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November 3, 2022

Benjamin F. Neidl, Esq.  
Jones Hacker Murphy, LLP  
200 Harborside Drive, Suite 300  
Schenectady, NY 12305

Re: 526 McDougall Road  
Zoning Interpretation

Dear Attorney Neidl:

On behalf of your clients, John and Grace Kimber, the owners of the above Property, you submitted a request for an interpretation of the Town of Florida's Zoning Ordinance from my office. This correspondence represents my determination and response.

#### Property Background

You represented the Property to be approximately 35 acres in size improved with a single family residence and a working barn located in the Town's Agricultural District. You have indicated that your clients currently reside on the Property and maintain it as an operational farm. You have further indicated that in addition to using the Property as their residence and as an operational farm, your clients would like to use the Property, including the existing barn, for weddings and similar commercial events.

#### Response to Question 1

Your first question was: "Is the proposed use an 'accessory use' permitted at the property as of right?" In response to this question, I have concluded that it is not.

The Zoning Ordinance defines Accessory Use as: "A use customary incidental and subordinate to the principal use or building and located on the same lot with such principal use or building."

In the Agricultural District, the permitted uses are: Farm and accessory buildings and uses; Picnic grove, fish or game club (private); Nursery; One family dwelling; Community park or playground; Home occupation; Mobile home as part of a farm operation; Accessory use and building.

To the extent that the existing barn is currently used for the permitted purpose of farming, I do not find that using it for hosting weddings is customary, incidental, or subordinate to use of the Property for farming or single family residential. Accordingly, my determination is that the use

of the barn on the Property for hosting weddings is not an accessory use and thereby is not permitted as of right.

#### Response to Question 2

Your second question was: "Is the propose use a special use, allowable at the property with a special use permit issued by the planning board?" In response to this question, I have concluded that it is.

In the Agricultural District, the uses permitted as a special permit by the planning board are: Commercial recreation; bed and breakfast establishment; golf course or country club; Nursing, convalescent or home for the aged; Personal wireless service facility; Public utility facility; Farm products plant; Radio, TV transmitter or receiving tower with and without building; Boarding or rooming house; Church; Parish house or convent; Animal/veterinary hospital; Public or parochial school or college; Two family dwelling; Adult oriented business.

While I do not find that any one particular listed use is directly in line with the use of a wedding destination, I do find that a such a use is consistent with numerous special permit uses. My understanding of the use your clients are proposing includes the gathering of people for celebrations, serving/consuming food and related entertainment/activities such as music, dancing, etc.

Along those lines, I find that the special permit uses of a church or country club (both of which are undefined in the Zoning Ordinance) would customarily engage in the exact same use and activities as proposed in your inquiry. Accordingly, I find that the uses and activities that you are proposing are compatible with and in some instances identical to what is permitted through the special permit process in the Agricultural District and as such, my determination is that the use of the Property as an occasional wedding/event venue is allowed through a special use permit.

Please be advised, my determination that the proposed use is allowable as a special use, through a special use permit is not an approval of your clients' specific project. The process for obtaining a special use permit is found at Section 26 in the Zoning Ordinance.

This constitutes my final determination regarding your inquiry.



Gerald Podolec  
Zoning Enforcement Officer  
Town of Florida