

BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

1000 FRIENDS OF OREGON,
Petitioner,

and

ROBERT POWELL, JAMES STERLIN,
and LINDA LACEY,
Intervenors-Petitioners,

vs.

CLACKAMAS COUNTY,
Respondent,

and

MARK HERKAMP,
Intervenor-Respondent.

LUBA No. 2020-051

FINAL OPINION
AND ORDER

Appeal on remand from the Court of Appeals.

Andrew Mulkey represented petitioner.

Mike J. Sargetakis represented intervenors-petitioners.

Nathan K. Boderman represented respondent.

Tyler D. Smith represented intervenor-respondent.

1 RUDD, Board Member; ZAMUDIO, Board Chair; RYAN, Board
2 Member, participated in the decision.

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4 REMANDED 08/30/2021

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6 You are entitled to judicial review of this Order. Judicial review is
7 governed by the provisions of ORS 197.850.

NATURE OF THE DECISION

Petitioner appeals a county hearings officer decision approving a conditional use permit (CUP) to host events as a home occupation on land zoned exclusive farm use.

BACKGROUND

This matter is on remand from the Court of Appeals. *1000 Friends of Oregon v. Clackamas County*, ___ Or LUBA ___ (LUBA No 2020-051, Oct 30, 2020), *aff'd in part, rev'd in part, and rem'd*, 309 Or App 499, 483 P3d 706, *rev den*, 367 Or 347 (2021). In our decision, we explained:

“Intervenor-respondent (applicant) applied to the county for a CUP authorizing the hosting of events on the subject property as a home occupation. Proposed development plans include renovating the two existing barns to accommodate event use, including the addition of a banquet area, dance floor, and catering preparation kitchen with a sink and service entrance. Plans also include constructing a new building containing restrooms, a new parking lot, and new septic and well water systems.” *Id.* at ___ (slip op at 3).

In resolving petitioner’s fourth subassignment of error, we concluded that “the changes to the lower barn with a dance floor, sound proofing, and an area described in the application narrative as catering preparation area (without cooking equipment) is an extensive renovation that changes the character of the building and is therefore not allowed by ORS 215.448(3).” *Id.* at ___ (slip op at 20).

1 The court concluded that we “erred in remanding to the county based on
2 proposed modifications to the lower barn[] and * * * reverse[d] that aspect of [our]
3 final order.” 309 Or App at 513. Accordingly, that portion of petitioner’s fourth
4 subassignment of error is denied. The court’s opinion does not require us to revisit
5 any other dispositions.

6 For the reasons explained in our October 30, 2020 decision, except as
7 modified by the Court of Appeals’ decision, the county’s decision is remanded.