

# COLUMBIA COUNTY BOARD OF COMMISSIONERS

Staff Report

March 15, 2023

## Appeal of Planning Commission's Denial of a Conditional Use Permit - Type 1 Home Occupation Application

**BOC HEARING DATE:** MARCH 22, 2023

**FILE NUMBER:** CU 23-06

**APPLICANT:** Zack Watson  
32707 Berry Hill Dr  
St. Helens, OR 97051

**Owner:** Judith Watson & Janice Godfrey  
1344 SW Rimrock Way  
Redmond, OR 97756

**SITE LOCATION:** 32707 Berry Hill Drive

**TAX MAP ID NO:** 5226-D0-01700 (Tax #16258)

**ZONING:** Rural Residential (RR-5)

**SITE SIZE:** ~5 acres

**REQUEST:** Conditional Use Permit for a Type 1 Home Occupation to authorize the operation of an automotive repair and maintenance shop from a shop on the applicant's residence.

**APPLICATION COMPLETE:** 11/10/2022

**150 DAY DEADLINE:** 04/09/2022

### **REVIEW CRITERIA:**

#### **Columbia County Zoning Ordinance**

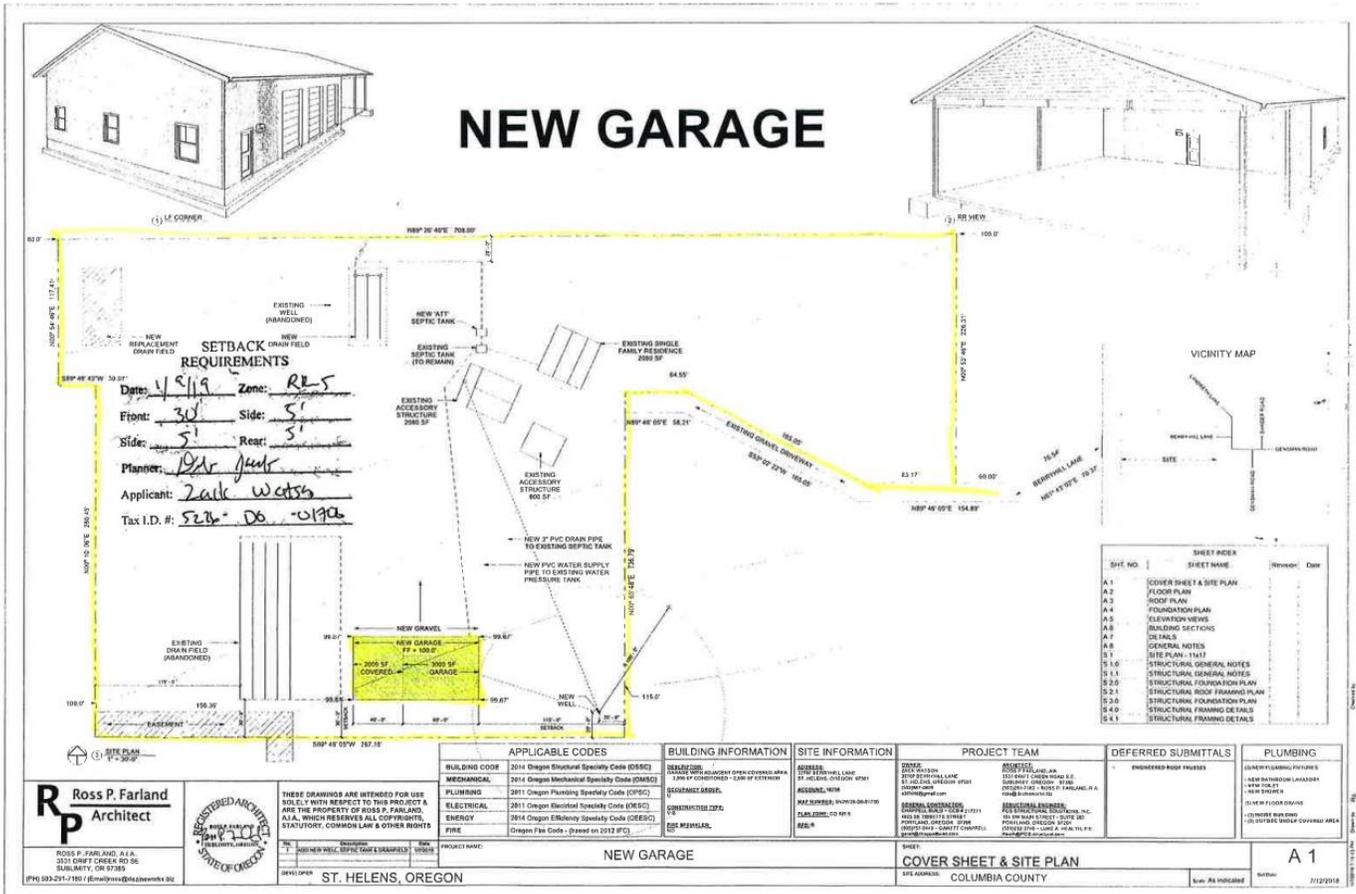
Section 600	Rural Residential (RR-5)
Section 1503	Conditional Uses
Section 1507	Home Occupations
Section 1700	Appeals

### **BACKGROUND:**

The applicant, Zack Watson, has applied for a Conditional Use Permit to establish a Type I Home Occupation at his residence at 32707 Berry Hill Drive. The subject property is served by a private well and septic system and is zoned for Rural Residential (RR-5) uses. Access is obtained via direct connection to Berry Hill Drive, which is a private road connected to Landreth Lane which then connects to Gensman

Road. This Conditional Use request was initiated by a neighbor complaint about an existing operating business which opened a compliance investigation (File No. 192-22-00304-NVST). The proposal requested for CU 23-06, if approved, will authorize the applicant to establish and run an automotive repair and maintenance shop from an existing garage on the subject property. The submitted application states that the shop will provide "...basic automotive repair services such as tire repairs, engine repairs, and general maintenance for cars and light duty trucks..." The application states that Zack Watson will be the sole owner and employee at the business, titled Watson Motorsports, and that he is the son of the property owners. Business operations will primarily occur within the preexisting detached shop located at the south end of the property.

### Submitted Site Plan



The existing structures on the subject property consist of the applicant's dwelling and accessory structures, including the garage/shop proposed to contain this home occupation. The application does not indicate that any further development of the subject property will occur as a result of this home occupation. No signage for the business is proposed in the application. According to submitted application materials, there will only be two customer vehicles in and out per day. Hours of operation will be 9:00 AM to 6:00 PM. Delivery vehicles will consist of twice daily delivery of automotive parts via small pick-ups or vans.

Four sets of comments (see attached) regarding this application were received prior to sending out the original Staff Report. One comment in opposition from an individual neighboring property owner was

received on 11/22/2022. On the same day, a community letter signed by 15 residents of the surrounding neighborhood was submitted detailing numerous concerns and stating opposition. These residents include property owners of 8 nearby properties. On 12/16/2022, the applicant submitted a response to the community letter as well as two letters in support of the proposal from owners of two nearby properties. The relevant portions of all submitted comments will be addressed in the appropriate sections of this report.

The subject property is located northwest of St. Helens in an area consisting of rural residential and resource uses. Natural characteristics of the site are as follows. According to FEMA Flood Insurance Rate Map (FIRM) No. 41009C0325D and the Oregon Department of State Lands Wetlands Inventory Map, there are no identified flood hazard areas or wetlands on the subject property. Likewise, there are no streams or other waterways on the subject property according to ODFW Statewide Streams Map. The St. Helens-Columbia City CPAC Beak Maps indicate that the site is located within an area designated as Peripheral Big Game Habitat Area. Therefore, the criteria of Section 1190 Big Game Habitat Overlay will be addressed in this report. Staff conducted a site visit on December 21<sup>st</sup>, 2022 and confirmed the information on the county maps were accurate with the documentation submitted for CU 23-06. Emergency Services are provided by the Columbia County Sheriff as well as Columbia River Fire & Rescue.

Due to the large number of comments received by LDS and the rebuttal submitted by the applicant, the Planning Manager referred this matter to the Planning Commission per the provisions of Section 1601.3 of the Columbia County Zoning Ordinance.

Comments from Ted Daehnke, Eric and Carli Bergey, and Mark Beisley were received by LDS after the Staff Report was sent out for Planning Commission but prior to the hearing itself. Concerns raised in these comments are similar to those raised by other neighbors which are addressed in this report.

**2/6/2023 Planning Commission meeting summary as reflected in minutes:**

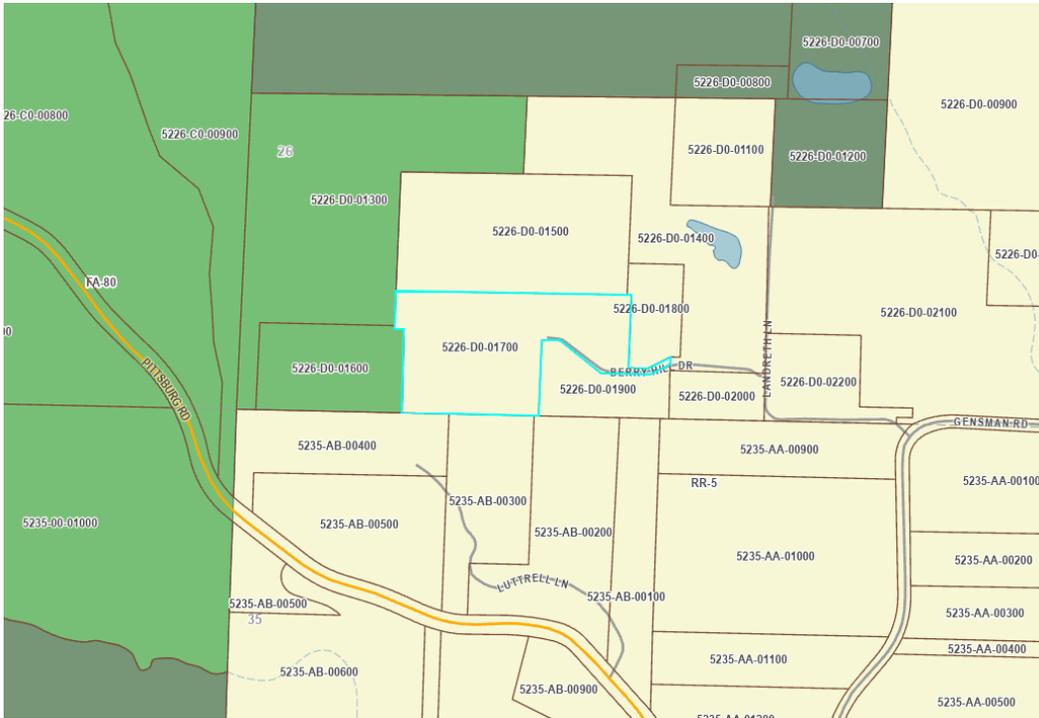
- Staff presented the report, recommending denial of the applicant’s proposal based on Findings 5, 6, 8 and 11. After the presentation of the Staff Report, the Commission heard public testimony both in favor and against the proposal.
- Reasons given in public comment in favor of approving the proposal included support for small businesses and the praise for work of Watson Motorsports from customers. Additionally, some public commentors disagreed that the proposal negatively impacted neighboring residential areas.
- Reasons given in public testimony in favor of denying the application were similar to those stated in the attached submitted comments. Examples included negative impact to adjacent properties from noise, traffic levels, and unsafe road/driving conditions. Overall incompatibility of the business with the area’s characteristics and infrastructure was cited as well.
- The physical state and safety of Landreth Lane and Berry Hill Drive was a major point of discussion. Responsibility for maintenance of these private roads and the road maintenance agreement(s) were discussed.
- The number of employees and customer trips generated by this business was a point of disagreement in public comment and the applicant’s statements.
- After closing the public comment period, the Commission discussed and expressed a desire to attempt to amend Findings 5, 6, 8, and 11 of the Staff Report in order to support an approval.
- The Commission found that they also could not make positive findings with regard to the criteria discussed in findings 5, 6, 8, and 11. Consequently, they adopted Staff’s findings and denied the application.

**On 2/13/2023, the applicant submitted paperwork to appeal the Planning Commission’s decision.**

The appeal form was submitted without payment and without a reason for the appeal. On 2/15/2023, LDS contacted the applicant to notify him that payment and an appeal reason were still needed. On 2/17/2023 LDS collected payment for the appeal, but never received any reason for this appeal.

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

## Zoning and Aerial Maps of Property



Site Visit Photos

**View of Shop Building**



## REVIEW CRITERIA, FACTS, ANALYSIS & FINDINGS:

### Beginning with Columbia County Zoning Ordinance Section 600:

#### **Section 600 RURAL RESIDENTIAL - 5 RR-5**

*[Amended by Ordinance 99-2, eff. 1/11/00; Amd. Ordinance 2015-4, eff. 11-25-15].*

601 Purpose: This district is designed for rural areas where parcels at the time of initial zoning designation are committed to non-resource uses consistent with County acknowledged exception areas. Uses in this zoning district are anticipated to be predominantly residential with a rural level of public services; i.e., domestic water from private wells, sewage disposal using on-site systems, adequate fire and emergency service by fire districts, and road access consistent with the County Transportation Plan and County Road Standards. Other uses shall be those customary to such areas, including farm and forest uses, churches, and home occupations of a rural character.

#### 603 Conditional Uses:

- .3 Home occupations consistent with ORS 215.448, as provided in Section 1507.

**Finding 1**: Per the provisions in Section 603.3 of the Columbia County Zoning Ordinance, home occupations are conditionally permitted in the RR-5 Zone subject to prescriptive standards in Section 1507 of the Zoning Ordinance. The proposed Type I Home Occupation will be permitted through an administrative review of a Conditional Use Permit for consistency with the provisions in Section 1503. The proposed home occupation will utilize an existing shop building on the property for automotive repair and maintenance. Notice of this proposal was sent to surrounding property owners and affected County agencies on 11/17/2022. The County Building Official submitted comment on 11/17/2022 that any changes that have taken place to the shop building since it was permitted may require building permits. The Columbia River PUD and the District 18 Watermaster submitted comments on 11/17/2022 and 11/28/2022 that they have reviewed the proposal and have no objections to its approval. The County Public Works Department submitted comment on 11/23/2022 that the subject property already has a Road Access Permit with final approval. If this proposal is approved, a condition of approval will state that the applicant must obtain all necessary building permits for the existing shop structure. The County Sanitarian has not submitted any comments or concerns for this proposal as of the date of this staff report. The subject property accesses off Berry Hill Drive, a private road connected to Landreth Lane, another private road which then connects directly to Gensman Road. Gensman Road is a County-maintained public road with a 40' right of way.

With the preceding evidence and condition of approval, Staff finds that CU 23-06 as presented complies with these provisions for conditional uses in the RR-5 Zone.

### Continuing with Columbia County Zoning Ordinance:

#### **Section 1503 CONDITIONAL USES**

- .1 Status: Approval of a conditional use shall not constitute a change of zoning classification and shall be granted only for the specific use requested; subject to such reasonable modifications, conditions, and restrictions as may be deemed appropriate by the Commission, or as specifically provided herein.

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

**Finding 2:** As stated above, the Planning Commission may attach conditions and restrictions to this proposal that are deemed reasonable. This includes conditions which mitigate adverse impacts on adjacent properties.

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

**Finding 3:** As identified in Section 1503.4, compliance with all conditions and applicable standards addressed in this report will be required to ensure that the Home Occupation remains in compliance with all attached conditions of approval for the lifetime of this use.

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

**Finding 4** As covered in Finding 1, Home Occupations are listed as an authorized Conditional Use in the RR-5 Zone per the definition in Section 603.3. Staff finds that the criteria in Section 1503.5(A & B) are met.

- C. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements, and natural features;
- D. The site and proposed development is timely, considering the adequacy of transportation systems, public facilities, and services existing or planned for the area affected by the use;

**Finding 5:** The characteristics of the site (i.e. existing dwelling, driveway, location and existence of utilities and infrastructure, etc.) potentially make it suitable for the proposed home occupation to occur inside the existing shop. The applicant states that the size of the parcel provides ample parking for vehicles, and states that “there will be no infringement on the use of Berry Hill Lane...”. The applicant also notes that garbage and delivery trucks currently utilize this road. The applicant submitted documentation of his property’s access easements to use Berry Hill Drive and Landreth Lane along with the associated Road Maintenance Agreement. This Road Maintenance Agreement puts the responsibilities of maintenance on private road users. The County Public Works Department submitted additional comment on 1/27/2023 stating that “The Public Works Department does not maintain private roads. The maintenance responsibility for private roads fall on the individual land owners who access off of the road”.

**Beginning of Landreth Lane**



**Beginning of Berry Hill Drive**



Comment submitted by some neighboring property owners contest that the proposal is not timely, and that existing infrastructure in the neighborhood is not compatible with this proposed home occupation. Comment received on 11/22/2022 by one neighbor states that the existing activity of this automotive business has already created excessive traffic and noise in the neighborhood. The comment expresses concerns that the rural residential character and infrastructure of the neighborhood cannot support the proposed use without being damaged or altered. The community letter received by LDS on 11/22/2022 states similar concerns. The letter argues that there is not an adequate existing transportation system for the usage of Berry Hill Drive and Landreth Lane generated by this proposal. Further, it states that the business is currently operating with approximately 20-60 vehicle rotations to the property daily from customers, auto repair deliveries, test drives, etc. In contrast, the submitted application states only two customer vehicles will come and go from the shop each day.

On 12/16/2022, Staff received comment from adjacent property owners in support of the proposal. The comment states that they never see 20-60 vehicle rotations per day and expresses a desire for Berry Hill Drive to be widened into a two-lane road.

The applicant was notified of the comments in opposition on 11/23/2022 and again on 11/28/2022. On 12/16/2022, the applicant submitted a response to the concerns raised in the community letter. Regarding traffic and the condition of the road, he states that there is no proper system in place to count vehicle rotations. He states that the business has had no more than 70 customers in the last 2 months, which would equate to an average of ~2 customers per day. He also states that “60 percent if not more of traffic coming up and down said graveled road are of personal cars not related to the business”.

Between the submitted comments and the proposal, there is great disagreement about the condition of transportation infrastructure in the neighborhood, as well as the traffic generated by this business. The Staff site visit on 12/21/2022 observed that access to the subject property is through two graveled single-lane private roads (Berry Hill Drive and Landreth lane) off Gensman Road. The subject property is at the very end of these private roads. As can be seen in the following images taken from during the site visit, both private roads appear to be in a state of disrepair with numerous potholes throughout.

**Potholes on Berry Hill Drive**



**Potholes on Landreth Lane**



Given the observed state of disrepair and the narrowness of these private roads, the existing transportation facilities appear to be insufficient to support a commercial level of traffic. Further, the location of the subject property at the end of these roads increases the amount of each road that is affected by any generated traffic.

Staff cannot find that existing transportation infrastructure on Berry Hill Drive and Landreth Lane is sufficient to support a commercial automotive business in these conditions. Staff finds the criteria are not met.

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

**Finding 6:** The submitted application states that the impact of the proposed business should be minimal given only two cars will come in and out of the shop per day. It further states that delivery of car parts is expected to be minimal, and noise generated by the business will be contained within the enclosed walls of the shop structure.

Columbia County notified surrounding property owners of the subject proposal on November 17th, 2022 and as previously stated multiple sets of comments have been received from residents of the neighborhood. Comments in opposition state concerns about the incompatibility of the proposal with the rural residential uses and character associated with RR-5 zoning. As seen on page 4, the subject property is part of a

neighborhood zoned RR-5. These comments state that the traffic and noise generated by this business has already impaired residential use of the neighborhood, and express concerns that this will continue if this proposal is approved. They also state that the levels of traffic generated by this business has impaired neighbors' ability to access their own homes. Given the observed narrowness and state of disrepair of the private roads, Staff finds it plausible that the traffic generated by this proposal may impair the transportation facilities used by the entire neighborhood for residential uses.

The submitted community letter states that the subject property has a large electric gate at the access point to Berry Hill Drive, which further causes traffic backup and turnaround issues for delivery vehicles on the road. This gate was observed and was open during Staff's site visit on 12/21/2022 at approximately 9:00 AM. The applicant states that the gate is open during business hours and has a reserve power supply in case of an outage. As can be seen in the image below, the Fire Department also has access to open this gate in case of emergency.

### Electric Gate at Property



Concerns due to industrial-level noise are also detailed in submitted comments. Sources contributing to a high noise level are listed as: vehicles honking, engine revving, power tools, loud music, yelling between employees, and mufflers from modified vehicles. The letter from the surrounding community states that “Watsons Motorsports auto repair shop is already substantially altering the character of the surrounding area.”

Comments from neighbors in support of the proposal state that there is only occasional noise associated with the business. Specifically, one comment states “The noise from Mr. Watson’s shop is no more than or

worse than normal, rural sound levels.” Additional information submitted by the applicant claims that the business is not in violation of the Columbia County Noise Control Ordinance. The applicant also states that business hours are between 8:00 AM to 9:00 PM and that noise outside of these hours is unrelated to the business. Excessive noise related to the business was not heard by Staff at the site visit on 12/21/2022.

Staff recognizes that there are conflicting statements in the submitted comments regarding whether the business impairs residential uses in the neighborhood. However, the lack of impairment of a specific property in the neighborhood does not mean others won't be impacted or impaired. Therefore, Staff cannot make a positive finding in this regard, as the above criteria apply to the entire surrounding area. Staff finds that the concerns raised by surrounding properties regarding traffic and noise are valid considering the state of the private roads and the nature of the business dealing with automobiles. Therefore, the proposal to permit this business via a Home Occupation may indeed alter the residential character of the surrounding area and/or impair the use of nearby properties zoned RR-5. Staff finds the criteria are not met.

**Continuing with Columbia County Zoning Ordinance- Section 1503.5:**

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

**Finding 7:** Part X - Economy of the County's Comprehensive Plan applies to CU 23-06 and its Goal "To strengthen and diversify the economy of Columbia County and insure stable economic growth." This proposed home occupation is consistent with the Comprehensive Plan in that it will generate income for the resident, which will likely be spent locally. The subject proposal satisfies the goals and policies of the Comprehensive Plan which apply to home occupations in the RR-5 Zone. Staff finds that this criterion has been met.

**Continuing with Columbia County Zoning Ordinance- Section 1503.5:**

- G. The proposal will not create any hazardous conditions.

**Finding 8:** As far as hazardous conditions, the submitted application states that the only possible hazardous condition is in relation to the business owner being injured by equipment. Hazardous materials being used by the business are listed as engine oil, lubricants, antifreeze, and auto paint. The applicant states that these materials will be disposed at the Metro Recycling Center in accordance with all requirements.

Comments submitted by one neighbor state that the traffic generated by this proposal constitutes a hazardous condition by making residential traffic such as pedestrians unsafe. The letter submitted by the surrounding community expresses concern about the proper disposal of flammable and hazardous materials associated with the auto repair shop. They also state that the additional traffic generated by the business is causing divots and potholes to appear on the privately maintained roads. The neighbors further state that the lack of a turnaround before entering the property and the presence of the electric gate forces customers and delivery drivers to utilize neighboring properties to turn around.

Additional information submitted by the applicant on 12/16/2022 reaffirms his statement that all hazardous and flammable materials are disposed of properly. Regarding the electric gate, he says that Columbia River Fire and Rescue (CRF&R) has access to the lockbox. The Staff site visit, shown on page 11 confirmed a

Fire Department box is located on the outside of this gate. The CRF&R Official's signature on the submitted application confirms that they have consulted with the applicant regarding the proposal. Comment submitted by a nearby property owner in support of the proposal states that they have never seen improper dumping of hazardous chemicals such as gas, oil, or coolant.

The Staff Site visit did not indicate that any hazardous materials are being stored or disposed of improperly. Staff observed that there is no turnaround area outside of the electric gate without using an adjacent private property owner's driveway or reversing down a relatively steep hill. As stated previously, during this site visit it appeared that both private roads leading to the subject property were in a state of disrepair. Numerous potholes were observed throughout Landreth Lane and Berry Hill Drive.

## More Potholes on Berry Hill Drive



Staff notes that the existence of these potholes does not mean that the existing business is the cause. However, the apparent state of disrepair of these roads, the narrow single-lane width and lack of a turnaround outside the electric gate mean that Staff cannot make a positive finding that hazardous traffic conditions will not result from approving this proposal. The location of the subject property at the very end of both private roads means that customers and deliveries must traverse most of Landreth Lane and all of Berry Hill Drive to reach the business. With the previously stated road conditions, Staff finds hazardous road conditions may result from authorizing a Home Occupation at the subject property. This criterion is not met.

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

**Finding 9:** The Planning Commission may require the proposal be subject to a Site Design Review.

**Continuing with County Zoning Ordinance- Section 1507 Home Occupations**

**Section 1507 Home Occupations**

.1 Type 1: A Type 1 home occupation is reviewed administratively by Land Development Services and presents no indication of a business to the neighboring property owners. In addition to the general criteria in Subsection 1507.3, the following criteria shall apply to a Type 1 home occupation:

- A. It shall be operated by a resident of the property on which the business is located.
- B. No non-residents shall be employed on the property.
- C. The business generates not more than 20 customer vehicle trips to the property per week.
- D. Signs are not permitted.

**Finding 10:** Per the submitted application, the applicant will be the only employee associated with this home occupation, and no nonresidents will be employed on the property. Similarly, the applicant states customer trips will be only two cars in and out per day, Monday through Friday. This would constitute a total of up to 20 trips per week. Comment submitted by the surrounding community contest that the business appears to have 3 to 4 employees currently, which come and go daily from 8 A.M. to 10 P.M. Further, the letter states that they have observed 20-60 vehicles come and go from the business daily, including customers, employees, and deliveries.

The applicant submitted additional information on 12/16/2022 and states that the business has had only approximately 2 customers per day over the last two months. In this letter, the applicant again states that Watson Motorsports employs nobody other than the owner. Comment submitted by a neighboring property owner in support of the proposal states that they have never seen the 20-60 vehicles daily that most other neighbors reported in the community letter.

No signs are proposed for this Home Occupation, and none were observed on the site visit. Regarding non-resident employees and customer trip numbers, there is significant disagreement between the proposal and how the business is currently being run according to comment submitted by many neighbors. If the proposal is approved, a condition of approval will state that the above criteria related to the daily operation of the proposal presented for CU 23-06 shall apply to the site for the lifetime of its duration and will be grounds of termination if they are not adhered to. With this condition of approval, Staff finds the above criteria can be met.

.3 The following criteria shall apply to all home occupations:

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

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

**Finding 11:** The operations for the proposed home occupation (mainly car repair and maintenance) will take place inside an existing garage located in the south of the subject property. According to comment submitted by the Building Official, any changes to this shop since originally permitted may require electrical, mechanical, structural, or other building permits. If the proposal is approved, a condition of approval will require all necessary building permits to be obtained. The submitted application materials state that there is “ample parking at the shop” to store vehicles. Comment submitted by surrounding community states that the business is currently storing many vehicles on the property, ranging from 10 to 40 at a time.

### View of Parking Areas Outside Shop



Although storage of vehicles does appear to be taking place outside of the shop, there is no indication from Staff’s site visit or any submitted comments that actual business operations such as repairs, or mechanical work are taking place outside of this shop in a substantial way. The submitted application likewise states that operations will occur primarily in this shop. Therefore, the proposal meets the criteria of 1507.3(A).

With regards to 1507.3(B), the applicant states that the traffic impact to the surrounding neighborhood will be limited due to only two vehicles coming in and out per day. As previously stated however, comment submitted by neighbors contests this stated traffic level. Neighbors state in the community letter that the traffic and noise levels being generated by the business is already impairing residential use of property in

this RR-5 zoned neighborhood. Specifically, they state the business has made “ingress and egress more difficult for property owners to get to their own homes” due to the increased traffic generated by this business. Additionally, the letter states that noise from the operating business is “interfering with the enjoyment of our homes and properties” In contrast, two comments in support of the proposal from neighbors state that “only occasional noise is heard” and that the noise levels are no worse than “normal, rural sound levels”.

Staff finds relevant to note that the criteria in 1507.3(B) applies to the entire nearby area that is zoned RR-5. This zone encompasses property owners that have submitted comments describing vastly different accounts of noise and traffic levels. The impacts and level of interference from the business can vary between different properties based on numerous factors such as distance, sensitivity, and opinion. Comments submitted in support of the proposal by some property owners does not mean that other properties are not being impaired. Given the number of nearby RR-5 zoned properties (8) represented in the community letter sharing ongoing concerns that traffic and noise and impairing the use of their properties, Staff cannot make a positive finding for the above criteria. Staff finds this proposal may unreasonably interfere with permitted uses on adjacent RR-5 zoned properties. The criterion in 1507.3(B) is not met.

### **Continuing with County Zoning Ordinance- Section 1700 Appeals**

#### **Section 1700            APPEALS**

##### 1701 Appeal Procedures:

- .1      General Procedure: A land use decision, as it is defined in ORS 197.015(10), made by the Director, Hearings Officer (in lieu of the Planning Commission), Planning Commission, or the Design Review Board shall be final at the end of 7 calendar days following the date notice of the decision is mailed to the applicant, and other persons entitled to notice of the decision as provided by ORS 197.763, unless a notice of appeal of decisions to the Planning Commission or the Board of Commissioners is filed with the County Clerk’s office. A notice of appeal can be obtained from the Planning Department or from the Clerk’s office and shall contain: [effective 7-15-97]
  - A.      The name, address, and telephone number of the person filing the notice;
  - B.      An identification of the decision sought to be reviewed, including the date the decision was made; and
  - C.      In the case of decisions by the Planning Commission or Hearings Officer, the specific reasons why the decision should be modified or reversed.

[...]

1703 Appeal of a Planning Commission Action: Any land use decision by the Planning Commission or Hearings Officer (in lieu of the Planning Commission), over which either body had original review authority, may be appealed to the Board of Commissioners by the Board of Commissioners, or by persons who appeared before the lower decision making body, either in person or in writing. The appeal may concern the approval or denial of an application or any conditions attached to the approval of an application. The de novo appeal hearing shall be scheduled before the Board of County Commissioners at the earliest opportunity, and notice of the appeal shall be sent in accordance with procedures outlined in CCZO 1701.4. [effective 7- 15-97]

**Finding 12:** The applicant is appealing the Planning Commission’s decision per the provisions of Sections 1701 and 1703 above. As stated in the summary, the applicant first submitted documentation on 2/13/2023 appealing the Planning Commission’s denial of the proposal. The applicant was sent a reminder via email on 2/15/2023 that the appeal fee and a reason for the appeal were still needed to move forward. On 2/17/2023, LDS received the appropriate fee, but never received any additional information or statement detailing why the appeal was being made. Consequently, Staff cannot make any findings or evaluations specific to the appellant’s point of issue.

Under CCZO 1701.1(C), an appeal must include specific reasons why the land use decision should be modified or reversed. This requirement ensures that the decision-making body has a clear understanding of the issues being appealed and the specific relief being sought. Additionally, the requirement provides notice to the other parties of the appeal and enables them to respond appropriately.

In the present case, the applicant's failure to identify specific reasons why the land use decision should be modified or reversed has hindered the appeal review process. The lack of specific reasons makes it difficult for the decision-making body to understand the issues and assess the merits of the appeal. Moreover, the failure to provide specific reasons deprives the other parties of a meaningful opportunity to respond to the appeal. Staff finds that criterion has not been met.

**COMMENTS RECEIVED:**

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

**County Building Official:** Changes to building could require building, plumbing, electrical, and mechanical permits. Owner shall obtain permits as needed.

**Public Works Department:** Applicant already has a final approved access permit associated with the property. Landreth Lane and Berry Hill Drive are private roads. The Public works department does not maintain private roads. The maintenance responsibility for private roads falls on the individual landowners who access off of the road.

**Columbia River PUD:** Have reviewed the proposal and have no objection to its approval as submitted.

**Ted Daehnke:** See attached

**Surrounding Community of 32707 Berry Hill Lane:** See attached

**Sarah Berry:** See attached

**Russell Bartlett & Pamela Reynolds:** See attached

**Eric & Carli Bergey:** See attached

**Mark Beisley:** See attached

No further comments from agencies, citizens or otherwise have been received regarding this proposal as of the date of this staff report, March 7, 2023.

## **CONCLUSION, DECISION & CONDITIONS:**

Based on the comments, facts, and Findings 5, 6, 8, 11, and 12 of this report, Staff recommends the Board of Commissioner's **UPHOLD** the Planning Commission's denial of this application for a **Type 1 Home Occupation Conditional Use Permit**.

**CC:** Brad and Josephine Brooke, 60936 Luttrell Lane, St. Helens  
Ted and Lauren Daehnke, 32741 Berry Hill Drive, St. Helens  
Charles and Becky Werings, 60975 Gensman Road, St. Helens  
Mark and Laurie Beisley, 61016 Landreth Lane, St. Helens  
Perry Beisley, 61001 Gensman Road, St. Helens  
Gina and Cameron Claiborne, 60981 Gensman Road, St. Helens  
Victoria and Ryan Huckaby, 32698 Berry Hill Lane, St. Helens  
Ron Summers. 60890 Luttrell Lane, St. Helens  
Shirley Simonian, 32698 Berry Hill Lane, St. Helens  
Sarah Berry, 32503 Pittsburg Road, St. Helens  
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## **ATTACHMENTS:**

Planning Commission Decision dated 2/13/23  
Planning Commission Staff Report dated 1/27/23 and original attachments