my position of being opposed to the above referenced permit.

The noise level and the alcohol and driving are concerns. This also would set a precedent for others
in the future.

Someone said that my property was highlighted as being in favor of this permit. I am not sure how that
mistake was made, because I have not changed my position of being opposed.

Respectfully submitted,

Deborah Farmer

Paul Blikstad

From: Linda Moskowitz <rlmosk100@yahoo.com>
Sent: Monday, November 09, 2015 4:31 PM
To: Tony DeBone; Tammy Baney; Alan Unger; Paul Blikstad
Cc: Linda Moskowitz
Subject: Application #247-15-000001-LUP and # 247-15-000298-A
Attachments: Marshall Email.PNG

November 9, 2015

TO: Commissioner Tony DeBone
Commissioner Tammy Baney
Commissioner Alan Unger
Paul Blikstad

RE: Application #247-15-000001-LUP and # 247-15-000298-A

Thank you so much for allowing us to submit our statement once again. First, just a couple of corrections with regards to the applicant's November 1 letter.

1. **All** Winston Ranch homeowners contribute to the maintenance of **all** (nearly 1 mile) of Simon Road, including the approximately ½ mile that is **not** within Winston Ranch and is considered county road but not maintained by the county. Most of the property owners not part of Winston Ranch that access their properties via Simon Road (private and public) pay their share of the maintenance costs. Contrary to what they say, the applicants use Simon Road every day. Hanna Cooper currently lives on the property that's part of this application and has a Simon Road address, and in the past, the applicant's caretakers of both properties lived there using Simon Road (public and private) to access both of the applicant's properties. They have every right to use Simon Road as they currently use it. There is no requirement that they or any **non**-Winston Ranch homeowner contribute to the cost of maintaining the road. Most just feel it's the right thing to do.

The section of Simon Road that is privately owned by Winston Ranch will still get some traffic from the wedding events as it did several times this summer from guests getting lost. No matter how hard you try to prevent this, guests will get lost and end up on the private section of Simon Road. Some people will have explicit permission to use Simon Road (friends, relatives, etc.) while others will have implicit permission (delivery trucks, gardeners, etc.). According to County Code, Winston Ranch would have to explicitly give their permission for anyone related to the weddings to use the private portion of Simon Road. The Winston Ranch Homeowners Association has **not** done this.

2. We never said that storing hay is a fire hazard. We said "...what is the fire hazard of using bales of hay for seating and tables? What with candles, smoking, etc., it seems very hazardous."

3. Regarding the trees being planted in the ground, we said that the trees visible along Simon Road brought to the property around 2006 or 2007 were brought in pots (still in pots) **and** some were brought in with their roots wrapped in burlap. Of course, after all these years, we presume the burlap has rotted away, so now we guess you could say the roots are in the ground.

4. The applicant once again continues to insist that Ms. Farmer has withdrawn her opposition. There is nothing in the record online that we can find that confirms this statement. The applicant made the same claim before and Ms. Farmer testified at the hearing in April that she was still **against** this application. A copy of an email (Exhibit A & B) we received from Ms. Farmer on Nov. 6, 2015, shows that she is still **opposed** to this application and she lives the closest of all the neighbors to the event location.

5. Ms. Marshall is now also **against** this application. See the copy of the email she sent. (Exhibit C).

With regards to their letter dated November 2, the applicant states they (the applicant) will be making "Spruce or Fir Tip Syrup" "as an accompaniment with their bottled water, or to be used in their cocktails during the wedding" and "Pine Needle Tea" the applicants "plan on making such tea with bottled water for our guests at the weddings" to serve at the weddings for consumption by the guests. Their April 14 statement and wedding agreement says drinks and food would be provided by the wedding party's caterer and the bottled water would be supplied by the wedding party. If the applicant is now going to cook up syrup and tea made from trees, does that bring into question how the County Environmental Health Department may feel about that?

The applicant has provided photos of using trees as decoration. Past photos and videos online included in the record have not shown trees being used as decoration in the weddings. Their wedding agreement supplied with their April 14 statement states: "14. Put all tables and chairs back where stored. (Please don't roll tables)." We may be wrong, but this sounds like they own the tables and chairs and store them for use for each wedding event. Since no weddings were held since the hearing on Oct. 26, we wonder if the photos with the trees as decoration were set up to try and show how the trees **could** be incorporated into the wedding, but have **not** in the past. According to their application, they just provide the venue for the wedding, they don't decorate it or provide food and drink. Has this now changed?

The applicant states he is a "simple minded farmer" and "came into this not knowing anything about how to apply" for this type of application. Yet, the applicant has had 2 lawyers now to present their case. We would have thought that the first lawyer would have made sure everything needed by the applicant was in order and correct.

The applicant says that all they want to do is "make some supplemental income from weddings on my property." Unfortunately, the County Code in question makes it rather easy for anyone owning EFU land to supplement their farm income with commercial events or weddings as long as it is subordinate and incidental to the farm use and related to and supportive of the farm use. There is very little, if anything at all in the code that protects neighboring properties from this use except maybe noise. Be

that as it may, the code is law and it is now up to the governing bodies, such as yourselves, to interpret this code and implement it.

We hope you agree that the private part of Simon Road was and will be used during the wedding events as we described above against the wishes of Winston Ranch; that the trees have not been supportive of the wedding events; and that the rental of the house is already a commercial use of the land; and the entire length of the road to the event sight still hasn't been independently proven to be at least 20 feet wide. Because of these reasons we hope that you will uphold Ms. Hicks' decision and deny this permit. However, if you do approve this permit, we again ask that you make **ALL** of Ms. Hicks' conditions of approval part of this permit.

Sincerely,

Ralph and Linda Moskowitz
20195 Winston Loop
Bend, OR 97703

EXHIBIT A

Debbie Farmer <didifarmer@hotmail.com>
To rlmoskl00@yahoo.com
C C paul.blikstad(@deschutes.org

Nov 6 at 4:34 PM

Linda Moskowitz,

Please find the second letter I sent through email only, to Mr. Blikstad, on April 13, 2015, attached to this email. Mr. Blikstad did not respond to let me know he had received it. It was not possible for me at that time to take a copy in to the office. I can only assume he did receive it. Or hope that he received it.

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Thank You,

Debbie Farmer

cc: Paul Blikstad at
paul.blikstad@deschutes.org

From: didifarmer@hotmail.com
To : paul.blikstad@deschutes.org

Subject: Paul Cooper
Date: Mon, 13 Apr 2015 18:56:25 -0600

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I am still OPPOSED to the permit.

Thank You,
Deborah Farmer

Paul Cooper ltr2.docx

EXHIBIT B

Deborah Farmer

64695 Old Bend Redmond Hwy

Bend, OR 97701

Deschutes County Planning Division

11-7 NW Lafayette Ave

Bend, OR 97701,

RE: File Number: 247-15-000001-LUP

Location: 64655 Old Bend Redmond Hwy, Bend; County Assessor's Map 16-1-2-31-, Lot 314

Applicant: Paul Cooper, Hana Cooper

Proposal: Limited Use Permit for a Type 2 commercial events or activities facility on 54 acres
in the Exclusive Farm Use Zone.

April 13,2015

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The noise level and the alcohol and driving are concerns. This also would set a president for others in the future.

Someone said that my property was highlighted as being in favor of this permit. I am not sure how that

mistake was made, because I have not changed my position of being opposed.

Respectfully submitted,

Deborah Farmer

EXHIBIT C

DOCUMENT LOG

Deschutes County Planning Division

File No. 247-15-000001-LUP (247-15-000298-A)

Doc. No.	Date Submitted	Documents (Include listings of all attachments.)
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[illegible]

OREGONIANS IN ACTION

November 2, 2015

Deschutes County Board of County Commissioners

P.O. Box 6005

Bend, OR 97708-6005

ATTN: BoCC

Re: Cooper Commercial Events Application
File Nos. 247-15-000001-LUP (247-15-000298-A)

Dear Commissioners:

Thank you for the opportunity to submit testimony in the above-numbered application. It is my understanding that the Board raised questions at last week's hearing regarding two of the requirements for obtaining approval to use EFU zoned property for agri-tourism and other commercial events - the "incidental and subordinate" requirement and the "related to and supportive of agriculture" requirement. Both requirements are found in ORS 215.283(4) and in DCC §18.16.042(C)(2)(d).

Specifically, it is my understanding the Board had the following questions:

1. If a tract is being put to more than one type of farm use, must the applicant for the commercial events demonstrate that the events are "related to and supportive of" each type of farm use occurring on the property, or only one of the farm uses?
2. If the commercial events are not "related to and supportive of" one type of farm use occurring on the subject property, can the income from that farm use be counted in determining whether the commercial events are "incidental and subordinate" to the existing farm uses on the tract?
3. If the subject property is part of a tract, can the farm income generated by the parcel upon which the commercial events will not occur be counted in determining whether the commercial events are "incidental and subordinate" to the farm uses?

Must the Commercial Events be "Related to and Supportive of" Each Type of Farm Use on the Property, or Only One or More of the Farm Uses?

DCC §18.16.042(C)(2)(d) requires an applicant for up to six commercial events on an EFU zoned property to demonstrate that the proposed commercial events:

"Must be incidental and subordinate to existing farm use of the tract, and shall be related to and supportive of agriculture."

Mailing Address: P.O. Box 230637 • Tigard, OR 97281-0637

*Street Address: 11735 S.W. Queen Elizabeth Street, Suite 101 • King City, OR 97224
(503) 620-0258 • FAX (503) 639-6891 • website: www.oia.org*

This language is identical to the requirements found in the corresponding statutory provisions found in ORS 215.283(4). There is nothing in the language of either the statute or the DCC provision that requires that the commercial events be “related to and supportive” of farm uses occurring on the property. The language requires that the proposed commercial events be related to and supportive of “agriculture.”

Had the legislature or the Board intended to require that the commercial events be related to and supportive of the existing farm uses on the tract, they each could have said so, as was done with the “incidental and subordinate” test. But neither the legislature nor this Board chose to require that the commercial events be related to “existing farm uses” on the tract. Rather, the proposed commercial events must be “related to and supportive of agriculture.” Nothing in that language ties the commercial events to farm uses that are actually occurring on the subject property.

Nevertheless, in past cases, this Board has looked to the farm uses actually occurring on the subject property in order to determine whether the proposed commercial events were “related to and supportive of agriculture.” In other words, the Board has treated the test as requiring the applicant to demonstrate that the commercial events were “related to and supportive of existing farm use of the tract.” That’s not what the language requires, but is probably an acceptable way to applying the standard.

Nothing in the “related to and supportive of agriculture” requirement indicates or implies that the proposed commercial events must be related to and supportive of every type of farm use occurring on the subject property, if the property is being put to more than one type of farm use. Given the breadth of the definition of “farm use” in ORS 215.203 and traditional agricultural practices, it is not uncommon for a property to be used for multiple types of farm uses. For example, Smith Rock Ranch in Terrebonne (Matt and Kendra Lisignoli), one of the few commercial farms in Deschutes County, grows a variety of crops – carrot seed, onion seed, bluegrass seed, wheat, hay, corn, and pumpkins, and a variety of activities occur daily on the ranch, each of which is part of the “farm use” of the property.

An event on the Smith Rock Ranch which focuses on one farm use activity for one of the crops grown by the Lisignolis (e.g. the pumpkin patch in October) is certainly related to the farm use on the ranch, and supportive of that farm use, even if it has no bearing whatsoever on the remaining types of farm uses on the Ranch. Similarly, a commercial event on the Cooper property that utilizes one of the types of farm uses occurring on the property is both related to the Cooper’s farm use, and also supportive of the farm use, even if other farm uses on the property are not involved in the events. The events are certainly related to “agriculture,” which is what both the DCC and ORS 215.283(4) require. That is all that the statute and DCC require. To require otherwise is to punish those property owners who make more than one “farm use” on the property. There is no reason to expect that the legislature would intend to draw a distinction between farmers who engaged in only one type of farm use and farmers who utilized their property for multiple farm uses.

If a Proposed Commercial Event is Not Related to and Supportive of One Type of Farm Use Occurring on the Property, Does the Income Generated by That Farm Use Count in Determining Whether the Commercial Events are "Incidental and Subordinate" to the Farm Uses Occurring on the Property?

The "incidental and subordinate" test requires that the applicant for the commercial events demonstrate that the events are "Incidental and subordinate to existing farm use of the tract." Unlike the "related to and supportive of agriculture" requirement, this language actually ties the proposed commercial events to actual farm uses that are occurring on the tract.

In this case, the Coopers are making more than one type of farm use on the tract. Neither the statute nor the corresponding DCC code limit the analysis of "farm use" to only those types of farm uses that are utilized in the commercial events. In other words, the language of both the statute and the DCC requires that the commercial events be "incidental and subordinate" to the "farm use of the tract." The Coopers have more than one "farm use" on the tract. As long as their proposed commercial events are incidental and subordinate to the combined farm use on the tract, the standard has been met.

Moreover, an attempt to determine whether the proposed commercial events are "incidental and subordinate" to only those types of farm uses which the proposed commercial events are "related to and supportive of" conflates the two tests, each of which are separate from the other. Nothing in the language of the DCC or the statute appears to allow the tests to be combined. They are separate tests and should be applied separately, as the Board has done in its past event decisions.

If the Parcel Upon Which the Commercial Events Will Occur is Part of a Tract, Can the Income Generated by Farm Use on the Other Parcel(s) that Comprise the Tract Be Counted in Determining Whether the Commercial Events are "Incidental and Subordinate" to the Farm Uses?

Both the statute and the DCC measure both the "incidental and subordinate" and "related to and supportive of agriculture" tests by the activities occurring on the "tract", not just the parcels that compose the tract. The reason for this is because many farms are composed of multiple parcels that form a tract, and "incidental and subordinate" test is designed to measure the impact that the commercial events will have on the farm as a whole, not the parcel(s) that make up the farm.

Thank you for the opportunity to comment. Please enter this letter into the record of these proceedings.

Very Truly Yours,



David J. Hunnicutt
President

Paul Blikstad

From: Dave Hunnicut <dave@oia.org>
Sent: Monday, November 02, 2015 12:21 PM
To: Paul Blikstad; William Groves
Subject: Cooper Letter - Commercial Events
Attachments: Deschutes County Commercial Events Letter(2) - Cooper.pdf

Paul/Will:

Attached is a follow up letter in the Cooper commercial events application. It is my understanding that the Board left the record open to today for additional comments.

Dave Hunnicutt
President
Oregonians In Action
(503) 620-0258
dave@oia.org

Paul Blikstad

From: Connie Marshall <conniem97@comcast.net>
Sent: Saturday, November 07, 2015 1:05 PM
To: Tammy Baney; Tony DeBone; Alan Unger
Cc: Paul Blikstad; Sally.A.Curey@oregon.gov
Subject: FW: Cooper Application Subject Permit #247-15-000001LUP,
Attachments: HOA Letters.docx; Attached Message Part.htm

Hello Commissioners – I found your emails, so am sending my email directly to you (had asked Sally to send to you previously).

Thank you for your thoughtful consideration of this permit. There is much opposition to it, and I know you will take all testimony into consideration as you evaluate the merits of this.

My email is below.

Thank you,
Connie

From: Connie Marshall [<mailto:conniem97@comcast.net>]
Sent: Saturday, November 07, 2015 1:00 PM
To: 'Sally.A.Curey@oregon.gov'
Cc: 'Linda & Ralph Moskowitz'; 'Charles Brown'
Subject: Cooper Application Subject Permit #247-15-000001LUP,

Dear Sally – I was sent a copy of this letter that Paul Cooper wrote with regard to his requested permit #247-15-000001LUP. I was referenced in the second paragraph. (I'm not sure why I wasn't originally copied, since the reference.) However, I would like to rescind our approval. I would also like to request that Paul Cooper NOT call me. He is very intimidating. I don't really want to hear from him and I will not change my mind, even if he calls.

Please let the commissioners know that we no longer support the permit and send this to Sharon Ross, as I don't have her email to send this to her as well.

Thank you,
Connie Marshall
64892 Simon Road
Tumalo, OR 97703

From: CUREY Sally A * DCBS [<mailto:Sally.A.Curey@oregon.gov>]
Sent: Sunday, November 01, 2015 8:41 PM
To: Sharon Ross
Cc: 'loreencooper@centurytel.net'
Subject: Cooper Application

Hi Sharon. Here is another letter from Paul Cooper. He is submitting this to the Board Members to review in the appeal process. This particular letter addresses the opposition letters and explains why the Winston Ranch folks are angry about the permit.

Please get them copies for their records.

Paul will be submitting one more letter with exhibits tomorrow, Monday, by 5:00 pm. The exhibits will include 2 letters reflecting the sale of trees from contacts during weddings, a few recipes that will be provided to the wedding attendees that incorporates some of the tree products into the wedding events. Additionally, I expect a few pictures from prior weddings this past summer that show that the trees for sale are in fact being used as backdrops for the formal wedding pictures. Finally, the Coopers will be creating center pieces to be used on the tables for the wedding receptions made from tree products grown on the farm. Paul may have a few other things as well.

As always, thanks again for your help. Sally Curey

November 1, 2015

Board of County Commissioners of Deschutes County
1130 NW Wall
Bend, Oregon 97701

Attn: Anthony Debone, Chair
Alan Unger, Vice Chair
Tammy Baney, Commissioner

RE: De Novo Appeal on Application 247-15-000001-LUP (247-15-000298-A) pursuant to
Title 22 of the Deschutes County Code – Paul and Hana Cooper, Applicants

Dear Commissioners:

Because the scope of issues being addressed by the Board on appeal is unrestricted, we wanted to provide the following testimony and information which addresses the issues/complaints raised by the Winston Ranch HOA letters. My apologies for the length of this letter, but if I am denied this permit, I wanted to make sure the record on appeal is complete.

First, we'd like to point out that there were letters submitted in favor of the proposed permit. Letters in support of the proposal were submitted by the Kim, Lynch, Campbell, Foster, Leshaw and Marshall families. They noted that the noise, access and liability issues are clearly manageable, that the farm presents the perfect wedding spot, and that I am an experienced farmer running a "top flight outfit." Mr. Campbell understands that the main source of my income is from farm use. The Fosters were initially concerned but ultimately satisfied that such concerns will be handled, including sound levels and possible fire danger. The Leshaw's confirmed that the issues regarding Simon Road and the music/noise and resolutions for such problems proposed by me were reasonable and agreeable.

I believe all if not almost all of the opposition letters came from folks living in Winston Ranch. Some of the HOA letters in opposition alleged that false information was supplied in the attempt to get a quick approval of the permit. Please know that the information which was challenged in the initial permit application was subsequently corrected and/or clarified. There was no intention to mislead anyone or lie about the facts. Any information that was submitted at the time of the initial application that was questioned or unclear was corrected and clarified to Mr. Blikstad's satisfaction and Mr. Blikstad found that the concerns were all addressed and/or resolved by the time of the initial hearing. Mr. Blikstad did recommend clarification of income, but aside from that, he recommended approval of the permit with conditions of approval.

The most substantive letter was submitted by Mr. Renyer as President and on behalf of the Winston Ranch HOA. Interestingly, while he lives in Winston Ranch, he admitted that noise wasn't a major factor for him. His primary concern centered on the potential use of Simon Road for access to attendees of the weddings. As the record already establishes, access to our property for the weddings is off of Old Bend Redmond Highway, not Simon Road. The Simon Road issue won't be addressed further in this letter. Mr. Renyer did admit that I made contact with some of the Winston Ranch

homeowners and that I was "courteous" and gave assurances to resolve their/HOAs concerns. Addressing Mr. Renyer's stated concerns in total will address most of the concerns of the whole.

Mr. Renyer noted his dislike that I had weddings on my property without a permit prior to this past summer. He was right. I did have weddings for a few summers, and then realized I needed a permit. He was upset that I didn't contact neighbors and give prior notice of this permit request, but we were advised by Staff that notice was neither required nor necessarily helpful in this type of process. An additional concern was that the approval of this permit request would negatively affect his property value, but there is no evidence that approving a permit allowing 6 weddings a summer would have any effect on neighboring property values.

Ultimately, Mr. Renyer's letter makes apparent the reason why the folks at Winston Ranch might not personally support my permit request. As noted in his letter, I didn't voluntarily agree to contribute to the Simon Road improvements. The request was made years ago, and prior to my moving to Monument. It is interesting to me, however, that the letters in opposition specifically admit that not all of the Winston Ranch home owners have contributed to their own Simon Road improvements. Why would they expect me, a neighbor not part of their Winston Ranch HOA, to pay for improvements on their road (simply because we used that back road from time to time) when their own HOA members aren't paying for improvements? This issue does seem to be the fuel for their at times hostile objection to my permit.

Mr. Renyer raised issues of potential liability for accidents and trespassing, but I know of no legal basis for such a concern or why the Winston Ranch HOA would be liable for anything if this permit is granted. To be clear, we do not discount the concerns that the Old Bend Redmond Highway may be dangerous and that the traffic coming into our property would be increased during the weddings. But we aren't talking about hundreds of cars daily. We are talking about 50 to 75 cars at most coming into the property (not all at the same time or exiting at the same time) and on only 6 Saturdays out of the year. The stated concerns about the weddings causing traffic backup for miles is absurd.

Other issues raised by Mr. Renyer are clearly personal, without merit and have no relevance to this permit application. He asserts safety concerns for folks sitting on bales of hay. How is sitting on a bale of hay dangerous? Many of Mr. Renyer's complaints are based on either misunderstandings of how my farm operates, challenges to the facts, or faulting me for not completely understanding how to go about submitting proof to support my permit request. His last letter accuses me of falsifying data. I am not a college educated man. I work hard and try to make a living by farming. I have no experience in politics, accounting, tax forms or the like and I relied heavily upon recommendations or advice from Staff in submitting my permit. During the process I clarified and corrected data to make sure that we accurately represented the tonnage of hay produced only the subject property. I did this to make sure we accurately and corrected represented the data and income from the property and for no other reason. Needless to say, I learned a lot in this process and will make every attempt in the future to keep better records of income from both the tree and hays and make sure we can track what is produced only on this property.

We do harvest a lot of hay, and while the initial application indicated 1,000 tons were harvested by my business, which is true, the application didn't make clear how much of that was grown and harvested on the property subject to the permit request. As stated, we have corrected that information. We didn't put 1,000 in an attempt to intentionally mislead. We simply neglected to break down the total hay production to that grown and harvested on the subject property in Bend. It doesn't help that

the Schedule F tax form asks for "farm income", and not the total farm income per line item of product grown and harvested on the land. The total hay grown and harvested on the Bend property was accepted to the Hearing Officer's satisfaction and we agree with her findings in that regard. All in all I believe we have addressed Mr. Renyer's concerns.

The letter submitted by the Moskowitz family brings up an issue not raised by anyone involved directly in the process to date. Neither Staff nor the Hearing Officer made any reference or noted any concern about the fact that the application for the permit involved 2 adjoining tax lots. There is nothing in SB 960 nor the legislative history, let alone the statutes or rules, that require that the permit apply to only one tax lot. To suggest now that that might be a basis for non-approval of a permit is prejudicial to me and would cause a financial hardship. I've spent almost what I make in one year worth of weddings on this process so far. Were we advised by any method that this issue would or could be a basis for denying the permit at the appeal level, we would have dropped this application and started over. Instead, we have now paid an enormous amount of money (\$5,000 for the initial hearing and another \$7,500 for the prior attorney) to get this far. If a permit application may only involve one tax lot at a time, notice of such should be required to all potential applications prior to the appeal process.

The Moskowitz letter makes assumptions about how much hay I produce on this property, without any knowledge of the facts. They assumed that storing hay is a fire hazard, which if true would present hazard issues for every hay farmer in America. And, if it were a hazard, it comes with or without the weddings. He assumes that the nursery permit is still active, and asserts that I have more than one business on this EFU property, but, again, he doesn't know the facts. The nursery permit is not active. He disagrees with my gross income statement, but how would he know how much money I make on my farms? We know that Moskowitz's take daily walks along Simon Road and have personal knowledge that the trees were in fact planted both in the ground and in the pots. To say otherwise is a lie. They know we've planted trees during the past 7 to 8 years. He uses google earth pictures to substantiate his conclusion that we don't have enough parking. Yet, he hasn't come on to my property, nor does he have access to my property. Clearly, based upon other pictures and the Staff site visit, we have plenty of room for the attendee vehicles. Moskowitz simply doesn't want us to have weddings on our property and unfortunately it appears they are misrepresenting their observations and will make up anything and speculate to oppose the permit. This is disturbing to us.

The Newman letter voices concerns regarding noise, liability for excessive traffic and his fear of mixing commercial with country living. Everyone understands that people move to the country for peace and quiet. However, SB 960 allows for such a permit on my 54 acres. It's legal to have these weddings if the permit is approved and all conditions of approval are met. The noise and traffic issues are addressed by conditions of approval.

The Farmer letter notes concerns that we would have more than 6 events. However, we don't want more than 6 events and the permit is for up to 6 events, not more. The Farmers subsequently withdrew their opposition.

The Williams letter simply alleges that my application doesn't meet the requirements. He too cites Google Earth and questions the 1,000 tons of hay figure in the initial application (prior to clarification), noise control, and potential access via Simon Road. These issues have been clarified and/or resolved.

The Gerloff letter notes their concern with the hours of operation (how late the wedding parties will go), the serving of alcohol, and the safety and security of the neighborhood. The rule provides that the weddings events must stop by 10:00 pm. Alcohol liability shouldn't be of any legal concern to the neighbors. However, anyone drinking and driving poses a hazard on the road. There does not appear to be any legitimate concern for the safety and the security of the neighborhood. In fact, there is no real neighborhood involved in this situation. The wedding site is in the middle of 54 acres.

The Phillips letter is interesting. Mr. Phillips is a land planner/architect who doesn't even currently live in Winston Ranch but has renters in his Winston Ranch home. He wasn't even aware of SB 960 and the fact that this type of a permit is available.

The Johnson letter implies we can't meet the requirements of the permit because weddings don't qualify as agri-tourism. Johnson is obviously misinformed. They state that they have seen little in the way cultivation or tree sales, but unless they are monitoring our property hourly or daily, how would they? In fact, the tree sales are off and on throughout the year and not daily or even weekly. There would be no such regular "cultivation" as they suggest.

The Hills/Powell letter complains that weddings aren't sales events. I don't know what that means. They complain about the potential noise, alleged use of firearms, use of the highway, alcohol impaired drivers, fire, smoke, candles, lanterns, hot car exhausts, event monitoring, and they don't want this permit to be approved because they don't want others to do it either. They simply don't like the new law. Who said anything about firearms and candles, or lanterns? Most of their concerns have been addressed above, but they take it one step further and suggest that hot car exhaust will cause fires on our property. They are reaching.

The Ashley letter references noise and traffic concerns, but mostly his belief that weddings should be in commercial areas and not on farms, and asserts that weddings on a private ranch somehow damages the neighborhood. His letter simply addressed his dislike for the idea of such a permit.

The Thompson letter reiterates concerns about the noise and traffic issues, health and safety concerns, and the worry that others in the area might apply for a similar permit. Aside from these already addressed issues, he is worried about the environmental impact on local wildlife. What possible environmental impact will there be on wildlife? If we have to prohibit rice throwing, we are certainly willing to do that as a condition.

The McHendry letter asserts that allowing weddings on my 54 acres farm will lessen neighboring property values and creates a nuisance. How? He complained he didn't get notice, but notice was sent. He asserts that the area is 'more densely' populated than meets the eye. What? He asserts that a total of 6 events will be hard to control. They haven't been hard to control so far. And, to the best of our knowledge, NONE of these Winston Ranch residents have filed formal complaints about prior weddings on our property. He argues that the weddings don't lead to hay sales, but he clearly is wrong because I have and do make money off of contacts from weddings from both tree and hay sales. His opinion is based upon assumptions and misinformation, not to mention bias against me and the permit idea.

The Nemeth letter asserts that Winston Ranch will be adversely affect by the noise, traffic and increased "safety concerns" for pedestrians. Simon Road is a small narrow road that borders Winston Ranch and runs North to South along the West end of my property. How does a wedding, whose attendees don't use Simon Road, cause a safety concerns for pedestrians on Simon Road? Access to the subject property for the weddings is off of the Old Bend Redmond Highway, not Simon Road. This is just another absurd allegation.

The Brown letter notes concerns regarding traffic and noise level enforcement, but these issues are and can be addressed by the conditions of approval. Mr. Brown submitted a second letter a few days prior to the Board hearing. He is clearly angry that instead of making me cancel the proposed weddings for this summer, I was allowed to go ahead and let the weddings go forward. He clearly would have been in favor of ruining 6 couple's wedding by cancelling their venue at short notice. Nothing will make Mr. Brown happy with regard to this permit application. His letter also reflects his anger at my placement of no trespassing signs on my fences that line my property. He seems to think that our signs are preventing him access to his irrigation canal, which is ridiculous. I've had no trespassing signs on our fences for years, and that hasn't stopped anyone from Winston Ranch from accessing their canal to date. I haven't violated any law by putting up no trespassing signs. Mr. Brown also submitted comments in a letter the day after the hearing questioning my ability to produce so many tons per acre. Clearly, his bias against me and my farm are evidenced in his letters as he will say practically anything to get this permit denied. What other reason does he have to so quickly question my hay production?

The general theme of the opposition letters is legitimate concern for noise, traffic control, and whether I've produced accurate and qualified data for the income analysis. Some of those from Winston Ranch who supplied letters against my permit application are biased against me because of the apparent standing dispute regarding Simon Road. It's unfortunate. I believe that had the road dispute not been present, this permit request would have indeed been unopposed and likely approved months ago.

This process has shown itself to be very difficult for a simple minded farmer. I want to make some supplemental income from weddings on my property. I came into this not knowing anything about how to apply, and have obviously learned as the process has continued. I understand the process and now understand the requirements to submit data pertaining to farm use and income from the subject property only. My record keeping prior to this process didn't require such a stringent separation and tracking of income. I now know that I have to keep better records of what is produced on the subject property and have to be able to show the income from just this property. I will improve my record keeping in hopes that if this permit is granted the renewal process won't be so difficult and agonizing.

Thank you for allowing me to address the letters in this manner.

Paul Cooper

Paul Blikstad

From: CUREY Sally A * DCBS <Sally.A.Curey@oregon.gov>
Sent: Monday, November 09, 2015 9:44 AM
To: Tammy Baney; Tony DeBone; Alan Unger
Cc: Paul Blikstad; 'loreencooper@centurytel.net'; Sharon Ross
Subject: RE: Cooper Application Subject Permit #247-15-000001LUP,

Board Members, Good Morning.

I was sent an e-mail, which I just received this morning, from Connie Marshall asking that I forward it to you for review. I wanted to make sure you got it. It is odd that she would submit such an e-mail which provides absolutely no reason for her sudden change of heart and decision to object, without explanation, to Mr. Cooper's permit. We did note that she copied the staunch opposition of Moskowitz and Brown. Maybe the pressure is coming from the other side. We'll never know.

We note, however, that the written record was officially closed last Monday, November 2, 2015.

The applicant in this case will be submitting his final argument by 5:00 pm today. We want to again thank you for taking the time to accept and review this permit request.

Best regards,
Sally Curey for
Paul and Hana Cooper

-----Original Message-----

From: Connie Marshall [<mailto:conniem97@comcast.net>]
Sent: Saturday, November 07, 2015 1:05 PM
To: Tammy.Baney@deschutes.org; Tony.DeBone@deschutes.org; Alan.Unger@deschutes.org
Cc: Paul.Blikstad@deschutes.org; CUREY Sally A * DCBS
Subject: FW: Cooper Application Subject Permit #247-15-000001LUP,

Hello Commissioners – I found your emails, so am sending my email directly to you (had asked Sally to send to you previously).

Thank you for your thoughtful consideration of this permit. There is much opposition to it, and I know you will take all testimony into consideration as you evaluate the merits of this.

My email is below.

Thank you,

Connie

From: Connie Marshall [<mailto:conniem97@comcast.net>]

Sent: Saturday, November 07, 2015 1:00 PM
To: 'Sally.A.Curey@oregon.gov'
Cc: 'Linda & Ralph Moskowitz'; 'Charles Brown'
Subject: Cooper Application Subject Permit #247-15-000001LUP,

Dear Sally – I was sent a copy of this letter that Paul Cooper wrote with regard to his requested permit #247-15-000001LUP. I was referenced in the second paragraph. (I'm not sure why I wasn't originally copied, since the reference.) However, I would like to rescind our approval. I would also like to request that Paul Cooper NOT call me. He is very intimidating. I don't really want to hear from him and I will not change my mind, even if he calls.

Please let the commissioners know that we no longer support the permit and send this to Sharon Ross, as I don't have her email to send this to her as well.

Thank you,

Connie Marshall

64892 Simon Road

Tumalo, OR 97703

From: CUREY Sally A * DCBS [<mailto:Sally.A.Curey@oregon.gov>]
Sent: Sunday, November 01, 2015 8:41 PM
To: Sharon Ross
Cc: 'loreencooper@centurytel.net'
Subject: Cooper Application

Hi Sharon. Here is another letter from Paul Cooper. He is submitting this to the Board Members to review in the appeal process. This particular letter addresses the opposition letters and explains why the Winston Ranch folks are angry about the permit.

Please get them copies for their records.

Paul will be submitting one more letter with exhibits tomorrow, Monday, by 5:00 pm. The exhibits will include 2 letters reflecting the sale of trees from contacts during weddings, a few recipes that will be provided to the wedding attendees that incorporates some of the tree products into the wedding events. Additionally, I expect a few pictures from prior weddings this past summer that show that the trees for sale are in fact being used as backdrops for the formal wedding pictures. Finally, the Coopers will be creating center pieces to be used on the tables for the wedding receptions made from tree products grown on the farm. Paul may have a few other things as well.

As always, thanks again for your help. Sally Curey