

BEFORE 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 Upholding the Planning Director's)
Approval of Planning Docket C-05-16/SDR-03-16;)
Applicant Chehalem Park and Recreation District;) Board Order 16-398
Conditional Use and Site Design Review for a)
Day Use Public Park)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on September 29, 2016, Commissioners Mary Starrett, Stan Primozych, and Allen Springer being present.

IT APPEARING TO THE BOARD as follows:

- A. Chehalem Park and Recreation District applied to the county for a conditional use permit and for site design approval for a day use public park on a 325-acre site located at 10500, 10600, 10755, and 12075 NE Parrett Mountain Road, in Yamhill County;
- B. The Planning Director approved the application, but the applicant was not satisfied with some of the conditions that the Planning Director imposed, mostly intended to limit potential impacts from events that the applicant proposes to hold at the site, and appealed the decision to the Board of Commissioners; and
- C. Following a public hearing and open record period to allow for the submittal of additional written testimony and evidence, the Board voted unanimously to uphold the decision of the Planning Director, with the conditions modified as specified in the attached Exhibit A; NOW, THEREFORE

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

Section 1. The Planning Director's decision to approve Docket C-05-16/SDR-03-16, applicant Chehalem Park and Recreation District, is hereby upheld, and the appeal filed by the applicant is denied.

Section 2. The findings and conditions attached as Exhibit A, and incorporated herein by reference, are hereby adopted in support of this Order.

//

DONE this 29th day of September, 2016 at McMinnville, Oregon.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

BRIAN VAN BERGEN

County Clerk



Chair

MARY STARRETT

By: [Signature]

Deputy Lucy Flores Mendez

Commissioner

STAN PRIMOZICH

FORM APPROVED BY:

[Signature]

Commissioner

ALLEN SPRINGER

Timothy S. Sadlo

Senior Assistant County Counsel

Accepted by Yamhill County
Board of Commissioners on
9.29.16 by Board Order
16-398

**Exhibit A – Board Order 16 –
Finding in Support of Decision to
Uphold the Planning Director’s Approval
Of Docket No. C-05-16/SDR-03-16
And Conditions of Approval**

DOCKET NO.: C-05-16/SDR-03-16

REQUEST: Conditional use and site design review for a day use public park on approximately 325 acres

APPLICANT: Chehalem Park and Recreation Department

TAX LOTS: 3213-2300, 3224-100, 300, 900, 1100, 1101, 1200, 1300 and 1400

LOCATION: 10500, 10600, 10755 and 12075 NE Parrett Mountain Road, Newberg

ZONE: EF-40 Exclusive Farm Use

CRITERIA: Sections 402.04(D), 402.07, 1101.02 and 1202.02 of the *Yamhill County Zoning Ordinance*.

FINDINGS:

1. In the EF-80 zone Section 402.04(D) allows: Community centers, parks, or playgrounds owned by a governmental agency or a nonprofit community organization, and operated primarily by and for residents of the local rural community, subject to Section 1101, Site Design Review. A public park may also be established consistent with the provisions of ORS 195.120.

Section 202 of the Yamhill County Zoning Ordinance defines “**Park**” as:

Park: Any public or private land reserved for recreational, educational, cultural, or open space uses.

2. 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 public facilities and services existing or planned for the area affected by the use; and
 - F. The use is or can be made compatible with existing uses and other allowable uses in the area.
3. The request for the park is consistent with criterion 1202.02(A) above in that the park will be owned and run by the Chehalem Park and Recreation District, subject to conditional use approval and Section 1101, Site Design Review.
4. Regarding criterion (B), the Yamhill County goals and policies do not provide standards or criteria for review of parks but the proposed use appears to be consistent with the applicable Yamhill County goals and policies, particularly, Section II (E) Goal Statement 2:

To preserve and improve potential recreational and other open spaces in both urban and rural environments for all to enjoy.

And Section IV (B), Goal Statement 1:

To provide adequate recreational opportunities in both the rural and urban environments to meet existing and projected needs.

The Applicant's response to the two above goals, and related Goals and Policies are found on pages 3 through 6 of the application, are accepted as findings for approval, and are incorporated here by reference.

5. Regarding criterion (C), as noted in the application, the tract is 325 acres in size and is made up of two generally rectangular shaped areas near the top of Parrett Mountain. The existing improvements on the property include two homes and some outbuildings, some with historical value. If gatherings are to be allowed in these buildings, the applicant will be required to obtain building permits and inspections to change the occupancy ratings of the buildings to accommodate the public. Evidence in the record establishes that the size, shape, topography and other natural features of the parcel make it suitable for the proposed use. There are no topographic restrictions or natural features that would adversely affect the use of the property as a park. With conditions, the request complies with criterion (C).
6. Regarding criterion (D), the proposed use is for a day use park. Since the proposed day use facilities and planned recreational uses are low impact and utilize the existing resources they should not alter the character of the area in a manner that substantially limits, impairs or prevents the use of the surrounding property for the permitted uses in the EF-80 Exclusive Farm Use district. With conditions, the proposed uses can also be made compatible with existing residential uses in the surrounding area, in compliance with

criterion (D).

7. Regarding criterion (E), the site currently has access to electricity. Water is currently provided by an on-site well, and a condition is being placed on the approval to require yearly testing of any wells at the site that serve the public. The site is also served by existing roads that provide adequate access to serve the proposed use. The applicant proposes to use an existing residence and outbuilding for gatherings, including weddings. Prior to use of either structure, a change in occupancy permit and inspections are required ensure that the structures are safe for gatherings. With conditions, the request complies with criterion (E).
8. Regarding criterion (F), conditions imposed as part of the approval address concerns raised by residents in the area, and ensure that the proposed use will be compatible with existing and allowable uses in the area.
9. Conditional uses in the EF-40 district must also comply with 402.07(A) the following criteria found in 402.07(A):¹
 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.

Testimony was received stating that use of the site as a park might limit or impinge upon the ability to farm neighboring property. Farm practices that take place in the area include spraying, bird control (bird cannons) and use of tractors, which can create noise. The applicant replied that the area intended for use for events is located near the middle of the southern block of parkland. As such, the event location has a buffer of several hundred feet from neighboring property in farm use. Distance and topography between the event venue and farm uses in the area ensure that use of the site as an event venue, under limiting conditions, will not change or significantly increase the cost of accepted farming or forest practices in the surrounding area. Additionally, for conditional uses within the farm zone, the county requires that the applicant sign and record an affidavit stating the following:

“The subject property is located in an area designated by Yamhill County for agricultural uses. It is the county policy to protect agricultural operations from conflicting land uses in such designated areas. Accepted agricultural practices in this area may create inconveniences for the owners or occupants of this property. However, Yamhill County does not consider it the agricultural

¹Note that these criteria are the same as required by ORS 215.296.

operator's responsibility to modify accepted practices to accommodate the owner or occupants of this property, with the exception of such operator's violation of State law."

The purpose of this affidavit is to alert the property owner and potential users of the land that neighboring agricultural operations will not be required to modify their farming practices on behalf of the neighboring use. With conditions and the above affidavit, the county concludes that the use will not cause significant conflicts with neighboring farming operations.

10. Section 1101 for Site Design Review requires the consideration of the following factors in the review of site development plans:

- (A) Characteristics of adjoining and surrounding uses;
- (B) Economic factors related to the proposed use;
- (C) Traffic safety, internal circulation and parking;
- (D) Provision for adequate noise and/or visual buffering from incompatible uses;
- (E) Retention of existing natural features on site;
- (F) Problems that may arise due to development within potential hazard area; and
- (G) Comments and/or recommendations of adjacent and vicinity property owners whose interests may be affected by the proposed use.

11. (A) Characteristics of adjoining and surrounding uses.

The surrounding properties are primarily used for grass and grain crop farming and/or residential use. The proposal seeks to establish a day-use only park. The applicant is not proposing to substantially alter the site, but to keep it in a similar condition as the surrounding area so that park users can enjoy a natural setting. The current proposal does not add buildings or parking areas. Any future amenities requiring a building permit will require a new site design review.

12. (B) Economic factors related to the proposed use.

The economic cost of developing the park as proposed will be limited as there are no plans for any substantial changes to the site. The applicant provides a wide variety of park and recreational opportunities to the community, to enrich the lives of people living within the district, generally considered an economic benefit. Use of the subject property as a day use park will provide a venue for hiking, mountain biking, and horseback riding within the park district, as well as a meeting venue for weddings and other celebrations. Economic factors support approval of the request.

13. (C) Traffic safety, internal circulation and parking.

As previously stated, the park would be serviced by two county roads. Commenters have noted that access roads may not be adequate for large events. Conditions of approval limit the size of events. With the limits on the size of events, the existing access roads can accommodate the anticipated traffic. There are sufficient sight lines on the access roads, and parking is currently available on site. There is a parking area at 10500 Parrett Mountain Road NE that is large enough to handle gatherings at the home site/living museum area. Elsewhere throughout the property, there are other parking accommodations that are appropriate for trucks and horse trailers, or small groupings of vehicles at trail heads, all with adequate internal circulation.

14. (D) Provision for adequate noise and/or visual buffering from incompatible uses.

The applicant does not plan to substantially alter the site as part of this proposal, and no additional visual buffering appears to be necessary. The wooded areas and open field will provide sufficient visual barriers for any minor changes that may occur. Neighbors of the site have complained about noise, and the potential for noise impacts from planned events and gatherings. Conditions of approval are being imposed to ensure that nearby residents will not experience significant noise impacts from park users.

15. (E) Retention of existing natural features on site.

The proposal is designed to preserve all significant natural features on the site. The applicant's goal is to make available to the community outdoor/natural areas, so that park users can have an unaltered and non-artificial outdoor experience. Although minor additional facilities and improvements will need to be developed, such as trails and bathrooms, the installation of these improvements will not substantially alter the natural features of this area.

16. (F) Problems that may arise due to the development within potential hazard areas.

No potential hazard areas have been identified as existing at the site, and no development is being proposed within potential hazard areas.

17. (G) Comments and/or recommendations of adjacent and vicinity property owners whose interests may be affected by the proposed use.

Comments were received from the public and neighboring property owners, and considered fully. The comments, and responses to those comments, are contained in the record and resulted in the imposition of limiting conditions of approval. The locations where most use is expected, including the living history museum and other existing buildings, are in the center of the park and are surrounded by open fields and wooded areas, limiting impacts to surrounding properties. The following conditions of approval are intended to further minimize potential impacts to surrounding uses.

CONDITIONS OF APPROVAL

Based upon the above findings and conclusions, the request by the Chehalem Park and Recreation District for conditional use approval to operate a day use park in an exclusive farm use zone on Tax Lots 3213-2300, 3224-100, 300, 900, 1100, 1101, 1200, 1300 and 1400, is hereby approved with the following conditions:

1. The applicant shall post signs at the trailheads and parking areas with the contact information for the Chehalem Park and Recreation District.
2. The well water shall be tested yearly and the results shall be submitted to the Yamhill County Health Department.
3. Prior to the use of the house or barn on Tax Lots 3224-100 or 1300 for gatherings, permits and inspections for change in occupancy to use the buildings shall be obtained from the Yamhill County Building Department.
4. Prior to the use of the house or barn for gatherings, any permits and inspections for upgrading the septic system shall be obtained from the Yamhill County Sanitation Department.
5. Prior to use of the park, a fence or other property line delineation acceptable to the owner of Tax Lot 3225-100, shall be erected along the property line between Tax Lot 3224-1400 and Tax Lot 3225-100. In the event of a disagreement between the parties, CPRD may build an 8-foot tall agricultural/deer fence between the two tax lots, similar to the fence depicted in the photo submitted August 2, 2016, by Linda Crabtree of J.K. Carriere Wines.
6. On-site events are limited to 100 patrons. Off-street parking must be provided for these events. Mass gathering permits, approved by the Yamhill County Board of Commissioners, are not subject to this limitation.
7. The outdoor amplification of music or sound during reserved events is not allowed. On-site events, and the indoor amplification of music or sound, shall end by 10 p.m..
8. On-site events having either indoor amplified music or sound, or scheduled to go past 9:00 p.m., shall have a CPRD staff person or hired agent present during the event.
9. Prior to use of the park or the house or barn for gatherings, the applicant shall have a fire control plan approved by the Newberg Rural Fire Department and a copy shall be submitted to the Yamhill County Planning Director.
10. Prior to issuance of a septic or building permit, the applicant shall sign an affidavit acknowledging the following declaratory statement and record it in the deed and mortgage records for Yamhill County:

“The subject property is located in an area designated by Yamhill County for agricultural uses. It is the county policy to protect agricultural operations from conflicting land uses in such designated areas.

Accepted agricultural practices in this area may create inconveniences for the owners or occupants of this property. However, Yamhill County does not consider it the agricultural operator's responsibility to modify accepted practices to accommodate the owner or occupants of this property, with the exception of such operator's violation of State law."

11. The park shall be reviewed every two years following the date of the final decision issuing the permit. The approval may be renewed if park operations continue to be in compliance with the requirements of this ordinance and the conditions of approval.
12. 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.