

BEFORE THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of Upholding the Planning Director's Decision to Approve Planning Docket E-02-23, Approval of an Agri-tourism Use Permit for Tax Lot No. 4312-00400; Applicant: Scott Picker

Board Order 23-247

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on June 29, 2023 Commissioners Lindsay Berschauer, Kit Johnston, and Mary Starrett being present.

IT APPEARING TO THE BOARD as follows:

A. WHEREAS, The applicant, Scott Picker, submitted an application to allow up to eighteen (18) agri-tourism events per calendar year on Tax Lot No. 4312-00400, located at 22100 NE Riverwood Road in Dayton, Oregon; and

B. WHEREAS, The Yamhill County Planning Director issued a decision letter approving the request on April 26, 2023; and

C. WHEREAS, The Planning Director's decision was appealed and considered by the Board at a hearing held on June 8, 2023; and

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

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

Section 1. Planning Docket E-02-23 is hereby approved, subject to the following conditions:

1. The events shall be incidental and subordinate to the existing commercial farm use of the parcel. The primary purpose of the events shall be to promote and sell the crops and livestock grown on the property.
2. The events shall not, individually, exceed 72 consecutive hours.
3. The maximum attendance for the event shall not exceed 150 people.
4. The maximum number of vehicles at any one time shall not exceed 75 vehicles and an area to provide up to 75 parking spaces shall be maintained during the events. No on-street parking is allowed.

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5. One of the 18 events may allow the artificial amplification of voice or music, which shall begin no earlier than 8 a.m. and shall end no later than 10 p.m.
6. All events, except weddings, family reunions, and funerals need to apply for a temporary restaurant license through Yamhill County Environmental Health.
7. Property raised meat used at all events must be processed through an approved USDA processing facility.
8. The applicant shall obtain approval from the Oregon Liquor Control Commission (OLCC) for the service of alcohol.
9. During events the applicant shall provide portable toilets, as appropriate, with a hand-wash station.
10. Prior to holding events, use of any of the existing buildings shall be approved for event use by the Yamhill County Building Official.
11. Access to the property and any buildings or temporary structures which the public is allowed to enter into shall be inspected by the Dayton Rural Fire Department.
12. This approval is personal to the applicant and is not transferred by, or transferrable with conveyance of the tract.
13. This approval shall expire one year from the date of this letter but may be renewed for a four-year period subject to a renewal application and compliance with the above conditions of approval and the standards of Section 1013 of the YCZO.

Section 2. The Board hereby adopts the following findings in support of this Order:

1. The applicable approval criteria and review standards are as set forth in Sections 402.02(X) and 1013.01(A)(4) of the Yamhill County Zoning Ordinance and Oregon Revised Statute 215.296.
2. The Board adopts and incorporates the April 20, 2023 staff report, attached hereto as Exhibit A and incorporated herein, which identifies the applicable approval criteria and explains how each respective criteria has been met.

DONE this 29 day of June, 2023, at McMinnville, Oregon.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS



*Lindsay Berschauer*

KERI HINTON  
County Clerk

\_\_\_\_\_  
Chair LINDSAY BERSCHAUER

By: *Carolina Rook*  
Deputy Carolina Rook

*Kit Johnston*

\_\_\_\_\_  
Commissioner KIT JOHNSTON

*Mary Starrett*

FORM APPROVED BY:

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Commissioner MARY STARRETT

*Jodi M. Gollehon*

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Jodi M. Gollehon  
Assistant County Counsel

YAMHILL COUNTY DEPARTMENT OF PLANNING AND DEVELOPMENT  
STAFF REPORT

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**DATE:** April 20, 2023

**DOCKET NO.:** E-02-23

**REQUEST:** To allow up to eighteen (18) agri-tourism events per calendar year.

**APPLICANT:** Scott Picker

**OWNER:** A&S Investments, LLC

**TAX LOT:** 4312-00400

**LOCATION:** 22100 NE Riverwood Road, Dayton

**ZONE:** EF-80, Exclusive Farm District

**CRITERIA:** Sections 402.02(X) and 1013.01(A)(4) of the *Yamhill County Zoning Ordinance* and Oregon Revised Statute 215.296.

**COMMENTS:** *SWCD* – No comments received to date.  
*Public Works* – No comments received to date.  
*Dayton Rural Fire Department* – No comments received to date.  
*Watermaster* – No comments received to date.  
*Public Health* – No comments received to date.  
*County Sanitarian* – See letter dated March 14, 2023, from the County Sanitarian.  
*Friends of Yamhill County, P.O. Box 1083, McMinnville*: See letter submitted on March 26, 2023.

**FINDINGS:**

**A. Background Facts**

1. *Parcel Size:* 319.7-acres
2. *Access:* The property has direct access to NE Riverwood Road, a paved county road. Access to the events will be via an existing driveway that accesses NE Riverwood Road.
3. *On-site Land Use and Zoning:* The tract is located within the Exclusive Farm District, the EF-80 zone. The tract is predominantly used for farming activities with 90-acres of hazelnuts, 4.5-acres of wine grapes, 165-acres of grass seed production, and 90-acres of pasture for the Applicant's longhorn cattle. The property has a principal dwelling, a (1) pole barn for cattle, two (2) equipment pole buildings, and three (3) poultry barns. The southern boundary of the property is bordered by the Yamhill River, the eastern boundary is bordered by the Willamette River.

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4. *Surrounding Land Use and Zoning:* The surrounding properties to the north, south, and west are all located within the Exclusive Farm Use District, EF-80. To the east is the Willamette River and properties that are outside of Yamhill County but appear to all be in agricultural use. To the west is a 100-acre field currently in perennial rye, and to the west of that is a large hazelnut orchard. To the north is pasture with cattle and goats, blueberries, vineyards, hazelnuts and grass seed.
5. *Water:* The Applicant has indicated that water is provided from an on-site well.
6. *Sewage Disposal:* On-site septic system serving the tasting room. The Applicant is proposing the use of portable toilets and hand washing stations for the proposed events.
7. *Fire Protection:* Dayton Rural Fire Protection District.
8. *Previous Actions:* An 18-event agri-tourism event request was approved in 2019, Docket E-12-19. That approval was not renewed and has expired.
9. *Deferral:* The Assessor's office records indicate that 318.7-acres of the property are receiving farm tax deferral.
10. *Overlay Districts:* A significant area of the subject parcel is located within an identified 100-year floodplain and floodway, the, for the Willamette River and the Yamhill River, per FIRM panels 41071C0435D and 41071C0455D. The eastern property line is located within the Willamette River Greenway however there are no structures or development planned within the Willamette River Greenway, so a Willamette River Greenway permit is not required. The subject property does not lie within an airport overlay district. It should be noted that the current buildings on the property, including the building for the proposed events are not located in the Floodplain Overlay District or Willamette River Greenway District.
11. *Request:* The applicant is requesting to use an existing barn and surrounding outdoor area to host up to 18 agri-tourism events per calendar year. The events listed are "weddings, charity auctions, meetings, longhorn auctions and events to support nature/wildlife." The applicant proposes up to 150 attendees per event. The events will use the longhorn beef, grapes and hazelnuts, which are grown on-site, on the menu.

**B. Oregon Revised Statutes (ORS) Provisions and Analysis**

1. Yamhill County Ordinance 871 adopted Subsection 1013 to the Yamhill County Zoning Ordinance which allows certain "Agri-Tourism" events on farmland when such activities are related to and supportive of agriculture. The application was made under Subsection 1013.01(A)(4) of the *Yamhill County Zoning Ordinance* which states:

*In the alternative to 1, 2 and 3 above, up to 18 events on a tract may be permitted in a calendar year subject to the following:*

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- a. The events or activities are incidental and subordinate to existing commercial farm use of the tract and are necessary to support the commercial farm uses or the commercial agricultural enterprises in the area and;*

Regarding criterion (a), the Applicant has indicated that the proposed events will be in support of, and subordinate to, the existing farm uses. The Applicant has noted that the events are supportive of the agricultural uses on the property, namely the growing of wine grapes, hazelnuts, and the husbandry of longhorn cattle. The Applicant has indicated that the proposed events are incidental and subordinate to the agricultural uses on the property and are designed to promote farm products derived from those farm uses. The events will help promote the sale of the beef raised on the parcel, hazelnuts grown on the parcel, or wine produced offsite from grapes grown on the parcel direct to consumer.

The county received a comment from Friends of Yamhill County specifically regarding criterion (a), and whether some of the proposed agri-tourism events are subordinate to the onsite commercial farm use occurring onsite and whether the events are necessary to support the commercial agricultural enterprises in the area. Friends contends that some of the events such as the weddings, charity events, meetings, reunions, and events supportive of nature/wildlife proposed by the Applicant are not subordinate to the existing farm use on the property or necessary to support commercial farm uses in the surrounding area. Friends single out the proposed cattle auction events as a type of event that does appear to conform to this agri-tourism event criterion. Friends also noted that the Applicant's website was already set-up to accept event booking on the subject parcel prior to receiving land use approval.

The Applicant submitted a response to the comments from Friends of Yamhill County. The Applicant noted that there have been significant restoration work to the property since taking ownership and with additional restoration work planned to allow for the expansion of grazing land for the Applicant's longhorn cattle. The Applicant asserts that the proposed events, including weddings, leads to increased beef sales as they guests can see the value of grass-fed beef. The Applicant also states that due to challenges finding slaughterhouses that can process longhorn cattle the sale of a quarter, half or whole cow is necessary prior to slaughter.

2. *Shall comply with Section 1013.01 (A) (3) (b) through (h);*

- b. Shall not, individually, exceed 72 consecutive hours;*

Regarding criterion (b), the Applicant has not acknowledged that the events, individually, shall not exceed 72 hours. This will, however, be made a condition of approval.

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3. *c. One of the six events may allow the artificial amplification of voice or music from 8 a.m. to 10 p.m..*

Regarding criterion (c), the Applicant indicates that there will be artificial amplification of voice or sound “only as the rules and regulations allow”. In conformance with this section of the zoning ordinance, a condition of approval will allow the applicant to have one event with artificially amplified voice or music.

4. *d. Shall comply with ORS 215.296;*

Regarding criterion (d), see Section C. of this staff report, below.

5. *e. Shall occur outdoors, in temporary structures, or in existing permitted structures. Shall not require or involve the construction, use or occupancy of a new permanent structure in conjunction with the activities or events;*

Regarding criterion (e), the Applicant has noted that some events will take place outdoors and other events, or some portion of the events, will be held within an existing 40’x80’ dairy barn that was significantly remodeled by a previous owner, and an existing open-sided 30’x90’ shed. The area around these structures is graveled and would be used as a parking area for guests attending the proposed events. This barn is identified as “event barn” on the site plan submitted with the application. Prior to using this barn for events, the structure will need to be inspected by the county building department for use for events.

6. *f. Shall comply with any applicable health and fire and life safety requirements;*

Criterion (f) requires the consideration of all health and fire and life and safety requirements as well as traffic safety and parking.

*Sanitation:* The County Sanitarian has stated that the existing septic system is very minimal and would not be capable of supporting events. The Sanitarian has indicated that if the events are limited then temporary portable sanitation units (aka “porta-potties”) may be used. The Sanitarian states that a minimum of three (3) portable toilets, with at least one (1) that meets ADA standards, and a fourth (4) portable toilet will be required for any event that includes alcohol service. Given the limited size of the existing septic system, the Applicant is required to use portable toilets for the events until the septic system has been improved to a point that satisfies the County Sanitarian for the proposed events.

*Food handling and alcohol service:* Food and alcohol service will need to be permitted with both the OLCC and the Public Health Department. During the comment period for the 2019 event application, a comment was submitted from the Yamhill County Public Health Supervising Environmental Health Specialist, Gary Van Der Veen. Mr. Van Der Veen stated that the conditions his department would request would be the following:

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“1.) All events, except weddings, family reunions, and funerals need to apply for a temporary restaurant license through Yamhill County Environmental Health.

2.) Property raised meat used at all events including weddings must be processed through an approved USDA processing facility.”

Staff finds that the requested conditions from the Public Health Department are still applicable and will be included as conditions of approval.

*Parking and Access:* The Applicant noted that there is an area available for up to 75 parking spaces at the identified parking areas, denoted as “Parking 1” and “Parking 2” on the site plan (Exhibit A) submitted with the application. With a maximum expected attendance for the events to be no more than 150 people the 75 parking spaces identified by the applicant offers sufficient space to satisfy parking requirements. Access to the facility is from an existing driveway off NE Riverwood Dr. A condition of approval will require that an emergency access plan, approved by the Dayton Rural Fire District, shall be submitted to the Planning Department. A condition of approval will ensure that the parking areas identified on the site plan, “Parking 1” and “Parking 2”, are used to satisfy all parking needs.

*Traffic Safety:* The property has direct access to Riverwood Road. This road is a paved county-maintained road which terminates at the gravel driveway that provides access to the subject parcel. The property has sufficient driveways for internal circulation of traffic. The access will need to be inspected and approved by the Dayton Fire Department.

7. *(g) Shall not, in combination with other agri-tourism or other commercial events or activities in the area, materially alter the stability of the land use pattern in the area; and*

Regarding criterion (g), the surrounding area consists primarily of farm uses including hay and grass seed production, orchards, and established vineyard with some rural residences. The Applicant’s proposed eighteen (18) events per calendar year is not anticipated to materially alter the stability of the land use pattern in the area.

8. *(h) Must comply with any conditions established for:*

*(i). The types of events or activities that are authorized during each calendar year, including the number and duration of events and activities, the anticipated daily attendance and the hours of operation;*

*(ii). The location of existing structures and the location of proposed temporary structures to be used in connection with the events or activities;*

*(iii). The location of access and egress and parking facilities to be used in connection with the events or activities;*

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*(iv). Traffic management, including the projected number of vehicles and any anticipated use of public roads; and*

*(v). Sanitation and solid waste.*

The Applicant has stated that the events will comply with any conditions established under criterion (h) and these standards have been addressed in the above findings.

9. *c. Shall occur on a lot or parcel that complies with the acknowledged minimum lot or parcel size;*

The subject parcel is approximately 320-acres in size and is located in a zone with an 80-acre minimum lot size, the EF-80 zone. This criterion is met.

10. *(i) Permits approved under this subsection expire one year from the date of approval but may be renewed for four-year periods subject to an application for renewal, public notice and public comment as part of the review process; and demonstration of compliance with conditions of approval and the standards of this subsection.*

Regarding criteria (i) above, this approval will be for one year with the option for renewal in four-year intervals.

11. *Overnight camping may be allowed for the duration of the one yearly activity or event approved under Section 1013.01(A)(2), (3) or (4). Applications involving overnight camping shall be subject to the Type B procedures set forth in Section 1301.*

The Applicant has not requested camping for any of the events.

**C. Oregon Revised Statute 215.296**

1. Criterion (d) requires compliance with Oregon Revised Statute 215.296 which states:
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 proposed use is not expected to generate any adverse impacts upon surrounding lands that would lead to changes in farming practices. The Applicant's parcel will continue to be used primarily for farm uses. The proposed events are intended to promote the farm use on the parcel and are ancillary to the agricultural activities conducted on the tract. Given the limit of eighteen (18) events per year, there is no evidence in the record to indicate that the proposed agri-tourism events would significantly change or significantly increase the cost of accepted farming or forest practices on surrounding lands.

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**CONCLUSIONS FOR APPROVAL:**

1. The request is to allow up to eighteen (18) agri-tourism events per calendar year.
2. With conditions, the request is consistent with the Agri-Tourism Event approval criteria of Section 1013.01(A)(4) of the *Yamhill County Zoning Ordinance (YCZO)*.
3. Based on the evidence in the record, the request is consistent with the requirements of ORS 215.296.

**DECISION:**

Based upon the above findings and conclusions, the request by Scott Picker to host up to eighteen (18) agri-tourism events in a calendar year on a Tax Lot 4312-00400, is hereby approved with the following conditions:

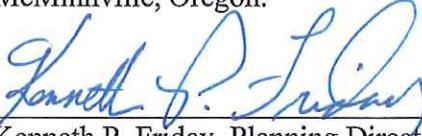
1. The events shall be incidental and subordinate to the existing commercial farm use of the parcel. The primary purpose of the events shall be to promote and sell the crops and livestock grown on the property.
2. The events shall not, individually, exceed 72 consecutive hours.
3. The maximum attendance for the event shall not exceed 150 people.
4. The maximum number of vehicles at any one time shall not exceed 75 vehicles and an area to provide up to 75 parking spaces shall be maintained during the events. No on-street parking is allowed.
5. One of the 18 events may allow the artificial amplification of voice or music, which shall begin no earlier than 8 a.m. and shall end no later than 10 p.m..
6. All events, except weddings, family reunions, and funerals need to apply for a temporary restaurant license through Yamhill County Environmental Health.
7. Property raised meat used at all events must be processed through an approved USDA processing facility.
8. The Applicant shall obtain approval from the Oregon Liquor Control Commission (OLCC) for the service of alcohol.
9. During events the applicant shall provide portable toilets, as appropriate, with a hand-wash station.
10. Prior to holding events, use of any of the existing buildings shall be approved for event use by the Yamhill County Building Official.

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11. Access to the property and any buildings or temporary structures which the public is allowed to enter into shall be inspected by the Dayton Rural Fire Department.
12. This approval is personal to the applicant and is not transferred by, or transferrable with conveyance of the tract.
13. This approval shall expire one year from the date of this letter but may be renewed for a four-year period subject to a renewal application and compliance with the above conditions of approval and the standards of Section 1013 of the YCZO.

DATED AND SIGNED this 25<sup>th</sup> day of April, 2023, at  
McMinnville, Oregon.

  
\_\_\_\_\_  
Kenneth P. Friday, Planning Director  
Yamhill County Planning and Development

KF:lw