

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)
Commission's Approval and Denying the Appeal)
of Docket SDR-28-18; Approval of Site Design)
for a Winery Producing Less Than 50,000 Gallons) Board Order 19-50
of Wine Per Year in Conjunction with a Vineyard)
of at Least 15 Acres Located at 10280 NE Oak)
Springs Farm Road, Tax Lot 3319-300)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on February 7, 2019, Commissioners Richard L. "Rick" Olson, Mary Starrett and Casey Kulla being present.

IT APPEARING TO THE BOARD as follows:

A. On November 1, 2018, the Planning Commission held a public hearing on an application by Sandan LLC (Abbey Road Farm) to construct an allowed-use winery and tasting room on NE Oak Spring Farm Road, in conjunction with a 15-acre vineyard. Following the hearing, the Commission voted unanimously to approve the application, with conditions.

B. The Planning Commission's decision was appealed to the Board, which held a public hearing regarding the application on January 24, 2019. Following the close of the hearing, the Board deliberated and voted unanimously (3-0) to uphold the Planning Commission's decision, deny the appeal, and approve the application, with conditions; NOW THEREFORE,

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

Section 1. The Planning Commission's decision to approve Docket SDR-28-18 is hereby upheld, the appeal filed in this matter is denied, and the application is approved.

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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, and as part of, this order.

DONE this 7th day of February, 2019 at McMinnville, Oregon.

ATTEST: YAMHILL COUNTY BOARD OF COMMISSIONERS

BRIAN VAN BERGEN
County Clerk



Richard L. Olson
Chair RICHARD L. "RICK" OLSON

By: Caroline Rook
Deputy Carolina Rook

Commissioner Mary Starrett
MARY STARRETT

FORM APPROVED BY:

Timothy S. Sadlo
Timothy S. Sadlo
Senior Assistant County Counsel

Commissioner Casey Kulla
CASEY KULLA

Exhibit A
Board Order 19-50

Findings in Support of Approval of
Docket No. SDR-28-18 and Conditions of Approval

FINDINGS OF FACT:

A. Background Facts

1. The subject parcel (Tax Lot 3319-300) is approximately 80 acres and is located at 10280 NE Oak Springs Farm Road, Carlton (“Property”). The Property is zoned Exclusive Farm Use (EF-80) and is primarily used as a vineyard, for produce crops, and livestock. The Property has direct access to both NE Oak Springs Farm Road and NE Abbey Road. Abbey Road is a paved and publicly maintained county road. Oak Springs Farm Road is a graveled county road.
2. Sandan LLC is the applicant (“Abbey Road Farm” or “applicant”) proposing a winery producing less than 50,000 gallons per year under ORS 215.452 (“permitted use winery”) at the Property. The permitted use winery is proposed in the same location as the horse barn and arena originally on the Property. The Property has land use approval for the operation of a bed and breakfast, Dockets C-06-03 and C-19-17, as well as an event center on-site, Dockets C-02-06 and C-20-17.
3. The applicant will obtain water from an on-site groundwater well for the winery operations and will either operate under the 5,000 gallons per day groundwater exemption for commercial and industrial use under ORS 537.545, or obtain any necessary permit from Oregon Water Resources Department to use groundwater for winery operations.
4. The adjacent properties are all zoned for Exclusive Farm use, with EF-80 zoned parcels to the north, east, and west and EF-40 zoned parcels located to the south. The adjacent parcel to the southeast hosts the Trappist Abbey of Our Lady of Guadalupe, and is partially zoned Public Assembly Institutional (PAI). The surrounding parcels range in size from approximately nineteen acres to over 900 acres. The parcels in the surrounding area are used for a mix of commercial agricultural uses, including vineyards, wine production, wine tasting rooms, grass seed and hay production, fruit and nut tree orchards, as well as livestock pasturage, amongst a number of other less prevalent farm uses. There are also some properties in the area that appear to be dedicated to timber production as well as rural residential and farm uses.

B. Findings Addressing Applicable Standards

1. The applicable standards are set forth in YCZO 402.02(H) and 402.10(I) governing permitted use wineries on EFU land. These local code provisions implement state law codified at ORS 215.452 (defining the requirements for a permitted use EFU winery) and ORS 215.283(1)(n) (listing a winery meeting the requirements of ORS 215.452 as a permitted use in the EFU zone. The County has not updated the YCZO to incorporate the most recent version of ORS 215.452, as amended by Oregon Senate Bill 841 (2013). Therefore, ORS 215.245 applies directly to this application pursuant to ORS 197.646(3). ORS 215.452(2), (3), (4), and (9)-(12) authorize the proposed winery and provide standards for the winery operation, along with the development standards in the EF-20 zone (YCZO 402.09).

2. YCZO 402.02 Permitted Use Winery in EFU Zone

(H) Winery, as defined in Section 402.10, subject to 1101 Site Design Review

YCZO 402.02(H) lists permitted uses in the EF zone, including a winery if the winery produces a maximum annual production of less than 50,000 gallons and has at least 15 acres of vineyard onsite. The record reflects that the proposed winery is designed to produce less than 50,000 gallons per year, and on average is anticipated to produce around 6,000 cases. The record contains a planting plan showing the location of the vineyard blocks on the Property and evidencing 15 acres of qualifying vineyard.

3. YCZO 402.09, EFU Development Standards

(C) The minimum setback for all yards shall be 30 feet for all uses

The site plans included in the record demonstrates that all structures will satisfy the 30-foot setback yard requirement.

(F) A clear-vision area shall be maintained on the corner of any parcel at the intersection of any two of the following: county roads, public roads, private roads serving four or more parcels, and railroads. A clear-vision area shall contain no sight-obscuring structures or plantings exceeding 30 inches in height within a triangle formed by the lot corner nearest the intersection, and the two points 20 feet from this corner as measured along the parcel lines adjacent to the intersecting rights-of-way. Trees exceeding this height may be located such that their branches extend into this triangle, provided they are maintained to allow at least 12 feet of visual clearance within the triangle below the lowest hanging branches.

The Property is served by private driveways off of NE Abbey Road and NE Oak Springs Farm Road, which are both county roads. The private driveways, however, do not serve four or more parcels as only two parcels comprise the Property. Therefore, YCZO 402.09(F) does not apply to this application. Nonetheless, the driveway entrances will be landscaped to maintain the intersections with NE Abbey Road and NE Oak Springs Farm Road to meet the clear vision planting requirements.

(G)(2) The maximum building height for all other structures shall be 45 feet.

The maximum proposed building height is approximately 29 feet at the highest point above finished grade. Any potential modifications will be minor and within the code limit. Condition 1 requires that the facility be constructed consistent with the site plan (SP-1), ensuring that the facility will be constructed consistent with this standard. This standard is met.

(I)(2) Parking requirements for those uses which may generate traffic beyond what is normally expected in the [EFU] District shall be determined by the Director, subject to the provisions of Section 1007.

YCZO 1007.02(C) provides off-street parking standards. YCZO 1007.02(C) treats winery tasting rooms as an “eating or drinking establishment” for purposes of establishing off-street parking requirements: one parking space per 100 square feet of floor area, plus one space per employee on a maximum work shift. The proposed tasting room measures approximately 800

square feet with a maximum of 15 employees. The applicant submitted a site plan that indicates the permanent parking areas for patrons and staff as well as an area to be reserved for overflow parking, (Exhibits L2.1 and L2.2). The proposal includes a total of 93 parking spaces allocated for visitors to the winery and tasting room and this number includes the temporary 60 overflow parking spaces for events. Fifteen parking spaces are allocated for employees working at the winery and tasting room, twelve parking spaces for the approved event space, five parking spaces reserved for guests staying at the approved bed and breakfast location and an additional five parking spaces reserved for the bed and breakfast employees. The site plan identifies a total of 72 permanent parking spaces established for employees and patrons, with a temporary overflow parking area that would provide an additional 60 parking spaces for larger events. The proposed parking plan satisfies the parking requirements for patrons visiting the parcel for the tasting room, the bed and breakfast, or the event center as well as providing adequate parking for the number of employees. YCZO 402.09(I)(2) is met.

4. YCZO 1101.02, Evaluation of Site Development Plans

YCZO 1101.02(A) provides seven factors the County considers when reviewing site development plans. Specifically, the code provides that “review of a site development plan shall be based on upon consideration of the following***.” YCZO 1101.02(A)(1)-(7) are not standards of approval, but considerations that County must take into account when reviewing the application against the underlying EFU development standards. The following sections document the Board’s consideration of YCZO 1101.02(A) and conclude that subject to conditions, the proposal satisfies the County’s design review requirements.

(A)(1) Characteristics of adjoining and surrounding uses

The adjoining and surrounding parcels are all zoned EFU, with EF-80 to the north, east, and west and EF-40 to the south. The surrounding properties range in size from 19 to over 900 acres. The Trappist Abbey of Our Lady Guadalupe is located to the southeast of the Property. The Property consists of approximately 80 acres and the existing development is clustered on the western side of the Property closer to Oak Springs Farm Road. The proposed permitted use winery is located where the original horse barn and arena was located and will be of similar size and scale. A portion of the Property is planted in vineyard and ongoing crop cultivation is planned for the remainder of the Property, along with additional vineyard. There was concern raised during the public hearing that the proposed permitted use winery would detract from the character of the area and would be out of scale with the surrounding properties. The proposed winery is designed to account for the agrarian setting, as shown on the site plans included in the record, and is of similar size and scale as the original horse barn and arena. Further, this application evaluates only the permitted use winery, not the other existing and approved land uses on the Property. Regardless, the record supports finding that the overall Property, with the proposed permitted use winery, remains consistent with the character of the adjoining and surrounding use. The Board finds that the factor in YCZO 1101.02(A)(1) has been adequately considered for the applicant’s site design review.

(A)(2) Economic factors relating to the proposed use;

The applicant’s existing and future on-site vineyard along with the winery and farm-to-table garden areas indicate that the applicant is making a significant investment toward ensuring the success of the proposed winery and tasting room. The proposed use is expected to contribute to both the agricultural and tourism sectors of the county’s economy. The winery and tasting room will generate additional employment opportunities. There have been no economic challenges

identified that may prevent the applicant from completing the proposed development. For these reasons, the Board finds that factor YCZO 1101.02(A)(2) has been adequately addressed.

(A)(3) Traffic safety, internal circulation, and parking

The applicant hired a transportation engineer to conduct the traffic analysis. Traffic counts were taken over a four day period, from July 12 to July 15, 2018. The traffic counts were collected on several sections of the Hendricks Road, Kuehne Road, and Abbey Road intersection. Peak traffic volume for the intersection occurred on Friday, July 13, between 4:00 and 5:00 p.m., with a count of 770 vehicles traversing that intersection during that timeframe. A total of eight accidents have occurred at the intersection during the five year study period, from 2012 to 2016, and (fortunately) none of those accidents resulted in a fatality. The report documents that there were a number of improvements made to the intersection in 2015, including the addition of shoulder bikeways, an adjustment to the left turn movement from Abbey Road to Hendricks Road, and the construction of a separate southbound left-turn lane which has significantly improved traffic sight lines thereby reducing the number of and potential for automobile accidents at this intersection.

The traffic engineer submitted an estimated number of trips that may be generated from the proposed winery on both a typical day as well as for a day when an event is hosted on the Property. The traffic engineer estimates the daily volume for the winery would average approximately 270 visits. The traffic engineer conservatively estimates the approximate number of visits to the Property on a day with an event at 542 visits. Traffic generated from visits to the applicant's Property will increase annual traffic to Abbey Road, Kuehne Road, and Hendricks Road by approximately one percent. The traffic engineer estimated that the average delay for a vehicle turning on Hendricks Road from Abbey Road will increase by 10 seconds, for a day when events are hosted on the Property and increase by one second on a typical day. This marginal increase in traffic at this intersection and along these roadways will have a minimal impact on the overall traffic of the area and will not stress the traffic capacity of the local roadways or of the Abbey Road, Kuehne Road, and Hendricks Road intersection. The existing intersection conditions and the roadway capacities were measured using the 'Synchro' software package which utilizes the Transportation Board's Highway Capacity Manual (HCM) methodologies. Based upon the traffic engineer's assessment a reasonable conclusion may be drawn that Abbey Road, Kuehne Road, and Hendricks Road can all adequately accommodate the increased traffic generated from the proposed winery and tasting room on peak traffic days. The applicant's site plans demonstrate that the Property has adequate onsite parking, internal circulation, and access. See also YCZO 402.09(F) and (I)(2). Condition 5 requires that access meet the Carlton Rural Fire Protection District standards and conditions. The Board finds that factor YCZO 1101.02(A)(3) has been addressed.

(A)(4) Provisions for adequate noise and/or visual buffering from noncompatible uses;

ORS 215.452 requires establishment of a setback of at least 100 feet from the property lines for wineries and public gathering areas unless a variance is granted by the local government. The original horse barn and area that will be converted for the proposed winery and tasting room is setback approximately 110 feet from the nearest property line to the west. The tasting room is adequately buffered, both visually and in terms of noise generation, from adjoining properties to the west by a number of mature Douglas Fir trees, an established nut orchard, and other vegetation planted along Oak Springs Farm Road. Condition 11 prohibits the use of outdoor amplified noise or sound. While farming activities on-site, i.e. growing and harvesting of grapes, will generate

noise typical of farm uses, such noise is expected in the farm zone, is seasonal, and is compatible with surrounding uses. The applicant has adequately addressed YCZO 1101.02(A)(4).

(A)(5) Retention of existing natural features on site

No natural features will be disturbed beyond the areas necessary for retrofitting or modification to the existing structure to convert the space from a barn to a winery and tasting room. There are no known significant natural features in the area of the proposed construction site.

(A)(6) Problems that may arise due to development within potential hazard areas.

There are no known potential hazard areas on this site.

(A)(7) Comments and/or recommendations of adjacent and vicinity property owners whose interests may be affected by the proposed use.

Commenters have expressed concerns mostly related to the on-site vineyard and the winery's proposed scale and intensity of use. The Board has considered these comments and responded to each in the above sections. Neighbors also raised concerns about water usage and water supply. The applicant provided information into the record about its anticipated water use and the Board imposed Condition 4 to ensure that the water usage associated with the winery complies with OWRD regulations. This is sufficient to respond the neighbors' concern given that the County has limited authority to enforce water law.

(B) All development applications for site design review are subject to the development standards of the underlying zoning district and may be modified pursuant to satisfaction of the considerations provided in subsection 1101.02(A). The Director may waive submittal requirements consistent with the scale of the project being reviewed, upon determining that requirements requested to be waived are not necessary for an effective evaluation of the site development plan.

The applicant is not seeking any modification to a development standard in the EF-80 zone.

5. ORS 215.452, Permitted Use Winery Statute

As described above, the YCZO has not been updated to incorporate the current ORS 215.452, as amended by Oregon Senate Bill 841 (2013). Therefore, the Board makes findings directly under the statute to support approval of Abbey Road Farm's site design review application for a permitted use winery.

(1) A winery may be established as a permitted use on land zoned for exclusive farm use under ORS 215.213 (Uses permitted in exclusive farm use zones in counties that adopted marginal lands system prior to 1993) (1)(p) and 215.283 (Uses permitted in exclusive farm use zones in nonmarginal lands counties) (1)(n) or on land zoned for mixed farm and forest use if the winery produces wine with a maximum annual production of:

(a) Less than 50,000 gallons and: (A) Owns an on-site vineyard of at least 15 acres;

(2) In addition to producing and distributing wine, a winery established under this section may:

(a) Market and sell wine produced in conjunction with the winery.

(b) Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including: (A) Wine tastings in a tasting room or other location on the premises occupied by the winery; (B) Wine club activities; (C) Winemaker luncheons and dinners; (D) Winery and vineyard tours; (E) Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members; (F) Winery staff activities; (G) Open house promotions of wine produced in conjunction with the winery; and (H) Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery.

(c) Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to on-site retail sale of wine, including food and beverages: (A) Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or (B) Served in conjunction with an activity authorized by paragraph (b), (d) or (e) of this subsection.

(d) Carry out agri-tourism or other commercial events on the tract occupied by the winery subject to subsections (5), (6), (7) and (8) of this section.

(e) Host charitable activities for which the winery does not charge a facility rental fee.

(3) A winery may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in subsection (2)(c) of this section. Food and beverage services authorized under subsection (2)(c) of this section may not utilize menu options or meal services that cause the kitchen facilities to function as a cafe or other dining establishment open to the public.

(4) The gross income of the winery from the sale of incidental items or services provided pursuant to subsection (2)(c) to (e) of this section may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery. The gross income of a winery does not include income received by third parties unaffiliated with the winery. At the request of a local government with land use jurisdiction over the site of a winery, the winery shall submit to the local government a written statement that is prepared by a certified public accountant and certifies the compliance of the winery with this subsection for the previous tax year.

Abbey Road Farm has more than 15 acres of vineyard on-site; therefore, the approval will allow an annual production of less than 50,000 gallons of wine. The events listed in subsections (2)(a), (b), (c) and (e) may be carried out under this site design review application, however, the agri-tourism and other commercial events as allowed by subsection (2)(d) require an additional application and approval. A public comment questioned whether a commercial kitchen is allowed. The Board notes that ORS 215.452(3) expressly allows on-site kitchen facilities.

(9) A winery operating under this section shall provide parking for all activities or uses of the lot, parcel or tract on which the winery is established.

As discussed under YCZO 1101.02(A)(3) above, all parking for the winery can be accommodated on the Property. This standard is met.

(10) Prior to the issuance of a permit to establish a winery under this section, the applicant shall show that vineyards described in subsection (1) of this section have been planted or that the contract has been executed, as applicable.

Evidence of the planted acreage is in the record and the applicant must maintain at least 15 acres. This standard is met.

(11) A local government shall apply the standards described in this subsection. Standards imposed on the siting of a winery shall be limited solely to each of the following for the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands: (a) Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places unless the local government grants an adjustment or variance allowing a setback of less than 100 feet; and (b) Provision of direct road access and internal circulation.

The site plans shows that the 100-foot setback requirement is met and direct access and internal circulation is provided to accommodate both visitors and winery operations. See also discussion above under YCZO 1101.02(A)(3). This standard is met.

(12) A local government shall apply:

(a) Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar access and airport safety;

(b) Regulations of general applicability for the public health and safety; and

(c) Regulations for resource protection acknowledged to comply with any statewide goal respecting open spaces, scenic and historic areas and natural resources.

The Property is not located in an area described in (12)(a) or (c). There are no inventoried Goal 5 resources on the Property. The Board finds that the requirements in ORS 215.452(12) have been met.

DECISION:

The request is for approval of site design for a permitted use winery under ORS 215.452. The Board finds that Abbey Road Farm's proposal complies with the applicable criteria in the YCZO and ORS 215.452 and is approved subject to conditions.

CONDITIONS:

1. The development shall substantially conform to the site map submitted with the application (see enclosures labeled "Exhibit L2.0" and "Exhibit L.2.1").
2. At least 15-acres of vineyard shall be planted on-site prior to issuance of building, plumbing, and electrical permits for the conversion of the agricultural building (horse barn

and arena) to the wine production facility (winery) and tasting room operation of the facility.

3. Prior to operation of the wine production (winery) and tasting room all required building, plumbing, and electrical permits and inspections shall be obtained from the Yamhill County Planning Department.
4. Prior to issuance of building permits, the applicant shall provide evidence of a water right, permit, or long-term service agreement to bring in water from another site, or evidence shall be provided indicating the winery and tasting room will not exceed the allowable daily usage for a permit-exempt well under ORS 537.545.
5. Prior to issuance of building permits, the water supply and access shall be required to meet the Carlton Rural Fire Protection District standards and conditions.
6. Prior to issuance of building permits, the applicant shall obtain authorization from the County Sanitarian for the tasting room to use the existing septic system, or shall receive approval for a new septic system to serve the use.
7. Parking shall be established and permanently maintained as long as the tasting room is operating so that there is a minimum of one (1) parking space per 100 square feet of tasting room space plus one (1) parking space for each employee on maximum working shift pursuant to Section 1007 of the YCZO. Parking shall not be permitted on the street or public right-of-way.
8. 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).
9. "Agri-tourism or other commercial events" per subsection (2)(d) of ORS 215.452 are not authorized without additional approval of a winery special event application. "Agri-tourism or other commercial events" include outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of wine produced in conjunction with the winery is a secondary purpose of the event. This condition does not preclude the applicant from applying for a winery special event or obtaining approval for such a permit.
10. Pursuant to Section 1006.07 (A.) the use shall be allowed two signs, one on each frontage, or a single sign not to exceed forty-eight square feet in area, subject to permit approval.
11. The use of outdoor amplified music or sound is not permitted.
12. The winery shall produce no more than 50,000 gallons of wine annually.
13. Prior to initiation of the operation, the landowner 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."

14. This approval shall expire one year from the date of this letter unless the use has been initiated.
15. The construction of any additional structures or modification to the footprint of winery or tasting room structures, or change in use of the winery or tasting room structures shall require the submission and approval of a Site Design Review application.
16. In addition to producing and distributing wine, this winery may:
 1.
 - (a) *Market and sell wine produced in conjunction with the winery.*
 - (b) *Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:*
 - (A) *Wine tastings in a tasting room or other location on the premises occupied by the winery;*
 - (B) *Wine club activities;*
 - (C) *Winemaker luncheons and dinners;*
 - (D) *Winery and vineyard tours;*
 - (E) *Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;*
 - (F) *Winery staff activities;*
 - (G) *Open house promotions of wine produced in conjunction with the winery; and*
 - (H) *Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery.*
 - (c) *Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to on-site retail sale of wine, including food and beverages:*
 - (A) *Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or*
 - (B) *Served in conjunction with an activity authorized by paragraph (b), (d) or (e) of this subsection.*

(d) Host charitable activities for which the winery does not charge a facility rental fee.

2. *A winery may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in subsection (2)(c) of this section. Food and beverage services authorized under subsection (2)(c) of this section may not utilize menu options or meal services that cause the kitchen facilities to function as a cafe or other dining establishment open to the public.*

3. *The gross income of the winery from the sale of incidental items or services provided pursuant to subsection (2)(c) to (e) of this section may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery. The gross income of a winery does not include income received by third parties unaffiliated with the winery. At the request of a local government with land use jurisdiction over the site of a winery, the winery shall submit to the local government a written statement that is prepared by a certified public accountant and certifies the compliance of the winery with this subsection for the previous tax year.*

17. 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*.

END