

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of Upholding the Planning Director's Decision to Approve Planning Docket C-14-23, a Conditional Use Permit for Tax Lot No. 3409-00101; Applicant: Carlton Hub, LLC

BOARD ORDER 24-27

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on February 8, 2024, Commissioners Lindsay Berschauer, Kit Johnston, and Mary Starrett being present.

IT APPEARING TO THE BOARD as follows:

WHEREAS, The Applicant, Carlton Hub, LLC, submitted a conditional use request for the operation of a commercial activity in conjunction with farm use to allow the tasting of locally produced wine and the sale of locally produced wine, beer, and other malt beverages, and cider at the existing approved onsite farmstand; and

WHEREAS, The Planning Director approved the request on November 29, 2023, as provided in the attached Exhibit A; and

WHEREAS, The Planning Director's decision was appealed to the Board and a hearing was held on January 25, 2024; and

WHEREAS, Following deliberation, the Board voted unanimously to uphold the Planning Director's decision, deny the appeal, and approve the request; and now, therefore,

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

Section 1. Planning Docket C-14-23 is hereby approved, subject to the following conditions:

1. The development shall substantially conform to the site maps submitted with the Applicant's application.
2. The wine tasting service and alcohol sales shall occur within the existing farmstand building located on Tax Lot 3409-00101.

3. Alcohol sales at the farmstand shall be limited to locally produced wine, locally produced beer and other malt beverages, and locally produced cider. The local area is defined as all counties in Oregon.
4. The farmstand shall only sell farm crops and livestock grown on the Applicant's farm operation and other farm operations in the local agricultural area, including the retail sale of incidental items and fee-based activities to promote the sale of farm crops or livestock sold at the farmstand. The annual sale of incidental items and fees from promotional activities shall not make up more than one-quarter (25%) of the total annual sales of the farmstand. The "local agricultural area" is defined as all counties in Oregon.
5. Prior to issuance of building permits, the Applicant shall obtain authorization from the County Sanitarian for the farmstand to use the existing septic system or shall receive approval for a new septic system to serve the farmstand.
6. Parking shall be established and permanently maintained for as long as the farmstand is operating so that there is a minimum of one parking space for each employee on maximum working shift, and one (1) parking space per 100 square feet of wine tasting area, and one (1) parking space per 300 square feet of farmstand area pursuant to Section 1007 of the Yamhill County Zoning Ordinance. Parking shall not be permitted along the Highway 47 right-of-way. Parking shall not be permitted on any surrounding property not under the ownership of the Applicant.
7. The use of outdoor amplified music or sound shall not be permitted.
8. Prior to the provision of wine tasting service or sale of locally produced wine, locally produced beer and other malt beverages, and locally produced cider, the Applicant shall obtain all permits required by the Oregon Liquor Control Commission (OLCC).
9. Prior to issuance of building permits, the water supply and access driveway will be required to meet the Yamhill Fire Department standards.
10. Any lighting for the farmstand shall be shielded, deflected, or directed onto the Applicant's property, so it does not shine onto the county road or adjacent lots.
11. "Agri-tourism or other commercial events" shall not occur on the subject parcel without additional land use approval. "Agri-tourism or other commercial events" include outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, and celebratory gatherings.
12. This approval shall expire two years from the date of this letter unless the use has been initiated.
13. This approval shall be deemed personal to the Applicant (Carlton Hub, LLC), Frank Foti and the current property owner (Carlton Hub, LLC) and shall not run with the land.

14. This approval shall expire two years 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 existing structure(s) used in conjunction with the farmstand shall require the submission and approval of a Site Design Review application.
16. 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 Board hereby adopts the findings set forth in Exhibit B, attached hereto and incorporated herein, in support of this approval.

DATED this 8<sup>th</sup> day of February 2024, at McMinnville, Oregon.

ATTEST: AYE - 3  
NAY - 0



YAMHILL COUNTY BOARD OF  
COMMISSIONERS

Handwritten signature in blue ink.

Chair LINDSAY BERSCHAUER

KERI HINTON  
County Clerk

By:   
Deputy CAROLINA ROOK

  
Commissioner KIT JOHNSTON

FORM APPROVED BY:

  
JODI GOLLEHON  
Assistant Yamhill County Counsel

  
Commissioner MARY STARRETT

**COPY Yamhill County**  
**DEPARTMENT OF PLANNING AND DEVELOPMENT**

525 NE 4TH STREET • McMINNVILLE, OREGON 97128

Phone: 503-434-7516 • Fax: 503-434-7544 • TTY: 800-735-2900 • Internet Address: <http://www.co.yamhill.or.us/planning>

November 29, 2023

Carlton Hub, LLC  
Attn: Frank Foti  
15990 NW Red Shot Lane  
Carlton, OR 97111

Re: **Docket No. C-14-23, Tax Lot 3409-00101**

In reference to the conditional use permit and site design review request for a commercial activity in conjunction with farm use to allow the sale of locally produced wine, beer, cider, and other malt beverages at the existing onsite farmstand, with no onsite wine, beer, or cider production, Planning staff has reviewed your application and finds that it complies with the requirements of the Yamhill County Zoning Ordinance. Your application has been approved with the following conditions:

1. The development shall substantially conform to the site maps submitted with this application (see enclosures).
2. The wine tasting service and alcohol sales shall occur within the existing farmstand building located on Tax Lot 3409-00101.
3. Alcohol sales at the farmstand shall be limited to locally produced wine, beer and other malt beverages, and cider. The local area is defined as all counties in Oregon.
4. The farmstand shall only sell farm crops and livestock grown on the Applicant's farm operation and other farm operations in the local agricultural area, including the retail sale of incidental items and fee-based activities to promote the sale of farm crops or livestock sold at the farmstand. The annual sale of incidental items and fees from promotional activities shall not make up more than one-quarter (25%) of the total annual sales of the farmstand. The "local agricultural area" is defined as all counties in Oregon.
5. Prior to issuance of building permits, the Applicant shall obtain authorization from the County Sanitarian for the farmstand to use the existing septic system or shall receive approval for a new septic system to serve the farmstand.
6. Parking shall be established and permanently maintained for as long as the farmstand is operating so that there is a minimum of one parking space for each employee on maximum working shift, and one (1) parking space per 100 square feet of wine tasting area, and one (1) parking space per 300 square feet of farmstand area pursuant to Section 1007 of the Yamhill County Zoning Ordinance. Parking shall not be permitted along the Highway 47 right-of-way. Parking shall not be permitted on any surrounding property not under the ownership of the Applicant.

# COPY

7. The use of outdoor amplified music or sound shall not be permitted.
8. Prior to the provision of wine tasting service or sale of locally produced wine, locally produced beer and other malt beverages, and locally produced cider, the Applicant shall obtain all permits required by the Oregon Liquor Control Commission (OLCC).
9. Prior to issuance of building permits, the water supply and access driveway will be required to meet the Yamhill Fire Department standards.
10. Any lighting for the farmstand shall be shielded, deflected, or directed onto the Applicant's property, so it does not shine onto the county road or adjacent lots.
11. "Agri-tourism or other commercial events" shall not occur on the subject parcel without additional land use approval. "Agri-tourism or other commercial events" include outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, and celebratory gatherings.
12. This approval shall expire two years from the date of this letter unless the use has been initiated.
13. This approval shall be deemed personal to the Applicant (Carlton Hub, LLC), Frank Foti and the current property owner (Carlton Hub, LLC) and shall not run with the land.
14. This approval shall expire two years 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 existing structure(s) used in conjunction with the farmstand shall require the submission and approval of a Site Design Review application.
16. 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*.

The Yamhill County Zoning Ordinance provides for appeal of any action or ruling of the Planning Director to the Board of Commissioners within fifteen (15) days of the decision on a proposed action. Anyone wishing to appeal the Director's decision must file an appeal form, together with a \$250.00 fee, with this department no later than **5:00 p.m., December 14, 2023**. If no appeal is filed, the Director's decision will be final and this letter will serve as your official notice of approval of your application.

# COPY

Docket 0-1-27  
24/10/17/18 LLC  
Page 3

If you have any questions, please contact this office.

Sincerely,



Kenneth P. Friday  
Planning Director

Enclosure

cc: Board of Commissioners  
Public Works  
ODOT  
Assessor  
SPOs and Interested parties  
Public Health  
Yamhill Fire Department  
Sanitarian  
Watermaster  
Soil & Water Conservation District

**EXHIBIT B**  
**FINDINGS IN SUPPORT OF APPROVAL**  
**(Board Order 24- 27 )**

**HEARING DATE:** January 25, 2023

**DOCKET NO.:** C-14-23

**REQUEST:** A conditional use request for the operation of a commercial activity in conjunction with farm use to allow the tasting of locally produced wine and the sale of locally produced wine, beer, and other malt beverages, and cider at the existing approved onsite farmstand.

**APPLICANT:** Carlton Hub, LLC

**OWNER:** Carlton Hub, LLC

**TAX LOT:** 3409-00101

**LOCATION:** 15713 Highway 47, Yamhill

**ZONE:** Exclusive Farm Use (EF-80) zone.

**CRITERIA:** Sections 402.04(I), 1004.01, and 1202.02 of the *Yamhill County Zoning Ordinance* (YCZO). Comprehensive Plan policies may also be applicable.

**FINDINGS OF FACT:**

**A. Background Facts**

1. *Parcel Size:* Approximately 5.13-acres.
2. *Access:* The property has direct access to Highway 47(Tualatin Valley Highway, No. 029).
3. *On-site Land Use and Zoning:* The subject parcel is located within the EF-80 zone, the Exclusive Farm Use District. There are a variety of farm uses occurring on the property, including vineyards, livestock pasturage, the rearing of poultry, with a few fruit or nut trees planted onsite. The western half of the property, measuring approximately 2.3-acres, is located within the 100-year floodplain and floodway of Yamhill Creek. There is a dwelling, barns, shop (used for poultry processing), garage, and tool shed located on the property. In 2007, a previous owner received land use approval for the operation of a poultry and rabbit processing facility as well as for the sale of mead made on the premises. A farm stand was approved in 2020/2021, Docket C-20-20/SDR-24-20, for a previous owner. In 2023, a new conditional use permit was issued for the current owner to operate

the onsite farmstand and bed and breakfast operation occurring on the subject parcel, Docket C-06-23/SDR-05-23.

4. *Surrounding Land Use and Zoning:* The surrounding parcels are all located within the EF-80 zone, the Exclusive Farm Use District. Land use in the area consists predominantly of larger agricultural operations, including nut orchards, grass seed and alfalfa hay cultivation, some scattered and infrequent livestock pasturage. The subject parcel is one of the smaller lots in the area, and the surrounding area is generally characterized by its larger lot sizes, ranging from approximately 5-acres to over 200-acres. Many of the surrounding properties also have a dwelling located onsite, with many of the homesites clustered along the Highway 47 frontage for each respective parcel.
5. *Water:* Water is provided to the site by the City of Yamhill.
6. *Sewage Disposal:* A septic system currently serves the existing plumbed structures.
7. *Fire Protection:* Yamhill Rural Fire Protection District.
8. *Previous Actions:* In 2023, a new conditional use permit was issued for the current owner to operate the onsite farmstand and bed and breakfast operation occurring on the subject parcel, Docket C-06-23/SDR-05-23. Also in 2023, a six event agri-tourism permit was approved, Docket E-24-23. In 2020, the current owner received approval for a 2-guestroom bed and breakfast and a farmstand, Docket C-20-20/SDR-24-20. In 2007, the prior owner received approval for the operation of a poultry and rabbit processing facility in addition to the sale of mead produced on the premises, Docket C-02-07/SDR-03-07. In 1991, a previous owner received approval for the operation of a home occupation, Docket C-76-90.
9. *Deferral:* The Assessor's office records indicate that 4.13 -acres of the property are receiving farm tax deferral.
10. *Overlay Districts:* Yamhill Creek flows through the applicant's property and there is a 100-year floodplain associated with Yamhill Creek, pursuant to FIRM Panel 41071C0183D. The existing structure the applicant has identified as the site of the farm stand is located approximately 140-feet from the 100-year floodplain. The tract is not within an identified sensitive wildlife habitat area, the Willamette River Greenway, or an airport overlay district.
11. *Applicant:* The Applicant is part of a collection of farm entities called The Ground. The Ground's farm operation spans 440 acres and is home to over 80 cattle, 75 pigs, 1,000 chickens, 500 ducks, 200 turkeys, and 150 species of veggies and edible flowers. The Ground includes the farmstands in this application and companion application (C-15-23 / C-14-23), bed and breakfasts immersed within the farm, a restaurant in McMinnville serving farm-fresh food, and others. The farm ties all these together. The Ground describes its work in terms of connecting farm, food, and people with hospitality to all species. The Ground helps patrons develop a profound understanding and appreciation of where their

food grows when they visit The Ground's farmstands, tour The Ground's farming operations, and stay at The Ground's agricultural B&Bs, where cows graze mere yards away from the front porch and eight miles of trails pass through The Ground's animal husbandry and crop cultivation. The Ground has an integrated farm operation that uses creative strategies to derive profit from farming and benefit the entire agricultural community. The integration of The Ground's farming operation is necessary to support The Ground's commercial farm uses.

12. *Explanation of Request:* The Applicant is requesting approval for the sale of alcohol and to provide wine-tasting service from the existing approved farmstand on the subject parcel. This would complement core meat and veggies sales. If approved, there will be minimal construction activities required to the farmstand and the Applicant notes that these improvements will be to the interior of the farmstand.

On November 3<sup>rd</sup>, 2023, the Applicant submitted an addendum to the application which states that the Applicant is requesting the alcohol sales to include wine, beer, and other malt beverages, cider, and alcoholic drinks as approved by the OLCC. Because the Applicant only explicitly defined these beverages to include wine, beer and other malt beverages, and cider that is what was evaluated and considered for approval. The Applicant had not sufficiently defined or justified a carte blanche approach to approving alcohol sales from a farmstand or attempted to justify how every type of alcohol permitted by OLCC could be considered a commercial activity in conjunction with farm use [emphasis added]. On November 3<sup>rd</sup>, 2023, the Applicant submitted an addendum to the application which provided a farm impacts analysis.

The request effectively maintains the status quo. The existing farmstand building on Highway 47 was operated by the prior owner with alcohol sales approved by the County. The current application will similarly allow alcohol sale options in the same farmstand building.

13. *Procedural History:* The Planning Director approved the application with conditions. That approval was appealed by Friends of Yamhill County. Notice for the appeal hearing was provided consistent with County code. The Applicant supported the conditions proposed by the Planning Director and agreed that approval included sales of wine, beer and other malt beverages, and cider. Appeal hearings for farmstand applications C-15-23 and C-14-23 were consolidated due to significant similarity after Friends of Yamhill County confirmed in writing that it did not object. After considering all the information in the record, the County Commission unanimously voted to affirm the Planning Director's decision based on the reasons included in the staff report (incorporated herein by reference), in addition to the findings herein.

## **B. Conditional Use Provisions and Analysis**

1. Section 402.04(G) lists commercial activities that are conducted in conjunction with farm use as a conditionally permitted use subject to site design review in the Exclusive Farm Use District. These uses are defined in Section 402.10(B)(2) which lists uses that provide

for the “Retail sales and promotion of agricultural products, supplies and services directly related to the production, harvesting, and processing of agricultural products.” The Applicant’s proposed use is for the provision of wine tasting service and alcohol sales from an existing, approved farmstand on a parcel with no onsite wine production and no onsite vineyard.

The farmstand already sells meat and veggies. Livestock and poultry are farmed on the subject parcel, which produces meat sold at the farmstand along with selling farm products produced by the applicant on nearby property.

The Applicant’s proposed use is for the retail sales and promotion of processed agricultural products, in the form of alcohol and wine produced by farmers in the local area. State law defines the local area as the State of Oregon. If approved, the farmstand will be limited to wine tasting and the sale of alcohol that has been produced in Oregon. Because the Applicant has only explicitly defined these beverages to include wine, cider, beer and other malt beverages, that is what was evaluated and considered for approval. Wines, ciders, beer or other malt beverages sold at the farmstand that are from outside the local area would be considered incidental items, and the sale of any incidental items at the farmstand shall not account for more than 25% of the total sales at the farmstand.

Friends of Yamhill County submitted comments regarding the Applicant’s request and notes that a request for a commercial activity in conjunction with farm use must be directly related to farming and processing activities, and notes that the Applicant does not produce, harvest, or process wine grapes so the proposed use does not satisfy the definition of a commercial activity in conjunction with farm use. At the hearing, Friends of Yamhill County argued that wine is not a farm product and reiterated prior arguments.

Section 402.10(B)(2) of the YCZO states that a commercial activity in conjunction with farm use is authorized to include, “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 ... livestock auctions or sale yards; farm equipment storage and repair facilities; storage, distribution and sale of feed, fertilizer, seed, chemicals, and other products used for commercial agriculture; veterinarian clinics; slaughtering of animals, including attendant retail and wholesale sales ...”. Friends of Yamhill County’s analysis of this section of the county zoning ordinance is an incomplete reading and appears to incorrectly assume that a commercial activity in conjunction with farm use is a use permitted to only commercially market products derived from onsite farm uses. Friends of Yamhill County’s appeal argued that: “Since the applicant does not produce, harvest, or process the fruit for alcoholic beverages or the beverages themselves, the proposed use does not satisfy the definition of a commercial activity in conjunction with farm use.” Appeal Attachment, page 2.

Friends of Yamhill County’s argument contradicts the plain language of Yamhill County’s Code, as well as decades of case law. The County’s approval is based on two independently sufficient reasons: (1) state case law and (2) the County’s interpretation of its own code.

Oregon Courts have held that:

to be ‘in conjunction with farm use,’ the commercial activity must enhance the farming enterprises of the local agricultural community to which the EFU land hosting that commercial activity relates. The agricultural and commercial activities must occur together in the local community to satisfy the statute.

*Friends of Yamhill Cnty. v. Yamhill Cnty.*, 255 Or. App. 636, 644, 298 P.3d 586, 590–91 (2013) (quoting *Craven v. Jackson County*, 308 Or. 281, 289, 779 P.2d 1011 (1989)) (emphasis added). The Court recognized the benefits of “provid[ing] a local market outlet” and selling products that help advertise and cause people to “come to the area and buy the produce of the vineyards and farms. . . [which] may reinforce the profitability of operations and the likelihood that agricultural use of the land will continue.” *Id.*

This application falls squarely within longtime legal precedent by providing an additional local market outlet for both (1) direct sale of alcohol products from local wineries and farm breweries and (2) indirect sale of locally grown hops, grapes, and other fruits that are processed into those alcohol products.

Separate and apart from consideration of state case law, the County’s interpretation of its own code is based on a more comprehensive reading of the ordinance, which makes it clear that a proposed commercial activity in conjunction with farm use is intended to promote or support farm activities occurring in the local area. For example, veterinarian clinics and slaughterhouses are both permitted, but veterinarian clinics that only serve onsite livestock, or slaughterhouses that only process onsite livestock would not be viable commercial activities. Further, the plain reading of this section of the ordinance twice references commercial activities in conjunction with farm use that shall be directly related to promotion of a product harvested or processed on the site (emphasis added):

- “*Rental or lease of facilities, with or without a fee, in conjunction with an agricultural use for events such as parties, receptions, and banquets with the primary intent of indirect promotion of the product harvested or processed on the site” and*
- “*Four or more promotional events in a calendar year that are directly related to the marketing of products harvested or processed on the site that are reasonably expected to attract more than 750 visitors daily. An “event” shall not exceed three consecutive days.*”

Similar limits do not apply to the entire section.

YCZO 402.10(B)(2) includes “Retail sales and promotion of agricultural products, supplies and services directly related to the production, harvesting, and processing of agricultural products.” Nothing in YCZO 402.10(B)(2) limits farm sales only to what is produced by the operator’s farm. To the contrary, YCZO 402.10(B)(2) goes on to specify that Commercial Activities in Conjunction with Farm Use can include:

- Selling irrigation pipe, pumps, fertilizer, and chemicals even though farms obviously cannot manufacture those products in EF zones.
- Livestock auction yards, veterinary clinics, and slaughterhouses are allowed even if

- no animals are raised on the site or by the operator.
- Farm equipment storage and repair facilities are allowed even if no farm equipment is manufactured or otherwise used for farming on the site or by the operator.
- Wineries not otherwise permitted are allowed, which can include selling alcohol without having a vineyard (similar to the farmstands here).

Further, County code specifically allows farmstands to sell products produced at “other farm operations in the local agricultural area.” YCZO 402.02(B)(1) (e.g. a farmer can partner with a neighbor to sell eggs at the neighbor’s farmstand). Friends of Yamhill County’s misinterpretation will harm farmstands and farms across the county, make it harder to connect customers with local farm products, and further disconnect people from farms.

Robust farmstands are symbiotic with the agriculture surrounding them. Selling alcohol produced by nearby vineyards and farm breweries will not make the Applicant any less a farm. Instead, the entire county’s farming is furthered. The Applicant will also have an additional profit source to benefit overall farming operations and draw in customers for the veggies and meats that the Applicant produces and which serve as the core of farmstand sales.

Due to inflation, international trade pressure, taxes, red tape, and other factors, it is increasingly difficult for farmers to make a profit. Friends of Yamhill County’s arguments would make it harder for farmers to earn a living from farming; all farms and farmstands would be harmed.

Friends of Yamhill County appears to contend that allowing a small amount of alcohol sales and tasting at an existing farmstand to complement the core meat and veggie sales will somehow adversely alter the character of the area. Such concerns are simply unfounded. A low-volume use that is similar to many surrounding uses does not adversely impact the surrounding area. Rather, these applications further the local economic synergy of the wine industry. For decades, expanding wine-related agriculture has been a goal of Yamhill County.

The County finds that the Applicant’s request meets the definition of a commercial activity in conjunction with farm use because the other example uses authorized as commercial activities conducted in conjunction with farm use are deliberately not intended to serve only the onsite farm activities but to collectively serve the local farming community.

As addressed in Section B.1. above, the County has found that the Applicant’s request meets the definition of a commercial activity in conjunction with farm use, which is a use that is conditionally permitted in the Exclusive Farm Use District. The County finds that the Applicant’s request to provide a sales outlet to local wineries, breweries, and cideries is a valid request under Sections 402.04(G) and 402.10(B)(2) of the YCZO.

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;*

Regarding criterion (A), the Applicant is requesting a conditional use permit approval for the sale of alcohol and to provide wine-tasting service from an existing, approved farmstand as a commercial activity in conjunction with farm use. A commercial activity in conjunction with farm use is a conditionally permitted use in the Exclusive Farm Use zone, per Sections 402.04(G) and 402.10(B) of the YCZO subject to Site Design Review, Section 1101 of the YCZO. The Applicant states that the farmstand currently sells local farm products including pork, beef, poultry, lamb, and vegetables. The Applicant asserts that the sale of these farm products will be enhanced and promoted by pairing with alcohol sales, and the proposed sale of wine, cider, beer, and other malt beverages, will promote local agricultural uses (e.g., wineries, breweries, cideries, etc.). The County finds the Applicant's analysis is persuasive and adopts it. A condition of approval will limit wine-tasting service or wine, cider, beer, and other malt beverages, sales to alcohol produced in the State of Oregon.

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

Regarding criterion (B), the Yamhill County goals and policies do not provide specific standards or review criteria for a use that provides for the sale of alcohol or the provision of wine tasting service with no complementary onsite agricultural production from which the wine or other alcohols are produced. As noted above, the Applicant is requesting approval for the provision of wine tasting service and alcohol sales from an existing farmstand as a commercial activity in conjunction with farm use, per Sections 402.04(G) and 402.10(B) of the YCZO. This will be a secondary use that is in conjunction with the primary use on the property. 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 states that the request is consistent with Section II(A), Goal 1, Section II(A), Policy 1, and Section II(A), Goal 2 of the County's Comprehensive Plan because the request will utilize an existing approved farmstand which will encourage customers to purchase local farm products from the farmstand. The County finds the Applicant's analysis is persuasive and adopts it. The County has defined the local area as the State of Oregon, and in the spirit of the Applicant's request, any wine, cider, beer, and other malt beverages, offered for sale at the farmstand shall be limited to those produced in Oregon.

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

Regarding criterion (C), the application needs to demonstrate that the parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements, and natural features. The subject parcel is approximately 5.17-acres in size with an existing single-family dwelling, a farm stand, and a poultry and rabbit meat processing facility. Farm integration allows patrons to develop a profound understanding and appreciation of where their food comes from when they use the same property to tour

farming operations and buy farm products from the farmstand. The farm ties these uses together. The area around the homesite is relatively flat and well-landscaped. The western portion of the subject parcel slopes downward towards the bank of Yamhill Creek, which runs north to south, near the center of the property. The western-half of the property is located within the 100-year floodplain and floodway of Yamhill Creek. The applicant has not proposed any improvements to the existing farmstand that would expand the footprint of the building to be within the identified 100-year floodplain boundaries.

The County received some initial concerns from surrounding property owners regarding the driveway and access to the property from Highway 47. Surrounding property owners were concerned that the driveway was too narrow and that patrons visiting the farmstand would occasionally use a neighbor's driveway rather than the driveway serving the business. A surrounding property owner also noted that patrons visiting the farmstand would occasionally park offsite, on a neighbor's parcel, and were concerned that there is not sufficient onsite parking to serve the farmstand. An additional concern from a neighboring property owner was related to the onsite septic system serving the farmstand and were worried that the system was not designed to handle the potential increase in wastewater that would be generated from the additional services offered at the farmstand.

On November 3<sup>rd</sup>, 2023, the Applicant submitted an addendum to the application which provided, in part, a response to some of the concerns and comments submitted by surrounding property owners. The Applicant notes in this addendum that the driveway serving the farmstand was widened to accommodate two vehicles by removing landscaping and a large tree at the entrance to the subject parcel. The Applicant notes that the removal of landscaping also allowed for the development of three (3) additional parking spaces for patrons visiting the farmstand. Improvements to the parking area included an increase in area for patrons to turn vehicles around so that patrons would not inadvertently drive onto any of the neighboring properties. The Applicant addressed the wastewater concerns expressed by the neighbor by stating that a portable toilet unit has been placed on the property for use by patrons, and that the portable toilet will be pumped regularly so very little additional waste will be added to the septic system if the proposed additional services are approved at the farmstand. The County finds the Applicant's analysis is persuasive and adopts it.

The only comment that the County received from a government agency was from ODOT who stated that the proposed new services offered at the farmstand would not need any new permits or inspections. The County did not receive any comments or concerns from the City of Yamhill, the Yamhill Fire Department, District Watermaster, County Sanitarian, Public Health, or Public Works Department regarding the Applicant's proposed wine tasting service or alcohol sales negatively impacting the existing services on or adjacent to the subject parcel. Conditions of approval will require that the septic system receive approval from the Sanitarian prior to the implementation of the proposed new services. Additionally, access to the farmstand is inspected and approved by the Yamhill Fire Department prior to the implementation of the proposed new services. Another condition of approval will require that the Applicant establish and maintain a parking area that meets the parking requirements provided in Section 1007.02(C) of the YCZO. A condition of

approval will prohibit the Applicant from providing parking along Highway 47 or on any neighbor's property.

4. (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.*

Regarding criterion (D), the Applicant is requesting approval for the sale of alcohol and the provision of wine tasting service from an existing, approved farmstand building. Surrounding parcels are all located within the EF-80 zone, the Exclusive Farm Use District. The County found that land use in the area consists predominantly of larger agricultural operations, including nut orchards, grass seed and alfalfa hay cultivation, some scattered and infrequent livestock pasturage. The subject parcel is one of the smaller lots in the area, and the surrounding area is generally characterized by its larger lot sizes, ranging from approximately 5-acres to over 200-acres. Many of the surrounding properties also have a dwelling located onsite, with many of the homesites clustered along the Highway 47 frontage for each respective parcel.

The Planning Department received comments from Friends of Yamhill County regarding the Applicant's request for alcohol sales and wine tasting service from an existing, approved farmstand. Friends of Yamhill County noted that the Applicant's findings addressing this criterion are conclusory in nature with no analysis presented to support the conclusion that selling alcohol at the existing, permitted farmstand will not alter the character of the surrounding area in a way that limits use of surrounding properties. Friends also contended that numerous wineries in the surrounding area create issues that impede or negatively impact the character of the surrounding area and contends that numerous tasting rooms in the area places a heavier burden on the Applicant to show that an additional tasting room will cumulatively alter the character of the area. Friends of Yamhill County asserted that the Applicant did not adequately define or characterize the area surrounding the subject parcel in a manner that sufficiently evaluates the proposed use and how the surrounding area would or would not be negatively impacted by the addition of wine tasting and alcohol sales from the farmstand. Friends of Yamhill County argued that the proposed use should be denied, at least in part, based on the lack of findings to support the conclusion presented in the justifying narrative submitted with the application form.

The Applicant addresses this criterion by stating that the sale of alcohol, in this case wine, beer and other malt beverages, as well as cider, at the farmstand will not alter the character of the surrounding area in a way that substantially limits, impairs, or prevents the permitted uses of surrounding properties that are all zoned for Exclusive Farm use. The County finds the Applicant's analysis persuasive and adopts it. The Applicant analyzed land uses occurring within 1/3 of a mile of the subject parcel. The Applicant found that there are twenty-two (22), please see Applicant's Table #1 and Exhibit #1 for greater details. The Applicant found that many of the lots in the surrounding area exhibited rural residential uses with small-scale garden uses and personal farming activities. The Applicant identified that feeding and pasturing of livestock, collection of eggs, small orchard management and

harvesting, composting, planting, fertilizing, and harvesting would be activities commonly occurring in conjunction with these small-scale farming and gardening uses. The Applicant also found that there were several lots that were being exhibited commercial-scale farming use and those included Tax Lots 3404-01900, 3403-03300, 3409-00100, 3409-00400, and 3409-01201. The Applicant found that the farm uses occurring on these lots include grass seed cultivation, hazelnut orchards, as well as livestock production and pasturage. The Applicant identified that common farm practices associated with the commercial farm operations in the surrounding area include planting, irrigation, fertilization, flail mowing, disking, harvesting, pruning, pollination feeding, pasturing, herding, and grazing of livestock, the delivery of fodder, and the collection of eggs. The Applicant observes that many of these practices involve the use of heavy machinery and farm equipment, including tractors, dump trucks, flat bed trailers or hay wagons, and harvesters. In some cases, this equipment will be stored on the farm property and in other cases the farm equipment will be transported to one of the surrounding farming operations from offsite. These farming operations may see higher periods of traffic seasonally during harvest season and during this time of year there may be some slow down to the flow of traffic on Highway 47. The County received a response from ODOT regarding traffic to the farmstand and ODOT did not express any concern regarding the proposed new wine tasting service or alcohol sales, but rather stated that the proposed use will not trigger any new requirements from ODOT. The County finds that, with no concerns from ODOT regarding significant traffic impacts to the surrounding roadways that traffic to and from the farmstand will have a negligible impact to the farms operating in the surrounding area. The County notes that the Applicant also responded to comments submitted by a surrounding property owner regarding the access driveway serving the farmstand and acted to improve and widen the driveway, and to also improve the parking area serving the farmstand to minimize negative impacts to surrounding property owners.

On November 3<sup>rd</sup>, 2023, the Applicant submitted an addendum to the application addressing comments submitted by Friends of Yamhill County. The County finds the Applicant's response persuasive and adopts it. The Applicant notes that commercial activities in conjunction with farm use can include the selling of irrigation pipes, pumps, fertilizer, and chemicals even though farms obviously cannot manufacture those products in EF zones. The Applicant further notes that a veterinary clinic is allowed even if no animals are raised on site or by the operator. A farm equipment repair facility is allowed even if no farm equipment is otherwise used for farming on the site or by the operator. The Applicant goes on to point out that a commercial activity in conjunction with farm use can include wineries or tasting rooms that can sell wine without having an onsite vineyard. The Applicant also argues that the primary purpose of the farmstand is to sell meat and vegetables and that the sale of alcohol and the provision of a wine tasting service is intended to be a small component of the farmstand's operation and also complementary in nature to the sale of locally produced meat and vegetables. The Applicant asserts that the sale of alcohol is not intended to broaden the customer base of the farmstand but rather provide additional goods and services to the existing customer base. The Applicant then concludes that the wine tasting service and the sale of wine, beer, and other malt beverages, and cider is similar to many of the surrounding winery and tasting room uses commonly found in the surrounding area and that the use will not adversely impact the surrounding

area. As part of the addendum to the application submitted on November 3<sup>rd</sup>, 2023, the Applicant also submitted a map of area around the greater Yamhill and Carlton area that provides the locations of wineries and tasting rooms shown on a map created using the Google Earth website/application. The Applicant notes that the Yamhill-Carlton American Viticulture Area (AVA) includes more than 2,600-acres of vineyard and more than 50 wineries, and additional tasting rooms. On October 9<sup>th</sup>, 2023, the Applicant submitted a *Yamhill County Agri-Business Economic and Community Development Plan, Summary Report* prepared by a number of consultants that looked at the agricultural, tourism, and infrastructure of Yamhill County and presented some aspirational goals for growing or taking advantage of the agricultural uses occurring in the county.

On November 3<sup>rd</sup>, 2023, the Applicant submitted a second addendum to the application which provided a farm impacts analysis in order to more comprehensively address section 402.07(A) of the YCZO, and this component of the application will be presented in Section C. Friends of Yamhill County did not challenge this farm impacts analysis on appeal. The County finds the Applicant's farm impacts analysis persuasive and adopts it.

5. (E) *The proposed use is appropriate, considering the adequacy of the public facilities and services existing or planned for the area affected; and*

Regarding criterion (E), the Applicant states that offering a wine tasting service and selling alcohol at the existing, permitted farmstand will not change the burden on existing public facilities and services beyond the existing farmstand use. The County finds the Applicant's analysis persuasive and adopts it. Access to the subject parcel is via Highway 47, and the County received a response from ODOT that conveyed to the county no concerns or comments regarding the addition of wine tasting service and alcohol sales from the existing farmstand. The Applicant noted that the driveway providing access to the farmstand was recently improved and widened to facilitate the passage of two vehicles simultaneously following the receipt of concerns submitted by a surrounding property owner. A condition of approval will require that the Yamhill Fire Department inspect and approve the access drive prior to commencement of wine tasting service or alcohol sales at the farmstand. The Applicant also submitted into the record that a portable toilet facility has been added to the site to provide additional toilet use by patrons, and that the portable toilet facility is pumped regularly. A condition of approval will require that the septic system is inspected prior to commencement of the wine tasting service and alcohol sales.

Friends of Yamhill County argued to staff that the Applicant addressed this criterion by making a conclusory statement without submitting any supporting evaluatory statements. Friends of Yamhill County asserted that an applicant should identify and address existing public facilities and services available or planned to serve the existing use and proposed modification to the existing onsite use of a farmstand. Friends of Yamhill County more specifically called out potential negative impacts to local roadways due to the potential increase in traffic due to customers seeking out wine tasting service or alcohol sales who may not have visited the farmstand if local produce or meats were only being offered onsite. Friends of Yamhill County appeared to suggest that a traffic impact analysis should have been conducted by the Applicant to fully evaluate the potential impacts to traffic on

the surrounding roadways. However, Friends of Yamhill County did not reiterate these arguments on appeal before the County Commission.

Ordinance 787 was adopted by the county to address public safety infrastructure standards for on-site and off-site traffic safety improvements in connection with commercial development, industrial development, and residential subdivision development in unincorporated Yamhill County. Ordinance 787 authorizes the Public Works Director to request that the planning department impose a condition of approval requiring county road and/or infrastructure improvements. The County did receive a response from ODOT, who stated no concerns regarding the addition of the wine tasting service and alcohol sales. The County notes that no comments or concerns were submitted by the Public Works Department regarding imposing such a condition, nor did the County receive any comments or concerns from the Yamhill Fire Department, from the District Watermaster, the County Sanitarian, or any other local government agency. Still, the County agrees with Friends of Yamhill County that the introduction of wine tasting, and alcohol sales may potentially lead to an increase in traffic to the site whether that increase in traffic is intentional or incidental to the existing meat and vegetable sales. As mentioned previously, ODOT did respond to the referral provided by the Planning Department and informed the County that ODOT has no concerns regarding the wine tasting service or alcohol sales from the farmstand. The County finds that with the imposition of conditions of approval, and the recent improvements to the site by the Applicant, that the proposed use is appropriate, considering the adequacy of the public facilities and services existing or planned for the subject parcel and surrounding area.

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

Regarding criterion (F), the Applicant addresses this criterion by concluding that selling alcohol at the existing, permitted farmstand is entirely compatible with existing and allowed uses in the area. The Applicant observes that there are numerous wineries in the area that already sell alcohol and have wine tastings without any issue. On November 3<sup>rd</sup>, 2023, the Applicant submitted an addendum to the application which provides a more in-depth analysis of the existing and other allowable uses in the surrounding area. The County finds the Applicant's analysis persuasive and adopts it. This analysis and County findings are presented in Section C.

The County observes that notice of the Applicant's proposed wine tasting service and alcohol sales was sent to neighboring property owners for comment, and the County did not receive any comments or concerns from surrounding property owners. The County finds that following the submission of the more in-depth farm impacts analysis that the Applicant has sufficiently demonstrated that the use is or can be made compatible with existing and other allowable uses in the area through the imposition of fair and proportional conditions of approval. The farm impacts analysis is provided in greater detail in Section C below.

### **C. Exclusive Farm Use District Conditional Use Standards**

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

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

The Planning Department received comments from Friends of Yamhill County observing that these criteria direct an applicant to identify accepted farming and forestry practices occurring on surrounding lands and that an applicant should address potential negative effects, or lack thereof, on the practice(s) occurring on each of the farm and/or forest operations occurring on the individual surrounding parcels. The County also received concerns from two neighboring property owners, Donna & Kim Lanyon, regarding a potential conflict in farming practices if the wine tasting service and sale of alcohol at the farmstand is approved due to a potential increase in water costs due to water usage at the farmstand.

The Oregon Supreme Court weighed in on the methodology for conducting a farm impacts test as outlined by these two conditional use criteria, and this decision was issued relatively recently, in the *Stop the Dump Coalition v. Yamhill County and Riverbend Landfill Co.* (SC S064894) decision issued in 2019. The Supreme Court stated that an applicant must first: properly identify the surrounding lands, the farms on those lands, the accepted farm practices on each farm, and the impacts of the proposed nonfarm use on each farm practice; second, that the local government to determine whether the proposed nonfarm use will force a “significant” change to, or cost increase in, an accepted farm practice, as that term is ordinarily used; and, thirdly, if there is a significant change, the local government to determine whether the applicant has demonstrated that, with conditions of approval imposed pursuant to subsection (2) of the statute, the nonfarm use meets the test.

The Applicant initially addressed these criteria by concluding that selling alcohol at an existing, permitted farmstand will not force any change on surrounding lands in the Exclusive Farm Use District. However, the Applicant submitted an addendum on November 3<sup>rd</sup>, 2023, that provided additional and more in-depth analysis of the potential impacts to farm and/or forest operations in the surrounding area. Friends of Yamhill County did not challenge this analysis on appeal before the County Commission. The County finds the Applicant’s analysis persuasive and adopts it

The Applicant addresses this criterion by stating that the sale of alcohol, in this case wine, cider, beer and other malt beverages, at the farmstand will not alter the character of the surrounding area in a way that substantially limits, impairs, or prevents the permitted uses of surrounding properties that are all zoned for Exclusive Farm use. The Applicant analyzed land uses occurring within 1/3 of a mile of the subject parcel. The Applicant found that there are twenty-two (22) lots, please see Applicant’s Table #1 and Exhibit #1

for greater details. The Applicant found that many of the lots in the surrounding area exhibited rural residential uses with many lots having small-scale garden uses and personal farming activities. The Applicant identified that feeding and pasturing of livestock, collection of eggs, small orchard management and harvesting, composting, planting, fertilizing, and harvesting would be activities commonly occurring in conjunction with these small-scale farming and gardening uses. The Applicant also found that there were several lots that were being exhibited commercial-scale farming use and those included Tax Lots 3404-01900, 3403-03300, 3409-00100, 3409-00400, and 3409-01201. The Applicant found that the farm uses occurring on these lots include grass seed cultivation, hazelnut orchards, as well as livestock production and pasturage. The Applicant identified that common farm practices associated with the commercial farm operations in the surrounding area include planting, irrigation, fertilization, flail mowing, disking, harvesting, pruning, pollination feeding, pasturing, herding, and grazing of livestock, the delivery of fodder, and the collection of eggs. The Applicant observes that many of these practices involve the use of heavy machinery and farm equipment, including tractors, dump trucks, flat bed trailers or hay wagons, and harvesters. In some cases, this equipment will be stored on the farm property and in other cases the farm equipment will be transported to one of the surrounding farming operations from offsite. These farming operations may see higher periods of traffic seasonally during harvest season and during this time of year there may be some slow down to the flow of traffic on Highway 47. The County received a response from ODOT regarding traffic to the farmstand and ODOT did not express any concern regarding the proposed new wine tasting service or alcohol sales, but rather stated that the proposed use will not trigger any new requirements from ODOT. The County finds that, with no concerns from ODOT regarding significant traffic impacts to the surrounding roadways that traffic to and from the farmstand will have a negligible impact to the farms operating in the surrounding area. The County notes that the Applicant also responded to comments submitted by a surrounding property owner regarding the access driveway serving the farmstand and acted to improve and widen the driveway, and to also improve the parking area serving the farmstand to minimize negative impacts to surrounding property owners.

The Applicant finds that an increase in traffic to the farmstand from the addition of alcohol sales and wine tasting will be in keeping with other uses permitted outright in the farm zone, including farmstands without alcohol sales and permitted use wineries. The Applicant finds that traffic to the subject parcel will not significantly increase the cost of the grass seed, hazelnut, or livestock farming operations, nor will it force a significant change in accepted farming practices associated with the farming operations identified in the analysis area that extends approximately 1/3 of a mile from the subject parcel. The County received a response from ODOT regarding the proposed changes to the existing farmstand and stated the changes to the farmstand would not trigger any new road improvement requirements. ODOT did not express any concerns regarding negative impacts to the surrounding roadways due to the changes to the farmstand activities.

The County notes that the Applicant has addressed a comment submitted by an interested party regarding an initial lack of a farm impacts test. The Applicant's addendum provided an evaluation of the existing farm and/or forest uses occurring within 1/3 of a mile from the

subject lot. No comments or concerns were submitted by any of the surrounding farmers regarding the Applicant's proposed use. The County concurs with the farm impacts analysis and findings submitted by the Applicant in their November 3<sup>rd</sup>, addendum, and finds that the proposed wine tasting and alcohol sales at an approved farmstand can be mitigated by conditions of approval. The County finds that, with the implementation of conditions, the Applicant's request will not force a significant change in accepted farming or forest practices on surrounding lands devoted to farm or forest use, nor will the proposed use significantly increase the cost of accepted farming or forest practices on surrounding lands devoted to farm or forest use.

#### **D. Site Design Review**

1. Section 1101.02(A) of the YCZO governs site design review.

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

*Section 1101.02(A)(1): Characteristics of adjoining and surrounding uses;*

Regarding standard (1) above, the surrounding parcels are all located within the EF-80 zone, the Exclusive Farm Use District. The City of Yamhill owns a nearby property, roughly 650-feet to the northwest of the subject parcel, and this land appears to be used in conjunction with the city's wastewater management system with four settling ponds located on the property. Most other properties in the surrounding area are larger lots, ranging in size from approximately 5-acres to over 200-acres. Land use in the area is characterized by predominantly larger agricultural operations, including nut orchards, grass seed and hay (alfalfa) cultivation, with some limited livestock pasturage. Many of the properties surrounding the subject parcel have a dwelling onsite, with many of the homesites clustered along the Highway 47 frontage for each respective parcel. Yamhill Creek meanders through the subject parcel, and there is a 100-year floodplain mapped on the tract. No portion of the farm stand will lie within, or near, the 100-year floodplain.

2. *Section 1101.02(A)(2): Economic factors relating to the proposed use;*

Regarding standard (2) above, a farmstand was approved on the subject parcel earlier this calendar year (2023) and the Applicant notes that that farmstand will market locally produced meat and produce. The Applicant's request is to provide wine-tasting service at the farmstand and to allow for the sale of locally produced alcohol in the form of wine, cider, beer, and other malt beverages. The County has defined the local area as the State of Oregon, so if approved, the Applicant would be able to sell locally produced wine, beer, and other malt beverages, and cider as complementary goods to the meats and vegetables sold at the farmstand. The onsite farmstand has been on-site, under previous ownership, going back to 2007. The farmstand appears to have been a positive economic addition to the Yamhill community and has a history of selling locally produced farm goods. A condition of approval will require that the farm stand only sell farm crops or livestock grown at the onsite farm operation or in the local agricultural area. A condition of approval will also be established

limiting sale of incidental items and fees from promotional activities at the farm stand to no more than 25-percent of the total annual sales of the farm stand.

The County finds that there are no identifiable economic factors that would prohibit the proposed project from being successfully implemented, if approved. The County finds that, with conditions, the proposed farm stand will benefit the local economy.

3. *Section 1101.02(A)(3): Traffic safety, internal circulation and parking;*

Regarding standard (3) above, the wine tasting service and alcohol sales would be conducted from an existing farmstand that received site design review approval previously, including earlier this year. Friends of Yamhill County submitted comments to staff regarding the current traffic levels and whether the addition of wine tasting service and alcohol sales will have a significant negative impact to projected traffic levels on surrounding roadways, but Friends of Yamhill County did not raise similar concerns on appeal before the County Commission. The County did receive concerns from two of the neighboring property owners regarding the width of the driveway providing access to the subject parcel and that patrons would occasionally park or turnaround on private party. The Applicant submitted into the record on November 3<sup>rd</sup>, 2023, that the width of the driveway was increased to allow for two vehicles to pass simultaneously on the driveway. Additionally, improvements were made to the parking area which led to an increase in capacity of three (3) parking spaces and also increased the area in which patrons can use to turn vehicles around so that patrons would no longer need to use a neighbor's driveway or property to effectively turn vehicles around and exit the parking area of the farmstand. The County finds the Applicant's response persuasive and adopts it. The County solicited comment from the Public Works Department and received no request for a traffic impact analysis under County Ordinance 787. The County did not receive any concerns from ODOT, but rather a statement that the proposed change to the use of the farmstand did not require any new action from the Applicant. The matter of traffic and parking was discussed in greater detail in Section B.5, above. There is no evidence in the record that demonstrates that the roads in the surrounding area are operating above or close to planned traffic capacity levels. A condition of approval will require that the driveway providing access to the farmstand be inspected and approved by the Yamhill Fire Department prior to the issuance of building permits for improvements to the farmstand and/or prior to the commencement of wine tasting services and/or the sale of alcoholic beverages. A condition of approval will be part of any approval requiring the Applicant to establish and maintain a parking area that is sufficiently sized for all employees on a maximum working shift, as well as one (1) parking space per 300-square feet of area open to the public in the farmstand, and one (1) parking space per 100-square feet of tasting room area open to the public. The County finds that with conditions, the request complies with standard 1101.02(A)(3).

4. *Section 1101.02(A)(4): Provisions for adequate noise and/or visual buffering from noncompatible uses;*

Regarding standard (4) above, the wine tasting service and alcohol sales will occur within an existing farmstand on the subject parcel. The subject property is screened from Highway 47

and the adjacent properties to the north and south by existing and well-manicured landscaping. Properties to the west are screened by farm fields and riparian vegetation. The County did not receive any comments or concerns regarding an increase in noise or visual blight from the farmstand or from the addition of wine tasting or alcohol sales to the farmstand. The County will place a condition on any approval that prohibits the outdoor artificial amplification of voice or sound in conjunction with the farmstand use, the proposed wine tasting use, and/or the sale of alcohol from the farmstand. The County also finds that visual buffering is not necessary for the proposed farmstand as the County did not identify any noncompatible uses in the surrounding area. While farming activities on-site may generate noise typical of farm uses, such noise is expected in the farm zone, is seasonal, and with conditions is compatible with surrounding uses. The surrounding land use appears to have been compatible with the farmstand for many years prior to the change in ownership, and the addition of wine tasting service and alcohol sales are unlikely to materially alter the visual or audible nature of the farmstand. The County finds that with conditions the request is in compliance with this standard.

5. *Section 1101.02(A)(5): Retention of existing natural features on site;*

Regarding standard (5) above, there are no existing natural features of note located on the property that will be disturbed or lost due to the construction activities that will occur within the existing farmstand. Construction activities will occur within the farmstand and will not increase the footprint of the existing farmstand. Based upon the applicant's narrative and site plan, it appears as though there will be no farmland lost or sensitive natural features disturbed to facilitate the proposed remodeling activities. The County finds the Applicant's analysis persuasive and adopts it. The County finds that with conditions the request complies with this review standard.

6. *Section 1101.02(A)(6): Problems that may arise due to development within potential hazard areas.*

Regarding standard (6) above, while the western half of the property, measuring approximately 2.3-acres, is located within the 100-year floodplain and floodway of Yamhill Creek, the subject farmstand is not located within the mapped floodplain or other identifiable hazard area. The County finds that there are no reasonably foreseeable problems that may arise due to the addition of wine tasting service and alcohol sales from the existing, approved farmstand.

7. *Section 1101.02(A)(7): Comments and/or recommendations of adjacent and vicinity property owners whose interests may be affected by the proposed use.*

Regarding standard (7) above, this application was processed as a Type B application so comments and/or recommendations of vicinity property owners were solicited by the County. The County received comments and concerns from two of the surrounding property owners, Kim and Donna Lanyon, and these concerns are provided in greater detail in Section E. below. The County also received comments and concerns from Friends of Yamhill

County that were addressed in Sections B. and C., along with the Applicant's response to the comments submitted by Friends of Yamhill County.

#### **E. Surrounding Property Owner Comments**

##### **Water Use**

The Lanyons note that water in this area is managed through the Southern Yamhill Water Company and note that they have family on the water board. The Lanyons are concerned that water usage, risk of repairs, and cost of water service will increase if the proposed wine tasting service and sale of alcohol is approved at the farmstand.

Water use is not under the jurisdiction of the Planning Department and is governed either by the Water Resources Department or, in this case, the Southern Yamhill Water Company. For this reason, water use is not a review criterion for a conditional use request. Any limitations on residents' use of water within the Southern Yamhill Water Company district are also outside of the jurisdiction of the County planning department and is not an applicable review criterion for a land use request of this nature.

##### **Access & Parking**

Kim and Donna Lanyon were also concerned about the suitability of the access drive and parking area serving the farmstand and noted that farmstand patrons would park on their land and use their personal farm drive.

The Applicant submitted a response to comments from surrounding property owners on this matter and stated that a large tree and other landscaped vegetation was removed to facilitate the expansion of the farmstand driveway access which can now accommodate the passage of two vehicles simultaneously. The Applicant also stated that the parking area was improved and expanded, adding three additional parking spaces and increasing the area within which patrons can maneuver vehicles so that no more patrons would be trespassing on the Lanyon's property. A condition of approval will be established on any approval that the parking area be maintained in accordance with Section 1007, the Off-Street Parking and Loading section of the County zoning ordinance. This condition of approval will require that the Applicant must maintain a parking area that is sufficiently sized for all employees on a maximum working shift, as well as one (1) parking space per 300-square feet of area open to the public in the farmstand, and one (1) parking space per 100-square feet of tasting room area open to the public. Another condition of approval will prohibit patrons from parking along Highway 47 or on any neighbor's property.

##### **Winery Use and Events**

Concerns were also submitted into the record regarding the potential operation of a winery or wine tasting events in conjunction with the farmstand use and the proposed addition of wine tasting service and alcohol sales.

The Applicant is not requesting the operation of a wine production facility (winery) as a commercial activity in conjunction with farm use but rather for the sale of alcohol and wine tasting services from the existing farmstand. If the Applicant wished to host events at this location, the Applicant would be required to submit an application for the hosting of an agri-tourism event(s) on the subject parcel. This would be a separate land use action from this request, and surrounding property owners within 750-feet would receive notice of this request. A condition of approval will prohibit the hosting of wine-related or agri-tourism events as part of this land use request that is solely regarding the use of the existing farmstand. A condition of approval will also prohibit the use of artificial amplification of voice or sound outdoors.

#### Potential Negative Farm Impacts

Donna and Kim Lanyon expressed concern that a potential increase in water usage at the farmstand would lead to an increase in the cost of the farming practices on their farming operation.

The Applicant responded to these concerns by stating that no additional water will be consumed as part of the wine tasting service or the sale of canned or bottled wine, cider beer, and other malt beverages. There will be no wine, cider, beer or other malt beverage, production occurring at the farmstand which are all water intensive uses. Any such production activities would require the submission and approval of a separate request for the operation of a winery, cidery, brewery, distillery, or other alcohol production facility. The County understands and appreciates the concerns surrounding water usage but finds the Applicant's reasoning that the sale of bottled or canned wine, cider, beer, and other malt beverages, and the provision of wine tastings at the farmstand does not entail a significant increase in water consumption at the farmstand than has been the case since the farmstand first began operation years ago, under the prior owner. The County provided an analysis of the Applicant's farm impacts analysis in Section C.1. above.

#### **CONCLUSIONS FOR APPROVAL:**

1. The request is for a conditional use and site design review for a commercial activity in conjunction with farm use for the provision of wine tasting service and sale of locally produced alcohol including wine, beer and other malt beverages, and cider from the existing farmstand. This request does not include any onsite wine, beer or other malt beverage, or cider production.
2. With conditions, the request can be made compatible with the applicable conditional use review criteria listed in Sections 1202.02, 402.04(G), and 402.07(A) of the *Yamhill County Zoning Ordinance*.
3. With conditions, the request can conform with the site design review standards listed in Section 1101.02 of the *Yamhill County Zoning Ordinance*.

4. The request complies with the goals and policies of the *Yamhill County Comprehensive Plan*.

**DECISION:**

Based upon the above findings and conclusions, the request by Carlton Hub, LLC for a conditional use permit and site design review approval for the provision of wine tasting service and the sale of wine, beer, and other malt beverages, and cider from the existing, approved onsite farmstand as a commercial activity in conjunction with farm use, on Exclusive Farm use zoned property has been approved with the following conditions:

1. The development shall substantially conform to the site maps submitted with this application (see enclosures).
2. The wine tasting service and alcohol sales shall occur within the existing farmstand building located on Tax Lot 3409-00101.
3. Alcohol sales at the farmstand shall be limited to locally produced wine, locally produced beer and other malt beverages, and locally produced cider. The local area is defined as all counties in Oregon.
4. The farmstand shall only sell farm crops and livestock grown on the Applicant's farm operation and other farm operations in the local agricultural area, including the retail sale of incidental items and fee-based activities to promote the sale of farm crops or livestock sold at the farmstand. The annual sale of incidental items and fees from promotional activities shall not make up more than one-quarter (25%) of the total annual sales of the farmstand. The "local agricultural area" is defined as all counties in Oregon.
5. Prior to issuance of building permits, the Applicant shall obtain authorization from the County Sanitarian for the farmstand to use the existing septic system or shall receive approval for a new septic system to serve the farmstand.
6. Parking shall be established and permanently maintained for as long as the farmstand is operating so that there is a minimum of one parking space for each employee on maximum working shift, and one (1) parking space per 100 square feet of wine tasting area, and one (1) parking space per 300 square feet of farmstand area pursuant to Section 1007 of the Yamhill County Zoning Ordinance. Parking shall not be permitted along the Highway 47 right-of-way. Parking shall not be permitted on any surrounding property not under the ownership of the Applicant.
7. The use of outdoor amplified music or sound shall not be permitted.
8. Prior to the provision of wine tasting service or sale of locally produced wine, locally produced beer and other malt beverages, and locally produced cider, the Applicant shall obtain all permits required by the Oregon Liquor Control Commission (OLCC).

9. Prior to issuance of building permits, the water supply and access driveway will be required to meet the Yamhill Fire Department standards.
10. Any lighting for the farmstand shall be shielded, deflected, or directed onto the Applicant's property, so it does not shine onto the county road or adjacent lots.
11. "Agri-tourism or other commercial events" shall not occur on the subject parcel without additional land use approval. "Agri-tourism or other commercial events" include outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, and celebratory gatherings.
12. This approval shall expire two years from the date of this letter unless the use has been initiated.
13. This approval shall be deemed personal to the Applicant (Carlton Hub, LLC), Frank Foti and the current property owner (Carlton Hub, LLC) and shall not run with the land.
14. This approval shall expire two years 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 existing structure(s) used in conjunction with the farmstand shall require the submission and approval of a Site Design Review application.
16. 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*.