

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 a Site Design Review Application)
for a Marijuana Processing Facility; Planning) Board Order 16-426
Docket SDR-16-16; Applicant Patricia L. Lawson)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on October 20, 2016, Commissioners Mary Starrett, Stan Primozych, and Allen Springer being present.

IT APPEARING TO THE BOARD as follows:

A. By application dated July 25, 2016, Patricia L. Lawson applied to the county for site design review for a marijuana processing facility to be located inside of an existing steel structure off of Highway 99W near Amity;

B. On August 10, 2016, the Yamhill County Planning Director approved the application;

C. On August 19, 2016, Neil Daniel Lancefield appealed the Planning Director's approval of Docket SDR-16-16; and

D. The appeal was heard by the Board on September 29, 2016, after which the Board voted 3-0 to uphold the Planning Director's decision, with staff directed to prepare written findings for final adoption on October 20, 2016; NOW THEREFORE

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

Section 1. The Planning Director's decision to approve Docket SDR-16-16 is hereby upheld, and the appeal is denied.

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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 20th day of October, 2016 at McMinnville, Oregon.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

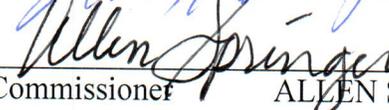
BRIAN VAN BERGEN
County Clerk


Chair MARY STARRETT

By: 
Deputy Lucy Flores Mendez
KERI HINTZ


Commissioner STAN PRIMOZICH

FORM APPROVED BY:


Commissioner ALLEN SPRINGER


Timothy S. Sadlo
Senior Assistant County Counsel

Accepted by Yamhill County
Board of Commissioners on
10-20-16 by Board Order
16-426

**Exhibit A – Board Order 16 – 426
Finding in Support of Decision to
Uphold the Planning Director’s Approval
Of Docket No. SDR-16-16
And Conditions of Approval**

DOCKET NO.: SDR-16-16

REQUEST: An appeal of the Planning Director’s approval of a site design review application for a marijuana processing facility.

APPLICANT: Patricia L. Lawson

TAX LOT: 5417-601

LOCATION: 18110 S Hwy 99 West, Amity

ZONE: EF-80, Exclusive Farm Use

CRITERIA: Sections 402.02(E) and 1101.02 of the *Yamhill County Zoning Ordinance* and ORS 215.283(r)

FINDINGS:

A. Background Facts

1. Parcel Size: The subject parcel is 5.17 acres.
2. Access: Easement off of Highway 99W.
3. On-Site Land Use: The property is forested with a single family dwelling and two outbuildings, one of which the applicant has noted as the proposed structure to be utilized for the marijuana processing facility.
4. Surrounding zoning and land uses: The surrounding properties are zoned EF-80, Exclusive Farm use. The surrounding area is predominantly dedicated to agricultural practices, predominately grass seed and alpacas. To the west of the subject parcel is Salt Creek.
5. Water: The applicant has identified a commercial supplier that will provide the water to be utilized for the indoor marijuana production and processing.
6. Sewage Disposal: An on-site septic system serves the dwelling.
7. Fire Protection: Amity Rural Fire Protection District.
8. Soils: The Yamhill County Soil Survey shows the majority of the parcel is made up of Jory clay loam (JrB and JRE) and Willakenzie silty clay loam (WeE), Class III and IV soils, high-value farmland.
9. Overlay zones: None.

B. Ordinance Provisions and Analysis

Section 402.02(E) of the Yamhill County Zoning Ordinance (YCZO) lists as a permitted use:

“E. A facility for the processing of farm crops located on a farm operation and provides at least one-quarter of the farm crops processed at the facility. The building established for the processing facility shall not exceed 10,000 square feet of floor area exclusive of the floor area designated for preparation, storage, or other farm use or devote more than 10,000 square feet to the processing activities within another building supporting farm uses. The application will also be subject to Section 1101, Site Design Review.”

ORS 215.283(r) states:

“The following uses may be established in any area zoned for exclusive farm use:

* * *

A facility for the processing of farm crops or for the production of biofuel, as defined in ORS 315.141, if the facility is located on a farm operation that provides at least one-quarter of the farm crops processed at the facility, or an establishment for the slaughter, processing or selling of poultry or poultry products pursuant to ORS 603.038. If a building is established or used for the processing facility or establishment, the farm operator may not devote more than 10,000 square feet of floor area to the processing facility or establishment, exclusive of the floor area designated for preparation, storage or other farm use. A processing facility or establishment must comply with all applicable siting standards but the standards may not be applied in a manner that prohibits the siting of the processing facility or establishment.”

The applicant intends to grow at least one-quarter of the crop processed at the facility. The applicant is currently in the process of getting the grow operation licensed through the Oregon Liquor Control Commission (OLCC). It should be noted that the growing of marijuana is not part of this site design review application as it does not require a site design review approval. The building proposed for the processing is existing and is approximately 2,900 square feet, of which the applicant intends to use an approximately 10' x 12' space for the processing.

C. Site Design Review

1. Section 1101.02 of the YCZO governs site design review.

“Review of a site development plan shall be based upon consideration of the following:

- (1) Characteristics of adjoining and surrounding uses;
- (2) Economic factors relating to the proposed use;
- (3) Traffic safety, internal circulation and parking;
- (4) Provisions for adequate noise and/or visual buffering from noncompatible uses;
- (5) Retention of existing natural features on site;

- (6) Problems that may arise due to development within potential hazard areas.
 - (7) Comments and/or recommendations of adjacent and vicinity property owners whose interests may be affected by the proposed use.
2. Regarding factor (1), the surrounding area is predominantly in agricultural use with some rural residences. To the west of the property is the riparian area for Salt Creek which is contiguous with the forested area contained within and immediately adjacent to the south of the property.
 3. Regarding factor (2), there have been no economic issues identified that would prevent the applicant from completing the proposed development.
 4. Regarding factor (3), the site map submitted by the applicant shows a sufficient amount of parking and internal circulation for the use proposed. In addition, the applicant has indicated that the production and processing of marijuana on the property will be owner- operated with no additional employees working on-site.
 5. Regarding factor (4), the proposed use is not expected to generate any noise beyond what is currently associated with noise that might be generated by agricultural operations on neighboring properties. The applicant's property is forested and is set back over 1,000 feet from Highway 99W and the nearest residence, and as mentioned above, is bordered to the west by the Salt Creek riparian area. Considering the characteristics of the surrounding area in conjunction with the characteristics of the land use proposed, no conditions requiring noise or visual screening are necessary.
 6. Regarding factor (5), the applicant is not proposing to change any of the existing natural features on site.
 7. Regarding factor (6), the property is not located within the Salt Creek 100-year floodplain or other designated hazard area.
 8. Regarding factor (7), Mr. Lancefield's concerns relate to the legality of marijuana production and processing facilities in Oregon, given that federal law continues to classify marijuana as an illegal drug. This legal argument must be rejected by the county at this time, because it is not fully developed. The State of Oregon has legalized and regulates marijuana production and consumption, and the county's approval of the proposed processing operation is consistent with state law.

Mr. Lancefield also argued that the approval "amounts to a taking because it transfers wealth from the Lancefield Farm Co. to the applicant." While this argument and arguments made by Mr. Lancefield associated with this claim are noted, no evidence was provided to the county to support Mr. Lancefield's "takings" argument or to support the arguments he made in conjunction with this claim.

Mr. Lancefield also expressed concern regarding the potential for water contamination during the production or processing of marijuana on the applicant's property. The Oregon Department of Agriculture is responsible for ensuring that water contamination from agricultural activities is averted and marijuana production and processing, as a state recognized agricultural practice, must follow the rules outlined in the Oregon Department of Agriculture's

Agricultural Water Quality Management Program, pursuant to ORS 468B, related to Water Quality. Additionally, the growing and processing of marijuana would need to be licensed through the OLCC. Additionally, the applicant testified, without rebuttal, that no harmful chemicals or pesticides will be used for any part of the grow or processing operation.

CONCLUSIONS:

1. The request is for a site design review approval for the processing of marijuana within the 10' x 12' area described on a site map provided with the application, within an existing 48' x 60' steel structure.
2. The subject parcel is zoned EF-80, which allows a marijuana processing facility as a permitted use subject to the requirements of 402.04 and the site design review provisions, Section 1101.
3. With conditions, the request can be made consistent with the standards of Section 402.02(E) and the site design review standards of Section 1101.

CONDITIONS OF APPROVAL:

Based upon the above findings and conclusions, the Board approves the request by Patricia L. Lawson for site design review to allow the use of an existing structure for the processing of marijuana on an Exclusive Farm Use-zoned property subject to the following conditions:

1. The facility is approved within the 10'x 12' area of the existing 48' x 60' steel building on the site as shown on a site map in the record of decision.
2. Prior to operation of the facility, all required building, septic and electrical permits shall be obtained.
3. The applicant shall obtain all permits required by the Department of Environmental Quality (DEQ), the Oregon Liquor Control Commission (OLCC), and the Oregon Department of Agriculture (ODA).
4. The existing parking on the property shall be maintained.
5. The farm operation shall provide at least one quarter of the farm crops processed at the facility.
6. Modification of any of the above conditions requires approval under Section 1101.02 of the Yamhill County Zoning Ordinance. Violation of any of the above conditions may result in revocation of the site design review permit with the process detailed in Sections 1101.06 and 1101.07 of the Yamhill County Zoning Ordinance.
7. This approval is issued for one year, and will expire unless substantial construction has taken place before that time.

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