

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of Approval of a )  
Conditional Use Permit to allow )  
Establishment of a Bed and Breakfast on )  
Property located at 6280 SE Eola Hills )  
Road, Amity, Oregon, Tax Lot 5434-3401, )  
Applicants John Scott and Melody Gibson, )  
Planning Docket C-09-13 )

BOARD ORDER 14-242

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on May 1, 2014, Commissioners Mary P. Stern, Allen Springer and Kathy George being present.

IT APPEARING TO THE BOARD as follows:

A. The applicants, John Scott Gibson and Melody Gibson, have requested that the County issue a conditional use permit to allow them to operate a bed and breakfast at the above referenced location;

B. The Planning Commission held a hearing on the application on October 3, 2013, and voted 7-1 to deny the request;

C. The applicants filed a timely appeal of the Planning Commission's decision, and a hearing was held before the Board on February 13, 2014;

D. The record remained open for additional periods to allow the submission of additional written evidence;

E. The matter was set for Board deliberation on March 13, 2014, at which time the applicants agreed to attempt to mediate the dispute regarding the application with any neighbors willing to participate;

F. The parties were unable to resolve their differences through mediation, and this matter was brought before the Board once again on April 17, 2014; and

G. Following a motion to tentatively approve the application, the Board voted two to one (Commissioner Springer voting "no") to approve the application with conditions; NOW THEREFORE

**IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:**

1. The application in Planning Docket C-09-13 is approved, as justified in the findings attached hereto as Exhibit A.
2. This approval is subject to the conditions attached to this order as Exhibit B, and made a part of this order by this reference.

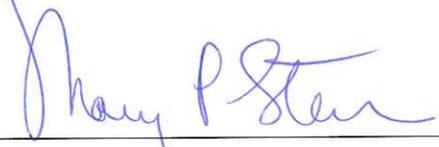
DONE at McMinnville, Oregon on May 1, 2014.

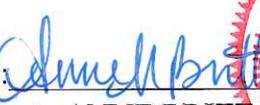
ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

BRIAN VAN BERGEN  
County Clerk

Chair

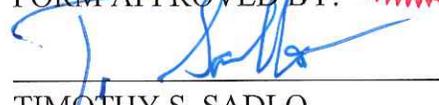
  
MARY P. STERN

By:   
Deputy ANNE BRITT

Commissioner

  
ALLEN SPRINGER

FORM APPROVED BY:

  
TIMOTHY S. SADLO  
Senior Assistant County Counsel

Commissioner

  
KATHY GEORGE



Exhibit A-Board Order 14- Findings in Support of Approval

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**DOCKET NO.:** C-09-13

**HEARING:** October 3, 2013, Planning Commission Hearing; February 13, 2014 Board of Commissioners hearing

**REQUEST:** Conditional use approval for a seven-guestroom bed and breakfast to be operated as a home occupation.

**APPLICANTS/OWNERS:** John Scott Gibson and Melody Gibson

**TAX LOT:** 5434-3401

**LOCATION:** The property is located at 6280 SE Eola Hills Road, Amity

**ZONE:** EF-40, Exclusive Farm

**CRITERIA:** The request is subject to Sections 402.04(I), 402.07(A), 1004.01, 1012 and 1202.02 of the Yamhill County Zoning Ordinance

**COMMENTS:** *(See record for more comments.)*

*Watermaster:* There are no water rights for irrigation from the well on this property. Based on that, groundwater usage is limited to exempt uses spelled out in ORS 537.545. Mainly, commercial use from the well may not exceed 5,000 gallons per day and the amount of irrigation is limited to ½ acre of noncommercial lawn/garden. This property is located within the Amity-Walnut Hill Groundwater Limited Area; therefore, a permit to use water for a greater amount/acreage than the amounts allowed under ORS 537.545 cannot be issued. Also, there are no water rights for a pond on this property. (The Watermaster sent a follow-up e-mail that indicated his concerns had been addressed.)

*Public Health:* Responded with the following requirements:

Bed and Breakfast:

1. Limited to 1 meal for guests per day
2. A sanitizing dishwasher is required in the kitchen
3. Food service area can only be used for Bed and Breakfast meals and nothing else (excluding personal household uses).

*Sanitarian:* Requested a consultant's report. See September 19, 2013, letter from Brannon Lamp, REHS, to Scott Gibson.

Exhibit A-Board Order 14- Findings in Support of Approval

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**FINDINGS:**

**A. Background Facts**

1. *Lot Size:* 24.68 Acres
2. *Access:* The property contains two access points. The first is a “Way of Necessity” easement that appears to have been granted in 1936 that crosses from the northwest corner of the property to Eola Hills Road. The second is a paved easement from the eastern boundary of the subject lot, crossing between Lots 41 and 42 of the Seawood Acres subdivision to Eola Hills Road. The easement appears to be used by two other residences.
3. *On-site Land Use and Zoning:* The parcel contains a single-family dwelling and a barn. The Assessor’s office lists the existing dwelling as one bedroom, two bathrooms and 896 square feet in size. The applicants identified this structure as a cottage on the site map and it has been used as a vacation rental. The site map submitted with the request shows that the planned location of the bed and breakfast is east of the cottage. The property slopes down to the northwest in uneven topography with a low to the northwest of 260 feet above sea level (asl) to nearly 550 feet asl near the southeast end of the parcel. The property is zoned EF-40 Exclusive Farm use.



The above photos are looking to the west and northwest, taken near the location of the proposed bed and breakfast, looking towards the existing dwelling (cottage).

4. *Surrounding Land Use and Zoning:* Property to the east is zoned AF-10 Agriculture/Forestry Small Holding, which contains adjacent rural residential lots of approximately 10 acres each. Property to the north and south of the subject property is zoned EF-40. These lots are of uneven topography and are forested. Property to the west slopes down to the valley floor. The western properties are zoned EF-80 and contain larger farm fields which appear to have grass or grain crops.
5. *Water:* Provided by an on-site well. The property is within a Groundwater Limited Area.

6. *Sewage Disposal*: Provided by on-site septic system.
7. *Fire Protection*: Amity Rural Fire Department.
8. *Previous Actions*: In 2003 the property received approval for a nonfarm dwelling (Docket NFD-02-03). A lot line adjustment was approved in 2013 through Docket L-24-13. This adjustment jogged the southern property line of the subject parcel. While this adjustment has been approved, the adjustment was just recently finalized and the Assessor's office has not yet redrawn the map.
9. *Deferral*: The Assessor's office records show that the property is at market value.<sup>1</sup>
10. *Overlay Districts*: The property is not within any zoning overlay district such as sensitive wildlife habitat, Willamette River Greenway, airport overlay district or flood hazard zone. As noted in Finding A.5, the property is within the Eola Hills Groundwater limited area.

**B. Conditional Use Provisions and Analysis**

1. The conditional use criteria of YCZO Section 1202.02 are as follows:
  - (A) *The use is listed as a conditional use in the underlying zoning district;*
  - (B) *The use is consistent with those goals and policies of the Comprehensive Plan which apply to the proposed use;*
  - (C) *The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements, and natural features.*
  - (D) *The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zoning district.*
  - (E) *The proposed use is appropriate, considering the adequacy of the public facilities and services existing or planned for the area affected; and*
  - (F) *The use is or can be made compatible with existing uses and other allowable uses in the area.*
2. The applicants are requesting a conditional use approval for a seven-guestroom bed and

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<sup>1</sup> One of the requirements for a nonfarm dwelling approval is that the property is required to be disqualified from farm or forest deferral and may not receive farm or forest deferral in the future.

Exhibit A-Board Order 14- Findings in Support of Approval

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breakfast to be operated as a home occupation. Conditional uses are specifically permitted in the EF zone under YCZO section 402.04(l). The seven-bedroom bed and breakfast is a recognized home occupation; therefore, this portion of the request complies with standard 1202.02(A) above.

3. Regarding criterion (B), the Yamhill County goals and policies do not provide standards or criteria for review of home occupations. While these are not in themselves criteria, they are in part what the criteria was based upon. Relevant goals and policies from the Yamhill County Comprehensive Plan are addressed below.

Section I.E Goal 1 Policy i. states:

*A reasonable expansion of the concept and definition of home occupation will apply to very low density residential and agricultural small and large holding areas where small-scale, family-operated, home-craft industry or repair service has been traditionally carried on, and such uses will be reasonably regulated, subject to limitations on location, scale, performance characteristics, commercial character, and visibility from bounding roads or adjoining property.*

The request is within an agricultural large holding area. As defined by the zoning ordinance and as relevant here, a home occupation consists of "an activity involving \* \* \* the provision of a service carried on in compliance with Section 1004 of [the YCZO] by a resident of the property on which the business is located." The review criteria in Section 1004 provide standards that limit the location, scale, performance characteristics, commercial character and visibility as noted above, and as addressed in these findings.

4. Regarding criterion (C), the applicant has demonstrated that the parcel is suitable for the proposed use, considering its size, shape, location, topography, existence of improvements, and natural features. The parcel is large enough to support the proposed use. The subject tract is approximately 24.68 acres with an existing residence. The applicants have indicated that the bed and breakfast will be conducted in a new residence that will replace the existing residence. The new residence will be located more than 100 feet from all boundary lines in an area that is flat to gently rolling. The record supports a conclusion that the physical attributes of the parcel are suitable for the bed and breakfast, considering the size, shape, location, topography and natural features.

Regarding the existing improvements, these will be discussed in the following findings.

5. Regarding criteria (D) and (F), the permitted uses and the uses occurring in the area are rural residential and agricultural/forestry related. The nearest residence is at least 500'

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**Exhibit A-Board Order 14- Findings in Support of Approval**

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away from the location proposed for the bed and breakfast. Typically this distance provides a suitable buffer from conflicting uses. However, in hearings on this matter, many neighbors complained or voiced concerns related to traffic, septic runoff, water table depletion, fire safety, noise and farm conflicts.

Related to traffic, evidence in the record establishes that the anticipated traffic to be generated from the bed and breakfast will be negligible. The applicants submitted evidence indicating that the average trips per room are likely to be between one and one half to two trips per day. Access to the site from Eola Hills Road will be inspected by the fire department to ensure that emergency vehicles can pass safely to the property and the dwelling.

It is County policy to protect agricultural operations from conflicting land uses in areas designated for agricultural use. Among the accepted farming practices of the area are many that could be in conflict with this use. Some examples are spraying pesticides, burning fence lines and plowing fields, which creates large amounts of dust. To make the operators of the facility aware of the potential conflicts, the landowner is required to sign an affidavit and record it in the deed records for the County that acknowledges accepted farming and forestry practices on adjacent parcels. This affidavit was previously signed and recorded when the applicant constructed the nonfarm dwelling, so it will not be required with this approval. The use is buffered from surrounding agricultural uses by distance and topography.

Related to septic concerns, the applicants have submitted a report from Aqua Resource Design and Consulting that details the type of septic system that will be required for the anticipated uses. The County Sanitarian has reviewed this report and accepted its conclusions. Any approval will require the installation of an appropriately designed septic system.

As for groundwater impacts, opponents have indicated that the county could, if it saw fit, make land use decisions based on potential conflicts with or impacts to groundwater. As noted in Finding A.5, the property is within a Groundwater Limited Area. As such, a referral was sent to the Water Resources Department. Mike McCord, the District 16 Watermaster, responded to the referral and indicated the scale of use that is exempt from obtaining a water right. Mr. McCord followed up with an e-mail stating that his concerns have been addressed by the applicant. The arguments by opponents regarding the significance of potential conflicts to the groundwater resource in the area from the proposed bed and breakfast were rebutted by the applicants. The applicants have worked on an irrigation plan with the Oregon Water Resources Department and have submitted evidence and testimony indicating that the applicants' proposed use will not have an adverse effect on other wells in the area. Evidence submitted by the applicants (and accepted by the County over other evidence and

Exhibit A-Board Order 14- Findings in Support of Approval

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testimony submitted) suggested that the applicants' daily water usage will be well below the maximum allowed amount of 5,000 gallons per day. Data from the opponents' expert, Farallon, indicated that the applicants' proposed use would consume less than 0.03 percent of the daily water flowing into the aquifer. In this case, potential groundwater conflicts attributable to the bed and breakfast can be effectively addressed through conservation methods generally practiced in the area, and will not alter the character of the surrounding area in a manner that substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses listed in the underlying zoning district. The use is compatible with existing uses and other allowable uses in the area. The county has also adopted appropriate conditions to ensure compatibility.

The original proposal also included a request for events, including outdoor concerts. Many neighboring property owners objected to the proposed concerts due to anticipated noise and traffic. To address these concerns, the conditions of approval prohibit event hosting, and also prohibit outdoor amplified music or sound.

Concerns regarding fire safety have been addressed through conditions requiring inspection of access by the Amity Rural Fire District, and a requirement that the applicant provide a water supply that at all times contains at least 4,000 stored gallons of water. Road access must be provided within 15 feet of the water's edge for fire-fighting pumping units, and the access road must accommodate a turnaround for fire-fighting equipment.

6. Regarding criterion (E), the area is currently served by the Amity Fire District. The existing dwelling is served by a northern easement from Eola Hills Road to the dwelling. The applicants are also proposing access from an eastern easement coming off of Eola Hills Road. This eastern easement is paved from Eola Hills Road to the property line of the subject parcel. It then turns to gravel for a short distance and then turns to an unimproved dirt road/pathway. Prior to issuance of building permits for the bed and breakfast, the applicant will need to comply with all road/driveway improvements required by the County Public Works Department and the Amity Fire District. While this inspection was done when the existing dwelling was constructed, the new dwelling will be using a different access point, so this inspection will be required. The parcel is already served by a well and has electric service.

**C. Home Occupation Review Criteria**

1. YCZO section 1004.01 provides: *Except as provided in the Minor Home Occupation standards listed in subsection 1004.02, the following standards and limitations shall apply to home occupations:*

- A. *The home occupation will be operated by a resident of the property on which the business is located.*
- B. *The home occupation will employ on the site no more than five full or part-time employees.*
- C. *The home occupation will be operated substantially in the dwelling or in other buildings normally associated with uses permitted in the zone in which the property is located.*
- D. *The home occupation will not unreasonably interfere with existing uses on nearby land or with other uses permitted in the zone in which the property is located.*
- E. *No more than one (1) home occupation shall be permitted in conjunction with any dwelling or parcel. Activities which are substantially different in nature shall be considered separate home occupations.*
- F. *A home occupation shall not be used to permit construction of any structure that would not otherwise be allowed in the zone in which the home occupation is established, nor shall a home occupation be used as justification for a zone change.*
- G. *The total area used for outdoor storage shall not exceed the allowable parcel coverage in the zone in which the home occupation is established.*
- H. *There shall be no visible evidence of the conduct of a home occupation from any road or adjacent property, other than permitted signs. Any outdoor storage or outdoor work areas shall be effectively screened by vegetation or by a sight obscuring fence.*
- I. *A home occupation shall not generate noise, vibration, glare, fumes, odor, electrical interference or other disturbance beyond what normally occurs in the applicable zoning district.*
- J. *A home occupation shall not generate traffic or parking beyond what normally occurs in the applicable zoning district.*
- K. *Off-street parking spaces shall be provided for clients or patrons and shall not be located in any required yard.*
- L. *One (1) on-premise sign shall be permitted in conjunction with a home occupation, subject to the sign provisions set forth in Section 1006.*
- M. *The nature of a proposed home occupation shall be specified at the time of*

*application. Any proposed change in the nature of an approved home occupation shall require a new conditional use permit. Any departure from the uses and activities initially specified shall be considered grounds for revocation of the conditional use permit.*

*N. A permit for a home occupation shall be deemed personal to the applicant and shall not run with the land. Upon notification by the county such permit shall expire two (2) years from the date of issuance, at which time the permit may be renewed by the Director upon a finding that the requirements of this ordinance are being met. A fee for renewal of the permit may be imposed by the Director.*

*O. A condition of approval may be placed on a home occupation requiring a review every 12 months following the date the permit was issued. The home occupation may be renewed if it continues to comply with the requirements of this ordinance and any other conditions of approval.*

*P. Pursuant to the nonconforming use provisions of Section 1205 of this ordinance, any proposed expansion or change in the nature of a home occupation in operation prior to adoption of this ordinance shall be subject to the requirements of this section and shall require a conditional use permit. In the event of denial of such an application, the home occupation shall be allowed to continue at its original scale and nature as a nonconforming use.*

2. Regarding criterion (A) above, while the applicants presently do not live on-site, they indicate that they intend to live in the home and operate the bed and breakfast. A condition of approval requires that the bed and breakfast be operated by a resident.
3. Regarding criterion (B) above, the applicants state that the home occupation will employ no more than five full- or part-time employees. This is also a condition of approval.
4. Regarding criterion (C), as confirmed by the applicants' evidence and testimony, the bed and breakfast will be operated substantially in the dwelling.
5. Regarding criteria (D) and (I), the potential for generation of noise by guests to the bed and breakfast was one of the significant issues identified by neighboring property owners. While farming activities will generate noise typical of farm uses, such noise is expected in the farm zone, is seasonal, and is accepted as being compatible with surrounding uses. Typically, a bed and breakfast encourages quiet activities that normally take place indoors and would not produce noise that would have an impact on neighboring uses. As noted, outdoor amplified music is prohibited by a condition of approval. As discussed elsewhere in these findings, concerns regarding traffic, water and septic waste disposal have been addressed by the applicant.

Exhibit A-Board Order 14- Findings in Support of Approval

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6. Criterion (E) limits the number of home occupations to one per parcel. The bed and breakfast is now the only home occupation proposed to take place at the site.
7. Regarding criterion (F) above, the site map submitted with the application shows the cottage and the location of the proposed dwelling in which the bed and breakfast would be located. This would result in two dwellings on the property. A second dwelling is not allowed under a home occupation approval. A condition of approval requires that, prior to occupancy of the new dwelling, the existing cottage must be either removed or converted to a nonresidential use by removing the bathroom and kitchen facilities. No zone change has been submitted with the request, nor is the proposed home occupation being used as a justification for a zone change.
8. Regarding criterion (G), the parcel is larger than one acre, so the parcel coverage standard does not apply.
9. Regarding criterion (H), no outdoor storage or outdoor work areas requiring screening are proposed. The home occupation will take place substantially in a dwelling, which does not require screening under this section.
10. Regarding criterion (J), evidence submitted by the applicants indicates that traffic generated by the bed and breakfast will be negligible, averaging between one-and-one-half to two trips per day, per room. Traffic will also be generated by the owners and any employees (no more than five). Higher traffic levels were predicted by opponents than by the applicants. The use will result in some additional traffic on Eola Hills Road, a county road, but this increase in traffic will be negligible compared with the traffic already traveling on the county road. Eola Hills Road is adequate to accommodate the level of increased traffic likely to be generated by the use, whether it is to levels predicted by the applicants or to levels predicted by the opponents (based on the ITE Trip Generation Manual or other sources of information). A parking plan is required by the conditions of approval. The applicants have indicated that parking will be provided for bed and breakfast guests on an existing gravel parking lot that is expected to accommodate at least seven vehicles. This level of traffic and parking is consistent with the low levels of traffic and parking that would normally occur in the EF-40 Exclusive Farm Use zoning district.
11. Regarding criterion (K), there are no "yard area" requirements in the EF zone. Information and a site diagram provided by the applicant indicate that the existing gravel parking lot is located in an area that exceeds the zoning district minimum setback requirements for structures, and provides adequate off-street parking for residents and guests. A parking plan is required by the conditions of approval, which also prohibit on-street parking.

Exhibit A-Board Order 14- Findings in Support of Approval

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12. Criteria (M), (N), (O) and (P) are regulations that apply to all home occupations. They have been incorporated into the conditions of approval for notice purposes. The nature of the home occupation is described in the conditions, which also notify the applicants that review and renewal is required in two years. The conditions also notify the applicants that the approval does not run with the land; that modifications require review and approval; and that violation of any of the conditions of approval may result in revocation of the permit.

**D. EF-80 Conditional Use Standards**

Section 402.07(A) requires that, prior to establishment of a conditional use, the applicant shall demonstrate compliance with the following criteria:

1. *The use will not force significant change in accepted farming or forest practices on surrounding lands devoted to farm or forest use.*
2. *The use will not significantly increase the cost of accepted farming or forest practices on surrounding lands devoted to farm or forest use.*

This standard is from ORS 215.296. It requires that the county identify the accepted farm and forest practices occurring on surrounding farm lands, and to then consider whether the proposed use will force a significant change in, or significantly increase the cost of, identified practices. ORS 215.203 defines "farm use," and contains the following definition of "accepted farming practice" that is appropriate to reference in this circumstance. ORS 215.203(2)(c) states:

"As used in this subsection, 'accepted farming practice' means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use."

In this case, the notice area of 750 feet was considered as representative of farm and forest uses in the area and as the area where conflicts are most likely. Uses to the east and north are predominantly rural residential and forest uses. There is a hazelnut orchard to the north, and on the valley floor to the west there are large areas that are plowed and planted in field crops. There are also Christmas trees and blueberries being grown in the vicinity, and there is livestock. There are forested parcels to the south. Among the accepted farming practices of the area are many that could be in mutual conflict with this use. Plowing, burning, application of herbicides and pesticides, disking of orchards and machine harvesting are accepted farm practices in the area under the ORS 215.203(2)(c) definition. Automated machinery and farm labor are both used

extensively to tend and harvest crops that may be grown in the surrounding area. Farm machinery is routinely transferred on county roads. As noted in the hearings, farms just below the site to the west use drain tiles to manage stormwater. Residential uses are known to conflict with agricultural practices by their very presence, potentially limiting the types of farm practices that might be practicable, given the presence of dwellings and residents. The question is whether, in this case, the proposed use is likely to “force a significant change” in those practices, or to “significantly increase the cost of accepted farm or forest practices” on surrounding lands devoted to those uses.

Opponents cited three main areas of concern that could have impacts on surrounding farm and forest practices. Those areas of concern are water, erosion, and traffic. The neighbor to the west cited significant concerns regarding erosion as the result of increased quantities of water flowing from the subject property, either clogging or overwhelming drain tiles previously installed, and then eroding the land’s surface. The subject property was logged by the prior owner, which may or may not have contributed to increased quantities of water and silt being present in the neighboring field, where the natural watercourse has been tilled, tilled and planted.

It is possible that the prior logging of the subject property increased runoff, leading to erosion of the neighboring field. It is possible that silt that entered and clogged the tile system was related to impacts from that logging, not from the applicants’ residential use of the site. Other plausible explanations include: that the tile system in the field was undersized; or that extraordinary weather events caused the failure of the system and resulting erosion. There was no clear evidence submitted that linked the existing dwelling on the applicants’ property to the erosion in the neighboring field, or that supported a conclusion that a larger dwelling used as a bed and breakfast would increase erosion, increase costs to the neighboring farmer, or force a significant change in the neighboring farmer’s practices. The applicants also submitted significant testimony and evidence (including expert testimony) to the effect that the applicants’ use likely did not cause the erosion in the neighboring field, and that the proposed bed and breakfast would not contribute to or aggravate erosive events in the field. As shown on maps submitted by the applicants’ engineer, the site of the proposed bed and breakfast will be mostly, if not entirely, outside of the drainage that flows on to the neighbor’s property. Therefore, it is unlikely that the applicants’ proposed use of the subject property will add much, if any, water to the drainage through the neighboring field and will therefore not have any significant effect on the neighbor’s erosion issues. The proposed use will therefore not “force a significant change” in agricultural practices taking place in the neighboring field or “significantly increase the cost of accepted farm or forest practices” in the neighboring field.

With regard to potential impacts to agricultural uses due to use of groundwater by the proposed bed and breakfast: the opponents made compelling arguments regarding the

problems with groundwater supplies in the area. There was also extensive, conflicting evidence regarding the amount of water that might be used by the bed and breakfast. Much of the testimony from opponents appeared to be due to ill will generated by prior actions of the applicants. Most of that testimony was to the effect that additional domestic use of water by the proposed use would impact other residential users of groundwater in the area. That evidence does not support a finding that the proposed use would force a significant change in accepted farming or forest practices or significantly increase the cost of accepted farming or forest practices. The applicants also provided reliable expert testimony that their usage will be well below the maximum 5,000 gallon-per-day limit in this limited groundwater area, and that their usage of water is likely to be less than one tenth of one percent of the water flowing into the aquifer each day. The applicants have shown that it is feasible that they will be able to comply with the State water regulations. As noted above, the Oregon Department of Water Resources has indicated that there is no data to suggest that the applicants' use will have an impact on other wells. Based on the evidence received from the opponents and the applicants, the proposed water use will not have a significant effect on, or cause a significant increase in, the cost of accepted farm and forest practices.

With regard to traffic impacts to agricultural practices, the traffic likely to be generated by the proposed use is discussed above. Potential conflicts are between additional residential traffic and agricultural practices, which include the movement of large, slow farm machinery on local roads. Even if the applicants have grossly underestimated the amount of traffic likely to be generated by their own residential use and use by their patrons, the potential for traffic associated with the proposed use to have any effect on farming practices in the area is minimal. Eola Hills Road is a well-traveled county road. The additional traffic on the road as a result of the bed and breakfast will be minimal when compared with the daily traffic flow on the road. This may result in an additional vehicle or two meeting farm equipment on the road at any given time, but the overall effect on farm and forest and practices will not be significant, as to Eola Hills Road or any other road in the County traveled by the residents and patrons of the proposed bed and breakfast.

**E. Bed and Breakfast Standards**

1. Section 1012.01(A) and (B) of the YCZO contains provisions which apply to bed and breakfast inns, as follows:

A. *The following provisions shall apply to bed and breakfast facilities:*

1. *A bed and breakfast is a single-family dwelling where lodging is offered for compensation, having no more than nine (9) sleeping rooms for this purpose. Bed and breakfast operations that are undertaken from within a*

*residence shall be considered as home occupations, and shall comply with the standards and limitations of Section 1004. A bed and breakfast inn may offer a morning meal for overnight guests only.*

2. *Water from any source other than a municipal or public supply shall be tested initially and annually thereafter, or more frequently as required by the County Health Department, and determined to be safe for public consumption.*
3. *When the facility has more than two rooms for rent, an on-site examination of the premises shall be made by a county health inspector to review food handling and tourist/traveler health and safety practices.*
4. *An on-site examination of the premises shall be made by local fire department personnel to advise of appropriate fire and safety code requirements.*

*B. Where facilities are approved for three or more guest bedrooms and up to 10 guests, State Administrative Rule and statutory requirements for Bed and Breakfast and Tourist/Traveler facility licensing shall be satisfied.*

2. The applicable requirements of the above section apply whether or not they are adopted as conditions of approval, and have been adopted as conditions of approval for notice purposes.

Exhibit B – Conditions of Approval – Board Order 14-

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**Bed and Breakfast:**

Based upon the Exhibit A findings and conclusions, the request by John Scott Gibson and Melody Gibson for a conditional use approval for a home occupation to operate a seven-guestroom bed and breakfast on a parcel identified as Tax Lot 5434-3401 is approved with the following conditions:

1. The bed and breakfast inn shall have a maximum of seven rooms for rent, and food service shall be limited to one morning meal for overnight guests.
2. The bed and breakfast is not approved as a wine-tasting facility or to host events.
3. The applicants shall obtain all building and septic permits and inspections prior to use of the bed and breakfast. Prior to occupancy of the new dwelling, the existing dwelling (cottage) shall be either removed or converted to a nonresidential use by removing the bathroom and kitchen facilities.
4. The use shall be operated by a resident of the property and employ no more than five full- or part-time employees.
5. Food service shall be licensed and inspected by the Yamhill County Public Health Department.
6. Prior to initiation of the operation, the well water shall be tested initially and annually thereafter and determined to be safe for public consumption. Results of the test shall be submitted to the Yamhill County Planning Department.
7. The use of outdoor amplified music or sound for the bed and breakfast is not permitted.
8. The home occupation is personal to the applicants, Scott and Melody Gibson, and may not be transferred upon sale of the property.
9. Prior to initiation of the operation, State Administrative Rule requirements for licensing shall be satisfied.
10. Prior to operation of the bed and breakfast, the applicants shall submit a parking plan in compliance with Section 1007 of the Yamhill County Zoning Ordinance. No on-street parking is allowed.
11. Prior to operation of the bed and breakfast, the applicants shall have the access and operation inspected and approved by the Amity Rural Fire District.
12. The use may have one on-premise sign of not more than 24 square feet.

Exhibit B – Conditions of Approval – Board Order 14-

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13. If the eastern access, which crosses Tax Lot 5434-3300, will be used for the bed and breakfast, prior to its use the applicant shall obtain agreement from the affected property owner. Said agreement shall be submitted to the Planning Director prior to use of the bed and breakfast.
14. Prior to operation of the bed and breakfast, the parcel shall be provided with a water supply consisting of a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons. Road access shall be provided to within 15 feet of the water's edge for fire-fighting pumping units, and the road access shall accommodate a turnaround for fire-fighting equipment.
15. A review of the bed and breakfast operation shall be required two years following the date of final approval. The operation may be renewed if it continues to comply with the requirements of Section 1004.01 of the YCZO and the conditions of approval. A fee may be charged for renewal of the permit.
16. This approval is valid for two years following the date of final approval, and shall expire at that time unless the use has been initiated.
17. Modification of any of the above conditions requires approval under Section 1202.05 of the Yamhill County Zoning Ordinance. Violation of any of the above conditions may result in revocation of the conditional use permit with the process detailed in Section 1202.07 and 1202.08 of the Yamhill County Zoning Ordinance.