

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 Decision to Approve Planning)
Docket C-26-22/SDR-35-22; Conditional Use) Board Order 23-138
And Site Design Review; Tax Lots R5434 02100,)
R5434 02200, and R5434 02800; Applicant: Daniel)
Diephouse for Corollary Farm, LLC)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on March 23, 2023, Commissioners Lindsay Berschauer, Kit Johnston, and Mary Starrett being present.

IT APPEARING TO THE BOARD as follows:

A. WHEREAS, On November 4, 2022, the applicants, Daniel Diephouse for Corollary Farm, LLC, requested a conditional use and site design review for commercial activity in conjunction with farm use for the operation of a by-appointment-only wine tasting room; and

B. WHEREAS, The Yamhill County Planning Commission considered the application at a hearing held on February 2, 2023; and

C. WHEREAS, Following deliberation, the Planning Commission approved the request; and

D. WHEREAS, The Planning Commission's decision was appealed and subsequently considered by the Board at a hearing held on March 23, 2023; and

E. WHEREAS, Following deliberation, the Board voted unanimously to uphold the Planning Commission's decision, deny the appeal, and approve the application; and now, therefore,

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

Section 1. Planning Docket C-26-22/SDR-35-22 is hereby approved, subject to the following conditions:

1. The development shall substantially conform to the revised site plans submitted with this application.

2. All required building, plumbing, and electrical permits shall be obtained from the Yamhill County Building Department prior to use of the tasting room.
3. Prior to issuance of building permits, the applicant shall obtain approval from the County Sanitarian for a septic system for the proposed use.
4. The tasting room shall be operated by appointment only and have operating hours of 9:00am to 6pm.
5. Prior to issuance of building permits, the applicant shall provide evidence that the first 250 feet of Sartore Road be improved and widened to a minimum of 20 feet wide. The roadway areas less than 18 feet wide (excluding the first 250 feet) may remain as is.
6. Prior to issuance of building permits, the applicant shall provide evidence that the roadside vegetation along Sartore Rd. has been removed to expose the existing edge of the pavement.
7. Prior to issuance of building permits, the water supply and access will be required to meet the Amity Rural Fire Protection District standards.
8. Parking shall be established and permanently maintained as long as the tasting room is operating so that there is a minimum of one parking space for each employee on maximum working shift, and one parking space per 100-square feet of tasting room area pursuant to Section 1007 of the YCZO.
9. Parking shall not be permitted on the driveway, or along the SE Sartore Rd. or Eola Hills Rd. right-of-way.
10. Wine production shall not occur onsite without additional land use approval.
11. There shall be no use of outdoor amplified music or sound in conjunction with the operation of the tasting room.
12. Pursuant to Section 1006.07 (A) of the Yamhill County Zoning Ordinance the use shall be allowed a single sign not to exceed twenty-four (24) square feet in area, subject to permit approval.
13. Prior to operation of the facility, the applicant shall obtain all permits required by the Oregon Liquor Control Commission (OLCC) and the Oregon Department of Agriculture (ODA).
14. "Agri-tourism or other commercial events" per subsection (2)(d) of ORS 215.452 are not authorized without additional approval. "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 is a secondary purpose of the event.

15. 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 and forest uses. It is the county policy to protect agricultural and forest operations from conflicting land uses in such designated areas. Accepted agricultural and forest practices in this area may create inconveniences for the owners or occupants of this property. However, Yamhill County does not consider it the agricultural or timber 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.”

16. This approval shall expire two years from the date of this letter unless the use has been initiated.
17. This approval shall be deemed personal to the current property owner and shall not run with the land.
18. The construction of any additional structures or modification to the footprint of the proposed tasting room shall require additional land use approval prior to the issuance of building permits.
19. 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.

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

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DONE this 13th day of April, 2023, at McMinnville, Oregon.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS



Lindsay Berschauer

KERI HINTON

County Clerk

Chair

LINDSAY BERSCHAUER

Kit Johnston

By:

Carolina Rook

Deputy Carolina Rook

Commissioner

KIT JOHNSTON

Mary Starrett

FORM APPROVED BY:

Commissioner

MARY STARRETT

Jodi M. Gollehon

Jodi M. Gollehon

Assistant County Counsel

EXHIBIT A

Board Order 23-138

**Findings in Support of Approval of
Planning Docket No. C-26-22/SDR-35-22 and Conditions of Approval**

FINDINGS OF FACT:

A. Background Facts

1. The subject property is tax lots 5434-02100 (“Tax Lot 2100”) and 5434-02200 (“Tax Lot 2200”), is approximately 57 acres, and is located directly west of the parcel addressed as 6930 SE Sartore Road, Amity (the “Property”). Daniel Diephouse is the applicant on behalf of Corollary Farms LLC (“Applicant”), which is a business that he owns with his wife Jeanne Feldkamp. Corollary Farms LLC is the owner of the Property. Applicant owns an additional adjacent small parcel at Tax Lot 5434-02800 that connects the Property to SE Eola Hills Road. Applicant does not propose to utilize Tax Lot 2800 for Applicant’s proposed use.
2. The Property has split zoning of Agriculture/Forestry Large Holding (AF-40) zone and Agriculture/Forestry Small Holding (AF-10) zone. Applicant’s proposed wine tasting facility would be located on the AF-40 zoned portion of the Property. Applicant plans to plant vineyard on Tax Lot 2100 and Tax Lot 2200.
3. In 2019 the Property was predominantly dedicated to forest uses with large areas of passive use as open grass fields. Then the Property was forested and harvested in 2020 by the previous owner. Currently, the Property consists of stumps from the timber harvest, some open grass areas, and some oak stands.
4. Adjacent properties to the north are also located in the AF-40 zone. To the west and southwest, properties are zoned Exclusive Farm Use (EF-80). The neighboring parcels to the south are zoned Forestry Large Holding (F-80). The uses present in these farm and forest zones include both passive and active forestry, farm uses, and rural residential uses.
5. Adjacent to the north of Tax Lot 2100 of the Property within the AF-40 zone is a gated residential development known as Thurman Heights (tax lots 5434-03500, 5434-03501, 5434-03502, 5434-03504, and 5434-0505). The Thurman Heights parcels access SE Sartore Road via an easement over Tax Lot 2100. Sartore Road is a public roadway that is privately maintained.
6. Parcels to the east of the Property are located in the AF-10 zone. These parcels range in size from 19.29 acres to 4.8 acres. The assessor’s map indicates that these parcels were created through the Sea-Wood Acres subdivision and partitions

Exhibit
"A"

recorded in 1993, 1994, 2002, and 2005. Some of these partitions were subject to Measure 49 claims and subsequent final orders and homesite authorizations. This area consists of parcels dedicated to rural residential and farm and forest uses.

7. The Property takes access directly from Sartore Road. Applicant proposes a driveway for the tasting room that connects to Sartore Road on the northern boundary of Tax Lot 2100 near end of the public road.
8. The Property is within the Amity Rural Fire Protection District and water service will be provided by an onsite well. The Property will be served by a septic system and County Environmental Health staff have determined it is feasible to site a septic system on the Property based on a historical septic approval on the Property.
9. Applicant produces wine at an off-site location using grapes purchased from local vineyards. Applicant is developing a vineyard on the Property to produce grapes for Applicant's wine business. The evidence in the record demonstrates that Applicant has purchased vines and begun preparing the Property for vineyard planting. The Applicant testified that Applicant plans to plant 11 acres of vineyard on the Property in 2023 as soon as weather conditions allow. Applicant seeks a conditional use permit for a wine tasting facility on the Property as a Commercial Activity in Conjunction with Farm Use. The tasting room would market and sell Applicant's wine. Applicant's permit application does not seek approval for wine production on the Property.

B. Procedural Findings

1. Applicant filed the conditional use permit application on November 4, 2022. Following notice to surrounding property owners, the County received a timely request for a public hearing from neighbor Thomas Scheible on December 15, 2022. The Planning Commission held a public evidentiary hearing on February 2, 2023. At the hearing, the Planning Commission received oral and written testimony in favor of and in opposition to the tasting room. The Planning Commission discussed the issues, deliberated, and unanimously approved the requested conditional use permit subject to conditions developed by the Applicant and County staff.
2. Yamhill County Zoning Ordinance (YCZO) 1404.03(B) requires appellants to specify the basis of an appeal, including an explanation of why the Planning Commission's decision in this case was factually or legally incorrect.
3. On February 7, 2023, Thomas Kopinski filed an appeal of the Planning Commission decision (the "Kopinski Appeal"). The Kopinski Appeal asserted that "it is not appropriate to put more than six cars on Sartore Rd. at any given time." The Kopinski Appeal requested that the Board impose a limit of six customer cars at a time on the Property.

4. On February 21, 2023, Brittney and David Beam, Jem and Jessica Schofield and Randilynn Owens filed an appeal of the Planning Commission decision (the “Schofield Appeal”). The Board understands the Schofield Appeal to express concern that the Planning Commission’s decision would result in the taking of private land to widen Sartore Road. The Schofield Appeal also alleged that Applicant’s proposed access is inadequate for emergency vehicles, and raised an issue regarding neighborhood garbage receptacles near the intersection of Sartore Road and Eola Hills Road.
5. Also on February 21, 2023, John Bush, Pam Jackson and Thomas and Ann Scheible filed an appeal of the Planning Commission decision (the “Scheible Appeal”). The Scheible appeal requested that the Board require Applicant to develop an access road for the tasting room from Eola Hills Road through Tax Lot 2800.
6. The Board of County Commissioners (“Board”) considered the appeals on March 23, 2023 and decided to hold a hearing to accept additional evidence and argument into the record. At this hearing, the Board heard from the appellants, from Applicant, and from other neighbors. During the hearing, some appellants made requests regarding access conditions different from the requests made in the appeals described above. One request was to require Applicant to develop an access from Skyline Road. Another request was to require Applicant to develop an access at a different location on Sartore Road than proposed by Applicant.
7. Following this public hearing, the Board deliberated on the matter before it and unanimously affirmed the Planning Commission’s decision.

C. Findings under the Yamhill County Zoning Ordinance

The request is subject to YCZO Sections 403.04(G), 403.07(A), 1101.02, and 1202.02. The Board finds that the Yamhill County Comprehensive Plan (YCCP) goals and policies apply to the extent that they are incorporated and implemented by the YCZO under the applicable review criteria.

Throughout this Part C of the findings, applicable YCZO criteria are in *italics*, followed by the Board’s findings regarding each criterion, or group of related criteria. Where YCZO text is lengthy or of limited relevance, the text is omitted, as indicated in *[brackets]*. Criteria are grouped by subject under the bold lettered subheadings.

1. Conditional Use Criteria

403.04 Conditional Uses.

[text omitted]

G. Commercial activities that are in conjunction with farm use as defined in Section 403.12(C), but not

including the processing of farm crops which are a permitted use as described in subsection 403.02(E), subject to Section 1101, Site Design Review.

[text omitted]

403.12 Definition of Terms Used in this Section

[text omitted]

C. Commercial Activities in Conjunction with Farm Use - As authorized under subsection 403.04(G), a commercial activity in conjunction with farm use is:

- 1. The processing, packaging, and wholesale distribution and storage of a product not derived primarily from farm activities on the premises;*
- 2. Retail sales and promotion of agricultural products, supplies and services directly related to the production, harvesting, and processing of agricultural products. Such uses include, but are not limited to, the following:*
 - Storage, distribution and sale of feed, fertilizer, seed, chemicals, and other products used for commercial agriculture*
 - Livestock auction or sales yards*
 - Farm equipment storage and repair facilities*
 - Storage, repair, or sale of fencing, irrigation pipe and pumps, and other commercial farm-related equipment and implements*
 - Veterinarian clinics*
 - Slaughtering of animals, including attendant retail and wholesale sales*
 - Wineries not listed as a permitted use*

Board Findings: Applicant is requesting a conditional use permit for the operation of a by-appointment-only wine tasting facility (tasting room), with no onsite wine production proposed at this time. Applicant testified that Corollary Wines produces sparkling wines and currently obtains all of the fruit for their wines from vineyards that are within 25 miles of the Property. Applicant also testified that Applicant is planting an initial 11 acres of grapes on the subject tract in 2023. A site visit by Commissioner Johnston confirmed that Applicant is preparing the Property for vineyard planting and Applicant produced receipts for the purchase of vines.

Applicant proposes a tasting room that will feature the wines produced from fruit sourced in the local agricultural area and eventually will include wines made from the proposed onsite vineyard.

Based on these facts, the Board finds that Applicant's proposed use qualifies as commercial activity in conjunction with farm use as retail sales and promotion of agricultural products under YCZO 403.04(G) and 403.12(C)(2). The Board also finds that Applicant's proposed use will enhance local farming enterprises consistent with the standard set forth by the Oregon Supreme Court in *Craven v. Jackson County*, 308 Or 281, 289 (1989). Applicant's proposed use will enhance the farm use of the Property as well as the farm uses associated with local vineyards by building the market for local wine grapes.

The Board also finds that appellants have not challenged Applicant's compliance with the state and local standards governing commercial activities in conjunction with farm use.

Section 1202.00 - Conditional Use Criteria and Requirements

[text omitted]

1202.02 Review Criteria

A conditional use may be authorized, subject to the Type B application procedure set forth in Section 1301, upon adequate demonstration by the applicant that the proposed use will be compatible with vicinity uses, and satisfies all relevant requirements of this ordinance and the following general criteria;

A. The use is listed as a conditional use in the underlying zoning district;

Board Findings: For the reasons described above, the Board finds that Applicant's proposed use qualifies as the conditional use of commercial activity in conjunction with farm use.

B. *The use is consistent with those goals and policies of the Comprehensive Plan which apply to the proposed use;*

Board Findings: Regarding criterion (B), Yamhill County goals and policies do not provide specific standards or review criteria for wine tasting rooms. The Property is not located in an area which is designated as sensitive wildlife habitat, nor is it in the Willamette River Greenway, a floodplain or airport overlay district.

The *County Comprehensive Plan* states that agriculture and forestry play a dominant role in the County's economy and calls for preserving that role while increasing economic diversification and employment. The Applicant's proposal furthers that goal by supporting local agriculture through the purchase of grapes from growers in the local agricultural area and by supporting the development of farm use on the Property. The request satisfies criterion 1202.02(B).

The Board also finds that appellants have not argued that Applicant's proposed use is inconsistent with the County Comprehensive Plan.

C. *The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features;*

Board Findings: The Board finds that the Property is suitable for Applicant's proposed use given its size, location and geography. The Property is 57 acres and was recently logged, meaning it is not currently in farm or forest use. The Property is located in the Eola-Amity Hills American Viticultural Area (AVA), which is recognized as one of the most premier winegrowing areas in Oregon.

Applicant testified that it is extremely difficult to find plantable vineyard land in the Eola-Hills AVA, in part due to the parcelization for rural residential development that has occurred in this area. Applicant also testified that vineyard site selection is the most important factor in the production of Applicant's wines because their wines are designed to express the terroir of the place where the wine grapes are grown. State and County policy have long recognized that wine tasting rooms and associated visitor activities on rural vineyards help build the market for local grapes and wine, which is valuable to the local agricultural economy. The Property is therefore an appropriate location for a tasting room, and is also consistent with the characteristics of other local lands developed with wineries and tasting rooms.

The Property also has direct access to a public road and County Public Works staff have determined that Applicant's proposed access will function without issue with the improvements described in the conditions of approval. Local fire officials have determined that it is feasible for the access and tasting room to meet applicable fire

code standards. The Board finds that this further demonstrates the suitability of the Property for the proposed use.

The Board recognizes that appellants have challenged Applicant's proposed access and the suitability of Sartore Road for the proposed use as described below, but appellants have not argued that the Property is not suitable for the proposed use under the standard set forth in YCZO 1202.2(C).

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;

Board Findings: The surrounding area is dedicated to a mix of forest, farm, and rural residential uses. The farm uses include Christmas tree farms, grass seed and hay production, pasture for cattle grazing and vineyard. Wineries and tasting rooms are also present near the Property, including on SE Eola Hills Road. The proposed use of the Property will be for a by-appointment tasting room which will serve wine produced off-site by grapes that are grown off-site, but within the local agricultural area, as well as wine produced on the Property once the vineyard is mature.

Applicant proposes an agriculturally-related use in an agricultural zone. It is the County's policy to protect agricultural and forest operations from conflicting land uses in such designated areas. As described above, it is also County policy to preserve the role of agriculture in the local economy. The Board therefore finds that Applicant's proposed use is consistent with the character of the surrounding area.

The appellants do not specifically challenge Applicant's compliance with YCZO 1202.02(B). The Board understands the appellants to argue generally that the Applicant's tasting room will negatively affect residential quality of life and property value in the neighborhood, primarily due to visitor traffic. The Board also heard testimony from other residential neighbors who support Applicant's proposed use and believe that Applicant's business will benefit the neighborhood. The record also includes evidence that the prior owners of the Property have retained a homesite parcel adjacent to the Property due to the value and desirability of a homesite adjacent to Applicant's vineyard and tasting room. The Board therefore finds that appellants' assertions do not call into question Applicant's compliance with YCZO 1202.02(B).

The Board finds that the proposed use will not impair permitted uses in the surrounding area given the nature and scale of the proposed use and conditions of approval imposed by Planning Commission and affirmed by the Board. The conditions require that the tasting room is by appointment only with limited hours. The conditions also require improvements to Sartore Road and the Board finds that these conditions are adequate based on Applicant's traffic study and the information

in the record from Public Works staff and local fire officials. Additional related findings are described below under criteria YCZO 1202.02(E) and (F).

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

Board Findings: For purposes of evaluating this criterion, the Board considers “public facilities and services” to be public roadways, public water system, public sanitary systems, stormwater discharge systems, fire protection services, police and emergency response and the like. The Board finds that the only public facilities and services for the proposed use are access off Sartore Road, fire service, and police and emergency service.¹ The record demonstrates that both Public Works and the Amity Rural Fire Protection District are satisfied that public facilities and services are adequate for the proposed use with the conditions imposed by the Planning Commission. Water and septic will be handled onsite for the Property under a private system and ongoing compliance is ensured by Condition 3.

The proposed use is required to meet the access and water supply standards and requirements established by the Amity Rural Fire Protection District as a condition of approval. It is feasible for Applicant to meet these requirements based on the discussion of Applicant’s access and fire protection plan in the record between Applicant and fire officials. The Board rejects the argument in the Schofield Appeal regarding adequacy of emergency vehicle access based on this information from local fire officials and the evidence regarding current conditions and planned improvements to Sartore Road discussed below.

The three appeals are each largely focused on traffic-related issues on Sartore Road. As documented in Applicant’s traffic study, the Yamhill County Transportation System Plan (TSP) states that local privately maintained public roads are designed to accommodate up to 400 vehicle trips per day. Although the Kopinski Appeal asserts that “it is not appropriate to put more than six cars on Sartore Rd. at any given time,” the appellants did not provide evidence to support this statement or evidence that otherwise challenges the capacity standard in the TSP or the related conclusions of Applicant’s traffic study.

At the hearing before the Board, Mr. Kopinski played a video purporting to show traffic issues on Sartore Road. Mr. Kopinski explained that the appellants staged the video using their own vehicles and driving demonstrations. The Board finds that the video is not persuasive regarding either current traffic conditions or

¹ The Board finds that the garbage receptacle placement issue raised in the Schofield Appeal does not relate to public facilities under this criterion, and that the appellants did not allege that the garbage situation they describe relates to any applicable approval criteria for Applicant’s proposed use.

conditions that will be associated with Applicant's tasting room. Other neighbors testified that large logging trucks were able to successfully navigate the roadway during recent timber harvest on the Property and that a Christmas tree farm on the road successfully hosts visitors during the holiday season.

Moreover, the conditions of approval require increasing the width of the first 250 feet of Sartore Road to 20 feet wide,² and clearing of brush that is currently growing over the roadway. Applicant's traffic study details conditions along the roadway and notes that vegetation has encroached up to nine feet into the paved roadway in certain areas. Therefore, based on Applicant's traffic study, feedback from Public Works and the associated conditions of approval, the Board finds that Sartore Road and the adjoining public roadways are adequate to serve Applicant's proposed use. YCZO 1202.02(E) is met.

F. The use is or can be made compatible with existing uses and other allowable uses in the area.

Board Findings: The Board finds that Applicant satisfies YCZO 1202.02(F) for the reasons described above in the Board's findings regarding YCZO 1202.02(D).

Appellants generally argue that Applicant's tasting room is incompatible with residential uses in the neighborhood without additional or different conditions of approval. The appellants, however, presented inconsistent proposals for alternative approval conditions. The Scheible Appeal, for example, proposed requiring Applicant to utilize Tax Lot 2800 to provide access to the Property from Eola Hills Road. Applicant explained how this access could impact other neighbors, would interfere with Applicant's vineyard, and would require a new intersection with Sartore Road. Appellants Michael and Randilynn Owens, by contrast, argued for access through an easement off of Skyline Road. Applicant explained that Skyline Road is not adjacent to the Property and Applicant does not have the property rights that would be needed to develop an access to Skyline Road. Before the Planning Commission, some opponents made a proposal for access via Old Bethel Road and Applicant explained that there is no easement to the Property from Old Bethel Road.

Similarly, some appellants argued to the Board for a different access point for the tasting room along Sartore Road. County Public Works concluded that sight distance is adequate along Sartore Road from Applicant's proposed access. The

² Based on the survey document and correspondence from Public Works in the record, the Board finds that the existing public right of way is adequate to accommodate the widening required by the conditions of approval. The Board therefore rejects the argument in the Schofield Appeal regarding road widening.

Board heard testimony that the location of the proposed alternative Sartore Road access is not preferable to the location of Applicant's proposed access.

Given the evidence supporting the conditions imposed by the Planning Commission and the inconsistency of appellants' alternative proposals, the Board chooses to affirm the Planning Commission's conditions to ensure compliance with YCZO 1202.02(F). The Board finds that the various alternative conditions proposed by the different appellants tend to benefit certain neighbors at the expense of others and therefore do not further the compatibility standard at 1202.02(F).

Finally, the Board also rejects the Kopinski Appeal's request for a six car limit on the Property for the reasons described above in the Board's findings regarding YCZO 1202.02(E). The Board finds that the vehicle limit proposed by the Kopinski appeal is not necessary to satisfy either YCZO 1202.02(E) or (F).

2. **Farm Impact Test (ORS 215.296 & YCZO 403.07)**

SECTION 400 - NATURAL RESOURCE DISTRICTS

403. AGRICULTURE/FORESTRY DISTRICT (AF-20, AF-40, AF-80)

[text omitted]

403.07 Additional Standards for Approval of Conditional Uses

A. In the Agriculture/Forestry District, prior to establishment of a conditional use, the applicant may be required to demonstrate compliance with the following criteria in addition to other requirements of this ordinance:

- 1. The use will not force a 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.*

Board Findings: The Applicant is requesting a conditional use permit for a commercial activity in conjunction with farm use, for the establishment of a wine tasting facility (tasting room). There is nothing in the record that suggests that the Applicant's proposed by-appointment tasting room will generate any adverse

impacts upon surrounding lands that would lead to changes or increased costs in farming practices.

Applicant submitted an inventory of farm uses in the surrounding area and the specific farming practices associated with those uses. Applicant also explained why Applicant's proposed use would not force a significant change in the identified accepted farm and forest practices, or significantly increase the cost of those practices. Appellants did not challenge Applicant's farm impact analysis or otherwise question Applicant's compliance with YCZO 403.07(A). The Board therefore adopts as findings Applicant's farm practices inventory and Applicant's January 19, 2023 analysis of compliance with YCZO 403.07(A). Applicant's proposed use satisfies YCZO 403.07(A), which implements ORS 215.296.

3. Site Design Review Criteria and Findings

SECTION 1100 – SITE DESIGN

1101. SITE DESIGN REVIEW PROCESS AND STANDARDS

[text omitted]

1101.02 Evaluation of Site Development Plans.

Board's Introductory Finding: Appellants have not challenged Applicant's compliance with the County's site design review standards. The Board nevertheless adopts the following findings regarding Applicant's compliance with these standards.

A. The review of a site development plan shall be based upon consideration of the following:

1. Characteristics of adjoining and surrounding uses;

Board Findings: Regarding standard (1) above, the neighboring properties are a mixture of Farm and Forest with rural residential uses dispersed throughout. The Applicant provided a farm and forest practices inventory as part of their amended application narrative. Applicant notes that the farm uses include grass seed and hay production, vineyard, pasture for cattle grazing, and Christmas tree farms. Applicant also notes that passive and active forestry operations dot the surrounding area. Rural residential uses often accompany these farm and forestry uses. The area that is zoned AF-10 has a higher density of residences which is to be expected in an exception area. A more comprehensive description of the characteristics of the adjoining and surrounding uses is found in the Board's findings regarding YCZO 1202.02(C) and (D) above and in Applicant's farm practices inventory. The

Applicant's farm uses are very similar to the character of the surrounding area. The proposed use is consistent with the characteristics of the surrounding uses. The request is consistent with the above site design review standard.

2. *Economic factors relating to the proposed use;*

Board Findings: Regarding standard (2) above, the Applicant notes that the tasting room will directly support the farming activities to occur on the Property and those of vineyards from the local agricultural area that the Applicant sources fruit from. All of the grapes to be grown on the Property will be processed at an offsite winery. The Applicant states that the proposed use is consistent with the Yamhill County comprehensive plan "which calls for protecting high value farmland and preserving the dominant role that it plays in the County's economy while increasing economic diversification and employment. Our proposal supports this objective by boosting the production of local grapes, building the reputation of the Eola- Amity Hills as a world class winegrowing region and providing employment of local personnel in the vineyard and tasting room." The Applicant's request is consistent with the above site design review standard.

3. *Traffic safety, internal circulation and parking;*

Board Findings: The Board finds that the proposed use satisfies YCZO 1101.02(A)(3) for the reasons described above in response to the criteria at YZCO 1202.02(C), (E) and (F). Applicant's site plan demonstrates adequate access, circulation and parking. Conditions of approval 1, 5, 6, 8 and 9 further ensure compliance with this criterion.

4. *Provisions for adequate noise and/or visual buffering from noncompatible uses;*

Board Findings: Regarding standard (4) above, while the future farming activities onsite, 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 activities at the tasting room are not expected to create excessive noise. The Applicant notes that the tasting room location will be buffered from surrounding uses to the north and south by forest and vineyard, to the west by forest and to the east by vineyard. Applicant also notes that the central location of the tasting room will keep the proposed use far from shared property lines with neighbors. The request is consistent with the above site design review standard.

5. *Retention of existing natural features on site;*

Board Findings: Regarding standard (5) above, the application is requesting approval for a tasting room on a parcel that was previously devoted to forest uses.

The timber was harvested in 2020 prior to the sale of the tract to the Applicant. Currently, the parcel consists of stumps from said harvest and some stands of oak trees. The Applicant notes that Applicant intends to retain oak stands in areas where the topography is not conducive to establishing vineyard. The request is consistent with the above site design review standard.

6. *Problems that may arise due to development within potential hazard areas.*

Board Findings: Regarding standard (6) above, the Property is not located in an area which is designated as sensitive wildlife habitat, nor is it in the Willamette River Greenway, floodplain or airport overlay district, and there are no apparent hazards associated with the Property or area that may arise or be exacerbated by the Applicant's proposed establishment of a tasting room. The request is consistent with the above site design review standard.

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

Board Findings: The Board finds that comments and/or recommendations of adjacent and vicinity owners have been addressed pursuant to the findings above.

D. Conclusion

Based on the findings above, the request for conditional use and site design review request for a commercial activity in conjunction with farm use for the operation of a by-appointment-only wine tasting room with no on site wine production complies with the conditional use criteria listed in YCZO Sections 402.04(G), 402.07(A) and 1202.02 and the site design review standards listed in YCZO Section 1101.02 with conditions. Therefore the request is approved with the conditions identified in Section E below.

E. Conditions of Approval

1. The development shall substantially conform to the revised site plans submitted with this application. This includes the planting of eleven (11) acres of vineyard by December 31, 2023.
2. All required building, plumbing, and electrical permits shall be obtained from the Yamhill County Building Department prior to use of the tasting room.
3. Prior to issuance of building permits, the Applicant shall obtain approval from the County Sanitarian for a septic system for the proposed use.
4. The tasting room shall be operated by appointment only and have operating hours of 9:00am to 6pm.

5. Prior to issuance of building permits, the Applicant shall provide evidence that the first 250 feet of Sartore Road be improved and widened to a minimum of 20 feet wide. The roadway areas less than 18 feet wide (excluding the first 250 feet) may remain as is.
6. Prior to issuance of building permits, the Applicant shall provide evidence that the roadside vegetation along Sartore Road has been removed to expose the existing edge of the pavement.
7. Prior to issuance of building permits, the water supply and access will be required to meet the Amity Rural Fire Protection District standards.
8. Parking shall be established and permanently maintained as long as the tasting room is operating so that there is a minimum of one parking space for each employee on maximum working shift, and one parking space per 100-square feet of tasting room area pursuant to Section 1007 of the YCZO.
9. Parking shall not be permitted on the driveway, or along the SE Sartore Road or Eola Hills Road right-of-way.
10. Wine production shall not occur onsite without additional land use approval.
11. There shall be no use of outdoor amplified music or sound in conjunction with the operation of the tasting room.
12. Pursuant to YCZO Section 1006.07(A) of the Yamhill County Zoning Ordinance the use shall be allowed a single sign not to exceed twenty-four (24) square feet in area, subject to permit approval. This signage must also include that the tasting room is by appointment only.
13. Prior to operation of the facility, the Applicant shall obtain all permits required by the Oregon Liquor Control Commission (OLCC) and the Oregon Department of Agriculture (ODA).
14. "Agri-tourism or other commercial events" per subsection (2)(d) of ORS 215.452 are not authorized without additional approval. "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 is a secondary purpose of the event.
15. 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 and forest uses. It is the county policy to protect agricultural and forest operations from

conflicting land uses in such designated areas. Accepted agricultural and forest practices in this area may create inconveniences for the owners or occupants of this property. However, Yamhill County does not consider it the agricultural or timber 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."

16. This approval shall expire two years from the date of this approval unless the use has been initiated.
17. This approval shall be deemed personal to the Applicant and shall not run with the land.
18. The construction of any additional structures or modification to the footprint of the proposed tasting room shall require additional land use approval prior to the issuance of building permits.
19. 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.

END