

BEFORE THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of Upholding the Planning)	
Commission's Approval and Denying the Appeal)	
Of Planning Docket C-14-19/SDR-23-19; Approval)	
Of Conditional Use and Site Design for a Winery)	Board Order 20-62
Located at 13500 NE Ellenease Avenue,)	
Tax Lot 3215-1901)	

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on February 20, 2020, Commissioners Casey Kulla, Mary Starrett, and Richard L. "Rick" Olson, being present.

IT APPEARING TO THE BOARD as follows:

A. On September 5, 2019, the Planning Commission held a public hearing on an application by Elizabeth and Gregory Colwell, also referred to as Tressler Vineyards, to operate a winery, including a tasting room, in an existing barn located at 13500 NE Ellenease Avenue, Newberg, Oregon. Following the hearing, the Planning Commission voted unanimously to approve the application with conditions.

B. The Planning Commission's decision was appealed to the Board, which held a public hearing regarding the application on November 14, 2019. The hearing was continued to November 26, 2019 at which time it was set over to January 16, 2020. Following the close of the hearing on January 16, 2020, the Board deliberated and voted unanimously to uphold the Planning Commission's decision deny the appeal and approving the application with conditions; NOW THEREFORE,

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

Section 1. The Planning Commission's decision to approve Planning Docket C-14-19/SDR-23-19 is hereby upheld, the appeal filed in this matter is denied, and the application is approved.

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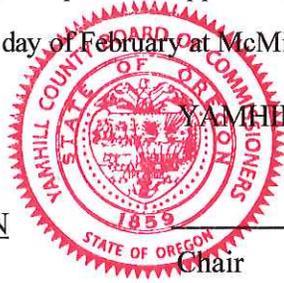
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Section 2. The findings and conditions attached as Exhibit A, and incorporated herein by reference, are hereby adopted in support of, and as part of, this order.

DONE this 20th day of February at McMinnville, Oregon.

ATTEST:



YAMHILL COUNTY BOARD OF COMMISSIONERS

BRIAN VAN BERGEN

County Clerk

Casey Kulla

Chair
CASEY KULLA

By: *Carolina Rook*
Deputy Carolina Rook

Commissioner

Mary Starrett
MARY STARRETT

FORM APPROVED BY:

Timothy S. Sadlo

Commissioner

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

Timothy S. Sadlo

Senior Assistant, County Counsel

Exhibit A
Board Order 20-62

Findings in Support of Approval of
Docket No. C-14-19/SDR-23-19 and Conditions of Approval

FINDINGS OF FACT:

A. Background Facts

1. The subject parcel (Tax Lot 3215-1901) is approximately 6.2 acres, located at 13500 NE Ellenease Avenue (Property). The Property is zoned Agriculture/Forestry Small Holding District (AF-10) under the Yamhill County Zoning Ordinance (YCZO). Elizabeth and Gregory Colwell are the applicants and owners of the Property (Applicant). The Property is also referred to as Tressler Vineyard.
2. There are approximately 2 acres of vineyard planted onsite. The grapes are currently harvested and transported offsite to third-party purchasers.
3. There is a residence on the property along with an existing barn that Applicant seeks to repurpose for winery production and a tasting room. The barn is approximately 2880 square feet, with 2060 square feet proposed for the wine production and 650 square feet proposed for the tasting room. The winery will not produce more than 500 cases per year and will be open for tasting and other wine-related marketing activities by appointment or invitation.
4. The land use and zoning of the surrounding properties is also AF-10. The surrounding land use pattern is a mix of farm uses, in the form of vineyard and wine production, passive forest uses, and rural residential uses. There is a wine production and tasting facility, Archer Vineyard, on the adjacent parcel to the northwest of Applicant's parcel (Tax Lot 3215AA-01100). Wine production and tasting facilities are a relatively common use in the surrounding area with Archer Vineyard, Chehalem Wines, August Cellars, and Rex Hill all located within 2,000 feet of the applicant's parcel.
5. The Property has access to NE Old Parrett Mountain Road via Schaad View Drive and Ellenease Drive, as shown on Figure 2 of the Tressler Vineyard Traffic Analysis. Schaad View Drive is located in an existing 30-foot access easement with a 13-foot gravel road that runs across Tax Lot 3215AA-01100 and serves three parcels, one to the north of the Property, one to the south of the Property, and the Property itself. Ellenease Avenue comes off Schaad View Drive to the south and runs across the Property to serve the parcel to the south of the Property. Ellenease Avenue is also located within an existing 30-foot access easement with a 13-foot gravel road.
6. The Property is served by the Tualatin Valley Fire and Rescue (TVFR). It has an on-site groundwater well as well as an on-site septic system.

7. Other background findings contained in the November 14, 2019 Staff Report to the Board are incorporated herein by reference.

B. Procedural Findings

1. Applicant filed the conditional use permit application on July 9, 2019. The County sent notice of a complete application on July 31, 2019. Following notice to surrounding property owners, the County received a timely request for a public hearing from neighbors Saj and Pauline Jivanjees of Archer Vineyard, who operate a winery nearby. The Planning Commission held a public evidentiary hearing on September 5, 2019. At the hearing, the Planning Commission received oral and written testimony in favor and in opposition of the winery. The Planning Commission continued the hearing to October 3, 2019, at which time the Planning Commission discussed the issues, deliberated, and unanimously approved the requested conditional use permit.
2. On October 18, 2019, Saj and Pauline Jivanjees of Archer Vineyard (Appellant) filed an appeal of the Planning Commission decision. The Board reads the Appellant's appeal to raise a procedural challenge under ORS 197.763(6) and substantive challenges under YCZO 1202.02 and YCZO 1101.02. With respect to the procedural challenge, the Board finds that to the extent there was any an error on the part of the Planning Commission, it was harmless because the Board held a de novo hearing for the appeal and Appellant had a full opportunity to present evidence and argument before the Board. The Board addresses Appellant's substantive challenges below under the respective approval criteria.
3. The Board of County Commissioners (Board) held a public evidentiary hearing on November 14, 2019, where it received both oral and written testimony in favor and in opposition of the winery, including from Appellant and Applicant. The Board continued the public hearing to November 26, 2019, at which time the Board established a schedule for Applicant and Appellant to provide additional written information to the Board in response to concerns Appellant raised through its legal counsel and consultant at the November 14, 2019 hearing, particularly related to traffic, access and safety. The schedule provided for Applicant to submit additional evidence in response to Appellant's concerns by December 20, 2019, Appellant's rebuttal was due January 9, 2020, and Applicant's final written argument was due on January 13, 2020. The Board also continued the November 26 hearing until January 16, 2020.
4. On December 20, 2019, Applicant filed a Traffic Impact Analysis prepared by David Evans & Associates (DEA Traffic Report). On January 9, 2020, Appellants provided legal rebuttal argument and a memo from its transportation engineer, Greenlight Engineering responding to the DEA Traffic Report (Greenlight Rebuttal). On January 13, 2020, Applicant filed its final written argument and raised a procedural challenge to Appellant's January 9, 2020 submittal, arguing that the Greenlight Rebuttal was evidence that was precluded because Appellant was limited to providing rebuttal argument only under the schedule established by the Board on November 26, 2019. On January 20, 2020, the Board took up the procedural challenge, and allowed Appellant's January 9 submittal,

including the Greenlight Rebuttal, finding it was rebuttal argument not new evidence. The Board then deliberated on the matter before it and unanimously affirmed the Planning Commission's decision subject to modified conditions of approval as presented by staff during the January 16 staff presentation.

C. Findings under the YCZO

1. The applicable review criteria and review standards are set forth in YCZO 501.03(P), YCZO 1101.02, and YCZO 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 and as described under the findings in YCZO 1202.02(B) below.

2. YCZO 501.03, AF-10 Conditional Uses

In the AF-10 District, pursuant to the Type B application procedure set forth in Section 1301, and subject to the conditional use review criteria listed in Section 1202, and any other applicable criteria established by this ordinance, the following uses may be allowed conditionally:

P. Winery, including production and wholesale and retail sale of wine, subject to Section 1101 site design review and the following:

1. *A winery shall be permitted to conduct on-site marketing activities events such as festivals and group tastings that are directly related to promotion and sale of the wine produced on-site with an anticipated maximum of 750 daily visitors. Only three such events may be conducted in one calendar year, and the events shall not exceed a duration of three days. The frequency and duration of these events may be further limited through site design review approval based on the adequacy of public facilities.*

2. *The winery shall allow only the sale of:*

(a) Wines produced in conjunction with the winery;

(b) Items directly related to wine, the sales of which are incidental to the retail sale of wine on-site and do not exceed 25 percent of the total sales gross receipts of the retail facility. Such items include those served by a limited service restaurant, as defined in ORS 624.010, and local agricultural products commonly sold in conjunction with wine; and

(c) Wines not produced in conjunction with the winery, the sales of which are incidental to the sale of wine produced on-site;

The County processed Applicant's request for a conditional use winery under YCZO 501.03 pursuant to YCZO 1301. The proposed winery falls within the definition of winery, as allowed by YCZO 501.03(P) and conditions are imposed to ensure that the winery activities do not exceed the allowances of this code section.

3. YCZO 1202.02, Evaluation of Conditional Use Criteria

The applicable conditional use criteria of YCZO 1202.02 are as follows:

(A) *The use is listed as a conditional use in the underlying zoning district.*

The request is consistent with criterion (A) above, in that a winery is listed as a conditional use in YCZO 501.03(P) governing uses in the AF-10 zone. As described above under YCZO 503.03(P), the proposed activities fall within the AF-10's definition of a conditional use winery. Applicant meets YCZO 1202.02(A).

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

The goals and policies in the Yamhill County Comprehensive Plan (YCCP) do not provide standards or criteria for review of the proposed winery use. The Board finds that when the YCCP provisions are not mandatory approval standards for a land use application, the Board must weigh and balance those policies and directives embodied in any applicable YCCP provisions. To determine what YCCP provisions apply, the Board must look to the proposed use. Here, the application involves a request to allow wine production and tasting activities in an existing agricultural building on approximately 6.2 acres of AF-10 land currently in rural residential and farm use. The proposed use will use grapes from the on-site agricultural operations and the property owners, who are also the residences of the Property, will own and operate the winery. The proposal does not remove land from agricultural production (areas of the Property for parking are not currently in agricultural production) and it promotes the establishment of a small home business for rural residents. There are other vineyards and wineries in the surrounding area, including Appellant's property. Applicant's proposal does not involve any expansion of existing development or increased density.

Appellants appear to argue that two sections of the YCCP contain goals or policies applicable to the proposed use under YCZO 12.02(B) – Section I, Urban Growth and Change and Economic Development and Section II, Land and Water. The Board does not agree with Appellant's reading of these two sections of the YCCP. Section I(A) does not apply because it involves Urban Area Development, which this application does not. Section I(B), Rural Area Development applies to the extent the YCCP recognizes that land within Agriculture/Forestry Small Holding District are appropriate and desired locations for rural residential development, while at the same time encouraging opportunities for small scale or intensive agricultural and forestry activities within these plan-designated areas. The proposed use is consistent with Section I(B)'s goals and policies in in that the proposed use will support the local agricultural economy through the production of wine from grapes grown on the Property and the potential employment opportunities at the winery and tasting room. To the extent other goals and policies of Section I(B) could apply to this

proposal, the Board finds that the proposal is consistent with such goals and policies because the project must comply with the approval criteria and development standards in YCZO 1202.02 and YCZO 1101.02 (like YCZO 1202.02(D) and YCZO 1101.02(A)(1)), which implement the objectives of Section I(B). The various provisions in Section I(B) are focused primarily on preventing the encroachment of urban development and the issues that go along with urbanization and increased density like potential use conflicts, availability of water and sewer and inadequate infrastructure to serve increased demands, and the order provision of public services. With respect to Section II, the Board finds that Section II(A), Agricultural Lands applies to the extent the AF-10 zone promotes agricultural activities while also promoting rural residential development along with commercial development like horse boarding facilities, home occupations, wineries, day cares, and kennels. Ongoing farm operations will continue on the Property, land is not being removed from vineyard operations, and Applicant demonstrates that the proposal meets the conditional use and site design criteria, which are the code provisions that ensure the goals and policies YCCP Section II(A) are being considered in development reviews. For these reasons, to the extent the goals and policies are even applicable to land zoned AF-10, the Board finds that the proposal is consistent with this section of the YCCP. Appellants attempt to challenge Applicant's use of Schaad View Drive on the basis that allowing such use would be inconsistent with the YCCP and therefore not meet YCZO 1202.02(B). The Board disregards this argument for the reasons set forth above. Applicant meets YCZO 1202.02(B).

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

The parcel is approximately 6.2 acres. The Property is located on a small hill, with the home located on the hilltop, which is relatively level ground, and the farmland then gently slopes away from the homesite. Applicant proposes no new buildings. Rather, Applicant will be retrofitting an existing agricultural building for the winery. The existing mature landscaping will remain. There are no known natural features on the Property that would be impacted by the proposal. The location of the parcel is within the AF-10 zone, surrounded by other rural residential properties, agricultural operations, and winery and vineyard operations. For these reasons and for those evidenced on the materials in the record like the aerial photographs and site plans, the Board finds that the parcel is suitable considering its size, shape, location, and topography.¹

The existing improvements on the parcel include the barn, which Applicant will retrofit for the winery, an on-site groundwater well, and an on-site septic system, along with internal circulation access from the Property's driveway off Ellenease Avenue. Applicant's Traffic Impact Analysis analyzes the adequacy of the internal circulation access for fire and emergency services and shows that the existing improvements are adequate. The Board finds that the existing infrastructure on the Property is suitable for the proposed winery.

¹ To the extent Appellant may be arguing that the location of the Property makes the parcel unsuitable, the Board disregards this argument for the reasons outlined above (e.g., similarly situated properties with similar uses) and addresses this argument by evaluating the "existence of improvements."

Appellant argued that the existing improvements serving the Property (but not on the Property) are not suitable for the proposed use based on Applicant's use of Schaad View Drive to access the Property. As discussed under the Background Facts, the Property has access off Old Parrett Mountain Road via Schaad View Drive and Ellenease Drive. Schaad View Drive is located within a 30-foot easement with a 13-foot wide gravel surface. The easement passes along the southern property line of Tax Lot 3215AA-01100, which Appellant owns. YCZO 1202.02(C) requires the Board to consider whether Applicant's Property is suitable for the use considering the existence of improvements. The Board reads this criterion to focus on the parcel itself and the improvements located on the parcel, not offsite improvements given that the enumerated list of considerations starts with parcel size, parcel shape, parcel location, parcel topography. The Board recognizes Appellant's arguments based on the road standards, general public safety, capacity, disturbance, and the like. However, for purposes of evaluating Applicant's proposal under this criterion, the Board looks at whether there is access to the Property and whether the access is adequate and legal. Applicant's traffic engineers conducted a traffic impact study, conducted a site visit and independently verified and confirmed the findings of the County Public Works and TVFR that the access was adequate and legal for the proposed use. The Board incorporates by reference the Applicant's final argument from January 13, 2020, to support further the Board's findings on this issue. The Board also incorporates its findings under YCZO 1102.02(A)(3) to support its conclusion under YCZO 1202.02(C). The Board acknowledges Appellant's evidence submitted into the record and arguments to the contrary but finds otherwise based on the reasons set forth above and below.² The proposal meets YCZO 1202.02(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.

The surrounding area consists of parcels with a variety of uses including farm uses such as vineyards, livestock pastures, grass seed fields, nut and fruit orchards as well as fallow fields. In addition, there are wine production facilities and tasting rooms along with a number of properties with rural residential use and passive forest use. Applicant provided a figure identifying the surrounding area and the surrounding uses. Applicant's vineyard and existing rural residential development is in keeping with the surrounding land use pattern and converting an existing agricultural barn to a winery ensures that the size and scale of the new use is consistent with the scale and size of other agricultural buildings in the area. The other wine production and tasting facilities in the area that are of a similar or larger scale to that proposed by Applicant, including

² The Board recognizes Appellant's arguments made in the October 17, 2019 notice of appeal regarding the historic partitions and the arguments under LDO 6.010(8)(C) and (D). The Board does not find this argument relevant under the YCZO 1202.02(C) standard and presents findings to support its conclusions regarding the adequacy of the access for the Property as an existing improvement under YCZO 1202.02(C). The Board also makes findings under YCZO 1101.02(A)(3) regarding traffic safety, internal circulation, and parking which the Board finds it the more appropriate criterion to address Appellant's arguments from November 14, 2019 and January 9, 2020.

the adjacent operations at Archer Vineyard owned by Appellant. Applicant's proposed winery operation is significantly smaller in scale and size than other winery operations within the surrounding area with annual production capped at 500 cases and the winery will be open by appointment or invitation.

Issues raised before the Board regarding Applicant's compliance with this criterion involve questions regarding the adequacy of the access, compatibility with adjacent and surrounding uses, and increased impacts and conflicts with neighboring properties. None of the issues raised to the Board, however, rise to the level of altering the character of the surrounding area in a way that "substantially limits, impairs, or prevents the use of surrounding properties for the permitted uses" listed in the AF-10 zone. The Board acknowledges that all new development or new uses even without new development create some change or impacts. YCZOZ 1202.02(D), however, requires the Board to look at whether such changes or impacts rise to the level of "substantial" and whether that level of change or impact limits, impairs, or all out prevents permitted uses on surrounding properties because of the potential impacts associated with the proposed use. In other words, this criterion requires more than "alter[ing] the character of the surrounding area" or causing adverse impacts – it must do so in a way that "substantially" affects the surrounding properties in a manner that "limits, impairs, or prevents" their ongoing permitted uses like farming or the principal dwelling use. Appellant argued that the use of an existing access easement across their property for the proposed use cannot meet this criterion for a number of reasons. The Board finds, however, that the evidence presented does not rise to the level of demonstrating that the proposed use would "substantially limit[s], impair[s], or prevent[s]" the use of Appellant's property for permitted uses in the AF-10 zone. Appellant conducts a similar and more intensive winery and tasting room use on its own property and has since 2011. The questions concerning the easement and access, as well as who bears the burden of maintaining the roadway, is more appropriately addressed under ORS 105.175 as a private matter between Applicant and Appellant

The Board finds that Schaad View Drive, given the anticipated level of use and traffic associated with proposed use as described in Applicant's Traffic Impact Analysis, would not "substantially impair" Appellant's use of its property, whether it be for the vineyard or the residential use. Applicant's Traffic Impact Analysis demonstrates that the proposed project is anticipated to generate approximately two average daily trips and as high as six trips on an average Saturday during the peak month of May. Further, the Board capped Applicant's winery-related marketing events at *three per year* with a maximum of 170 people per day (Condition 11). This ensures that traffic associated with even the most intensive use on the Property will not exceed the 100 average daily traffic (ADT), the County's standard for a single-lane private road, and that is only possibly at three times of the year. All other times the ADT will be significantly less, almost de minimis. The Board acknowledges that the Greenlight Engineering report and supplemental rebuttal memo raise questions concerning Applicant's Traffic impact Analysis and has considered the arguments raised. In addition, the Board finds that any potential dust from the use of Schaad View Drive does not raise to the level of "substantially limits, impairs, or prevents" Appellant's vineyard use or result in substantial impairment to Appellant's vineyard operations. The anticipated level of traffic is on par with the current use of the access. The Board finds that the evidence in the record and the conditions limiting Applicant's winery operations ensure that any impairment to

Appellant's property will not rise to the level of "substantial."³ See also the findings under YCZO 1101.02(A)(3), which are incorporated herein by reference.

The Board finds that the proposed winery, with the wine production and tasting room, will not alter the surrounding area in a way that substantially limits, impairs or prevents Applicant's neighbors from enjoying the permitted uses on their properties, which are primary ongoing agricultural operations or primary residences. The application satisfies YCZO 1202.02(D).

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

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 service for the Property is access off Old Parrett Mountain Road, fire service, and police and emergency service. There were no concerns raised by Public Works or TVFR regarding public facilities or services. The concerns raised by Appellant had to do with a private access, not a public facility. The water and septic are handled onsite for the Property under a private system and ongoing compliance is ensured by Condition 3. The proposal complies with YCZO 1202.02(E).

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

For purposes of applying this criterion, the Board considers "the area" to be the "surrounding area" as evaluated under YCZO 1202.02(D). The surrounding area consists of parcels with a variety of uses including farm uses such as vineyards, livestock pastures, grass seed fields, nut and fruit orchards as well as fallow fields. In addition, there are wine production facilities and tasting rooms along with a number of properties with rural residential use and passive forest use. Applicant provided a figure identifying the surrounding area and the surrounding uses. Applicant's vineyard and existing rural residential development is compatible with existing uses in the area as it is the same as other uses. The proposed winery use on the Property is also compatible with the existing uses in the area – there are other wine production and tasting facilities in the area that are of a similar or larger scale to that proposed by Applicant, including the adjacent operations at Archer Vineyard owned by Appellant.

Applicant's proposed winery operation is significantly smaller in scale and size than other winery operations within the surrounding area with annual production capped at 500 cases and the winery will be open by appointment or invitation. Again, to the extent Appellant raises issues over Applicant's use of Schaad View Drive, Applicant has shown that the level of use is minimal and that the access meets County standards. The Board, to the extent necessary to bolster its findings, incorporates by reference its findings under YCZO 1202.02(C). The questions concerning the easement and access and who bears the burden of maintaining the roadway is more appropriately

³ To note, the Board interprets "substantial" as rising above the level of limits, impairs or prevents – it must be something that is of large degree.

addressed under ORS 105.175 as a private matter between Applicant and Appellant. The Board finds that Schaad View Drive, given the anticipated level of use and traffic associated with proposed use as described in Applicant's Traffic Impact Analysis, supports the finding that the proposed use is compatible with the existing uses in the surrounding area. Further, the Board finds it inconsistent to argue that the same, but less intensive use, on a neighboring property is not compatible with the uses on Appellant's property, which include the same use. The Applicants have shown that the associated traffic on Schaad View Drive does not rise to the level of being incompatible with existing uses in the surrounding area, and the Board rejects the Appellants' contrary assertions. The Board adopts conditions to ensure, further, that the proposed winery operates within the limits represented in its application materials. Accordingly, the proposed use complies with YCZO 1202.02(F).

4. YCZO 1101.02, Site Development Plan Considerations

YCZO 1102.02(A) provides the evaluation considerations for site development review of the proposed winery. These considerations are not applicable review criteria or development standards that directly apply to the application but rather are factors the Board needs to consider when reviewing site plans for a proposed development.

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

The Board considered the characteristics of the adjoining and surrounding uses under YCZO 1202.02 above. The findings under YCZO 1202.02, in particular YCZO 1202.02(C) and (D) are incorporated herein by reference to demonstrate that the Board considered this factor in its review.

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

The application states the winery and tasting room will be owner-operated for the foreseeable future by the residents of the Property. There have been no economic challenges identified that may prevent Applicant from completing the proposed development. The proposed winery contributes to the County's rural wine economy and continues to promote farm use of small parcels (e.g., vineyard use and on-site production).

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

The Board must base its review of the site development on the considerations outlined in YCZSO 1101.02, as provided in YCZO 1101.02(A). Subpart (A)(3) is one consideration for the Board in its review. Most of Appellant's concerns and issues raised before the Board involve the adequacy of Schaad View Drive related to traffic safety, fire access, and overuse of the roadway. In addition, Appellant raises concerns about impacts to its property, which the Board has addressed above under YCZO 1202.02. Both Applicant and Appellant provided reports from their respective traffic engineers into the record. The Board finds that the anticipated level of traffic associated with the proposed winery does not rise to the level of a traffic safety issue for Old Parrett Mountain Road or Schaad View Drive, as further discussed in Applicant's Traffic Impact Analysis. The Board adopted conditions to ensure that the winery operation remained small and that the activities related to the sale and promotion of wine were in scale to the Property size and capacity for parking and internal access. The Board finds that the questions of internal circulation and parking are

adequately addressed by Applicant's Traffic Impact Analysis and further articulated in Applicant's final written argument, which the Board incorporates herein to support its findings under YCZO 1101.02(A)(3).

TVFR has reviewed the proposal along with Public Works and neither raised concerns regarding traffic safety, access, or onsite parking. Nonetheless, Condition 8 requires that TVRF confirm that the access meets County and TVRF standards before issuance of building permits. The Board acknowledges that Appellant's rebuttal from January 9, 2020, which included a rebuttal memo from Greenlight Engineering, raised some challenges to the DEA Traffic Impact Analysis from December 20, 2019. It appears that Appellant challenges the Board's reading and application of the County road standards. The Board notes that Table 2 of the DEA Traffic Impact Analysis incorporates both the 2014 Private Road Standards and the 2015 Transportation System Plan (TSP)/Private Road Standards, as discussed in Applicant's final written argument from January 13, 2020. The Board does not read the County road standards as the Appellant suggests and finds that the evidence demonstrates that the proposed use does not raise a traffic safety issue or road adequacy concern.

With respect to parking, the application states that the proposed tasting room will be approximately 650 square feet. Subsection 1007.02(C) of the YCZO requires that there is one (1) parking per 100 square feet of tasting room space, plus one (1) space for each employee on a maximum working shift. Figure 5 in the DEA Traffic Impact Analysis shows the approximate locations of the permanent and temporary overflow parking locations, which are sufficient to accommodate the by appointment and by invitation wine-related activities on the Property. Condition 13 ensures that the winery meets this standard. Building permits will be required to complete the build out and the County can confirm compliance at that time based on the building plans. Permanent parking will accommodate by-appointment tasting room guests and the Property has temporary overflow parking to accommodate invited guests for up to three on-site wine marketing events per year not to exceed more than 170 guests per day (see Condition 11).⁴

The Board concludes that it has adequacy considered the factors in YCZO 1101.02(A)(3).

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

The Board previously found that the proposed winery is compatible with the adjacent and surrounding uses. See findings above which the Board incorporates by reference as needed. The Property has mature landscaping and the majority of the winery operations will take place in an existing structure. The existing structure is setback approximately 17 feet from the nearest property line to the north. The accessory structure previously received a "Good Neighbor" variance from the adjoining property owner when the County issued the building permit in 2015. Condition 15 prohibits the use of outdoor amplified music or sound for any winery-related outside events thus addressing the noise consideration. While farming activities occurring onsite (e.g.,

⁴ The Board notes that Condition 3 does not allow on-site marketing events described in YCZO 501.03(P)(1), which are wine marketing events up to 750 people. Condition 11 provides the limit for attendees for on-site wine marketing events – one-site wine marketing events are allowed within the limits of Condition 11.

growing and harvesting of grapes), will generate noise typical of farm uses, such noise may occur in the AF-10 zone, is both seasonal and compatible with surrounding uses. On this basis, the Board finds that it has adequately considered YCZO 1101.02(A)(4).

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

No natural features will be disturbed beyond the areas necessary for modification to the existing structure to convert the space from a barn/shop to a winery and tasting room. There are no known significant natural features in the area of the proposed construction site. The Board has addressed this consideration in its review.

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

The Property is not within the Floodplain Overlay District, and there are no apparent hazards associated with the Property. See the discussion under YCZO 1202.02(C) regarding the Property's slope and topography. This consideration is not relevant for the Board's review of the site development plans.

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

The Board acknowledges that neighbors have commented on this proposal, both for and against, and Appellant, a neighbor, objects and challenges the proposal. Appellant has offered no recommended conditions of approval for the Board's consideration to address potential impacts, rather Appellant continues to advocate for denial which the Board finds is not appropriate based on the evidence in the record. The Board has considered the opposition arguments and find that while relevant and understandable, none demonstrates to the Board that Applicant's proposal cannot comply with the applicable criteria, particularly considering the conditions of approval to ensure ongoing compliance. In response to neighbor concerns, Applicant self-imposed voluntary conditions of approval regarding production capacity, by appointment wine tasting, and limited guest attendance at wine marketing events. The Board has adequately considered comments and recommendations under YCZO 1101.02(A)(7) and maintains that no further action is required.

D. Conditions of Approval

1. The development shall substantially conform to the site maps submitted with the application.
2. The winery shall comply with the definition of winery, pursuant to section 501.03(P)(2) of the Yamhill County Zoning Ordinance. The on-site marketing events described in section 501.03(P)(1) of the Yamhill County Zoning Ordinance are not allowed.
3. Prior to operation of the wine production facility (winery) or tasting room all required building, plumbing, and electrical permits and inspections shall be obtained from the Yamhill County Planning Department.

4. The winery shall produce no more than 500 cases of wine annually.
5. Prior to issuance of building permits, the applicant shall obtain authorization from the County Sanitarian for the winery and tasting room to use the existing septic system or shall receive approval for a new septic system to serve the use.
6. Prior to issuance of building permits, the applicant shall provide evidence of a water right, permit, or long-term service agreement to bring in water from another site, or evidence shall be provided indicating the winery and by-appointment tasting room will not exceed the allowable daily usage for a permit-exempt well under ORS 537.545.
7. The applicant shall obtain all permits required by the Department of Environmental Quality (DEQ), the Oregon Liquor Control Commission (OLCC), and the Oregon Department of Agriculture (ODA) and evidence of these approvals shall be provided to the Planning Department.
8. Prior to issuance of building permits, the water supply and access shall be required to meet the Tualatin Valley Fire & Rescue standards and conditions.
9. The tasting room may be open for by-appointment tastings year-round, from 11:00 am to 7:00 pm, for the primary purpose of promoting and selling the wine produced on-site.
10. The hosting of events such as weddings, cooking classes, celebratory events, and corporate retreats, etc. are not included with this approval.
11. The applicant shall be limited to no more than three wine marketing events on-site, and these events shall be attended by no more than 170 guests per day.
12. The number of persons allowed in any portion of the tasting room shall not exceed the maximum number of persons allowed pursuant to the occupancy permit for such portion of the tasting room, if applicable.
13. Parking shall be provided so that there is a minimum of one car per 100 square feet of floor area plus one space for each employee on maximum working shift pursuant to Section 1007 of the YCZO. No parking on the easement is allowed.
14. The use may have one on-premise sign of not more than 24 square feet pursuant to Section 1006 of the YCZO, subject to permit approval.

15. The use of outdoor amplified music or sound for outdoor events is not permitted.
16. The construction of any additional structures or modification to the footprint of existing structures used in conjunction with either the winery or tasting room shall require the submission and approval of a Site Design Review application.
17. 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.

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