

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	)	
SDR-02-25, Site Design Review and Variance	)	Board Order 25-263
Tax Lot 2436-01600	)	
Applicant: Stepan Family Reserve, LLC	)	

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on August 28, 2025, Commissioners Kit Johnson, Mary Starrett and David “Bubba” King being present.

IT APPEARING TO THE BOARD as follows:

WHEREAS, on March 26, 2025, Stepan Family Reserve, LLC (Applicant) filed an application for (i) site design review for a phased, permitted use winery and (ii) a variance from the setback standards under ORS 245.452(11)(a).

WHEREAS, the County Planning Director issued a decision approving the permit on May 23, 2025.

WHEREAS, The County received two timely requests for an appeal on June 9, 2025, by neighbors of the Applicant. Applicant filed a response to the appeals on July 30, 2025.

WHEREAS, On July 31, 2025, the Board held a public evidentiary hearing where it received oral and written testimony in favor of and in opposition to the permit. No party requested to continue the hearing or for an open record period following the hearing. The Board therefore closed the public record, discussed the issues, deliberated, and unanimously affirmed the Planning Director’s approval of the permit subject to the conditions of approval stated in the Planning Director’s decision, plus two new conditions developed by the Board; AND NOW, THEREFORE,

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

Section 1. Planning Docket SDR-02-25 is hereby approved, subject to the following conditions:

1. The Phase 1 and Phase 2 developments shall substantially conform to the site maps submitted with this application (see enclosures).
2. Prior to issuance of Oregon Liquor & Cannabis Commission (OLCC) permits or the operation of the winery and tasting room, the Applicant shall obtain all necessary building, septic, plumbing, and electrical permits and inspections from the Yamhill County Planning Department.
3. Prior to issuance of building and/or Oregon Liquor & Cannabis Commission (OLCC) permits, the Applicant shall obtain all necessary authorizations, inspections, and permits from the County Sanitarian for installation of a new septic system or connection to an existing septic system to serve the winery and/or tasting room.
4. Prior to issuance of building and/or Oregon Liquor & Cannabis Commission (OLCC) 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 tasting room will not exceed the allowable daily usage for a permit-exempt well under ORS 537.545.
5. Prior to issuance of building permits, the water supply and access shall be required to meet the Yamhill Fire Department standards and conditions.
6. A traffic and emergency management plan shall be prepared by the Applicant, approved by the Yamhill Fire Department and Public Works Department, and then provided to the Planning Department prior to hosting any events on the subject lot.
7. The winery shall produce no more than 50,000 gallons of wine annually.
8. The tasting room may be open for daily tastings from 10:00 a.m. to 7:00 p.m.
9. 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.
10. A parking area shall be established and permanently maintained for as long as the winery and/or tasting room are operating so that there is a minimum of one (1) parking space for each employee working a maximum shift, and one (1) parking space per 100 square feet of wine tasting area, pursuant to Section 1007 of the YCZO.
11. Parking shall not be permitted on the NE Morrelli Drive public right-of-way.
12. Any artificial lighting which may be provided shall be placed, shielded, or deflected so as not to shine or create glare onto adjacent dwellings or create excessive glare along adjacent roads.

13. 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.
14. The use of outdoor amplified music or sound shall be prohibited.
15. “Agri-tourism or other commercial events” per subsection (2)(d) of ORS 215.252 are not authorized without additional approval. “Agri-tourism or other commercial events” include outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of wine produced in conjunction with the winery is a secondary purpose of the event.
16. In addition to producing and distributing wine, this winery may:
  2. (a) *Market and sell wine produced in conjunction with the winery.*
    - (b) *Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:*
      - (A) *Wine tastings in a tasting room or other location on the premises occupied by the winery;*
      - (B) *Wine club activities;*
      - (C) *Winemaker luncheons and dinners;*
      - (D) *Winery and vineyard tours;*
      - (E) *Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;*
      - (F) *Winery staff activities;*
      - (G) *Open house promotions of wine produced in conjunction with the winery; and*
      - (H) *Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery.*
    - (c) *Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to on-site retail sale of wine, including food and beverages:*
      - (A) *Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or*
      - (B) *Served in conjunction with an activity authorized by paragraph (b), (d) or (e) of this subsection.*
    - (d) *Carry out agri-tourism or other commercial events on the tract occupied by the winery subject to subsections (5), (6), (7) and (8) of this section.*
    - (e) *Host charitable activities for which the winery does not charge a facility rental fee.*

3. *A winery may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in subsection (2)(c) of this section. Food and beverage services authorized under subsection (2)(c) of this section may not utilize menu options or meal services that cause the kitchen facilities to function as a cafe or other dining establishment open to the public.*
4. *The gross income of the winery from the sale of incidental items or services provided pursuant to subsection (2)(c) to (e) of this section may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery. The gross income of a winery does not include income received by third parties unaffiliated with the winery. At the request of a local government with land use jurisdiction over the site of a winery, the winery shall submit to the local government a written statement that is prepared by a certified public accountant and certifies the compliance of the winery with this subsection for the previous tax year.*
5. *A winery may carry out up to 18 days of agri-tourism or other commercial events annually on the tract occupied by the winery.*
6. *For events described in subsection (5) of this section for a winery in the Willamette Valley:*
  - (a) *Events on the first six days of the 18-day limit per calendar year must be authorized by the local government through the issuance of a renewable multi-year license that:*
    - (A) *Has a term of five years; and*
    - (B) *Is subject to an administrative review to determine necessary conditions pursuant to subsection (7) of this section.*
  - (b) *The local government's decision on a license under paragraph (a) of this subsection is not:*
    - (A) *A land use decision, as defined in ORS 197.015, and is not subject to review by the Land Use Board of Appeals.*
    - (B) *A permit, as defined in ORS 215.402 or 227.160.*
  - (c) *Events on days seven through 18 of the 18-day limit per calendar year must be authorized by the local government through the issuance of a renewable multi-year permit that:*
    - (A) *Has a term of five years;*
    - (B) *Is subject to an administrative review to determine necessary conditions pursuant to subsection (7) of this section; and*
    - (C) *Is subject to notice as specified in ORS 215.416 (11) or 227.175 (10).*
  - (d) *The local government's decision on a permit under paragraph (c) of this subsection is:*
    - (A) *A land use decision, as defined in ORS 197.015, and is subject to review by the Land Use Board of Appeals.*
    - (B) *A permit, as defined in ORS 215.402 or 227.160.*

7. *As necessary to ensure that agri-tourism or other commercial events on a tract occupied by a winery are subordinate to the production and sale of wine and do not create significant adverse impacts to uses on surrounding land, the local government may impose conditions on a license or permit issued pursuant to subsection (6) of this section related to:
  - (a) *The number of event attendees;*
  - (b) *The hours of event operation;*
  - (c) *Access and parking;*
  - (d) *Traffic management;*
  - (e) *Noise management; and*
  - (f) *Sanitation and solid waste.**
8. *A local government may charge a fee for processing a license or permit under subsections (6) and (7) of this section. A fee may not exceed the actual or average cost of providing the applicable licensing or permitting service.*
9. *A winery operating under this section shall provide parking for all activities or uses of the lot, parcel or tract on which the winery is established.*
10. *Prior to the issuance of a permit to establish a winery under this section, the applicant shall show that vineyards described in subsection (1) of this section have been planted or that the contract has been executed, as applicable.*
11. *A local government shall apply the standards described in this subsection. Standards imposed on the siting of a winery shall be limited solely to each of the following for the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands:
  - (a) *Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places unless the local government grants an adjustment or variance allowing a setback of less than 100 feet; and*
  - (b) *Provision of direct road access and internal circulation.**
12. *A local government shall apply:
  - (a) *Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar access and airport safety;*
  - (b) *Regulations of general applicability for the public health and safety; and*
  - (c) *Regulations for resource protection acknowledged to comply with any statewide goal respecting open spaces, scenic and historic areas and natural resources.**
13. *When a bed and breakfast facility is sited as a home occupation on the same tract as a winery established under this section and in association with the winery:
  - (a) *The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and**

*(b) The meals may be served at the bed and breakfast facility or at the winery.*

*14. As used in this section:*

*(a) "Agri-tourism or other commercial events" includes outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of wine produced in conjunction with the winery is a secondary purpose of the event.*

*(b) "On-site retail sale" includes the retail sale of wine in person at the winery site, through a wine club or over the Internet or telephone.*

17. Prior to operation of the winery and tasting room, the Applicant shall obtain all permits required by the Oregon Liquor & Cannabis Commission (OLCC) and the Department of Agriculture (ODA).
18. Prior to issuance of building permits for the Phase 2 winery and tasting room structure, the Applicant shall submit a drainage plan showing that no natural drainage is disturbed by the development of the new winery and tasting room structure and supporting parking area. The drainage plan shall be prepared by a registered engineer and shall be submitted to and approved by the County Public Works Director.
19. Prior to operation of the Phase 2 winery and tasting room, the Applicant shall submit to the Planning Director a Landscape Plan for only the western property line of the subject parcel. The Landscape Plan shall be prepared, implemented, and maintained in a manner consistent with the requirements set forth in Section 1010 of the Yamhill County Zoning Ordinance.
20. The construction of any additional structures for use as part of the winery or tasting room not evaluated or approved for the Phase 1 and Phase 2 developments stages, or substantial modification to the footprint of the winery or tasting room or change in use of the current structures shall require the submission and approval of a site design review application.
21. This tentative approval shall expire one (1) year from the date of this letter unless all conditions have been met and the use has been initiated, however this does not apply to Phase 2 so long as Phase 1 has been initiated prior to the one (1) year expiration date.
22. 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 A, attached hereto and incorporated herein, in support of this approval.

DATED this 28th day of August, 2025, and McMinnville, Oregon.

ATTEST

KERI HINTON  
County Clerk

By: Carolina Rook  
Deputy CAROLINA ROOK

FORM APPROVED BY:  
Christian Boenisch  
CHRISTIAN BOENISCH  
Yamhill County Counsel



YAMHILL COUNTY BOARD OF  
COMMISSIONERS

Kit Johnston  
Chair KIT JOHNSTON

Mary Starrett  
Commissioner MARY STARRETT

David King  
Commissioner DAVID KING

Approved by the Yamhill County Board of  
Commissioners on 08/28/2025  
via Board Order 25-263

## EXHIBIT A

### Board Order 25-263

#### Findings in Support of Approval of Planning Docket No. SDR-02-25 and Conditions of Approval

#### FINDINGS OF FACT:

##### A. Background Facts

1. The subject property is map and tax lot 3402-00100, is approximately 76.5 acres, and is located at 17630 NE Morrelli Drive, Yamhill (the “Property”). The Stepan Family Reserve LLC (“Applicant”) is the applicant and owner of the Property. Applicant also owns adjacent map and tax lot 2436-01600, which is not part of this proposal.
2. The Property is zoned Exclusive Farm Use (EF-80).
3. The Property consists of a 29-acre vineyard known as Deux Vert Vineyard, additional area planted in hazelnut and olive trees, open space including an oak woodland and savanna restoration area, an agricultural building and a caretaker dwelling that was permitted under County file C-21-22.
4. Neighboring parcels are zoned EF-80, EF-40 and EF-20. These parcels are predominantly in agricultural production, specifically livestock, grass/hay and vineyards. Many parcels also have rural residences. There are wineries and tasting rooms on several of the parcels in the nearby area.
5. The Property takes access from NE Morrelli Drive, which is a public road that connects to Highway 240. The road is about one-quarter mile in length from Highway 240 to the Property. The public right-of-way associated with NE Morrelli Drive is 55 feet wide at the intersection of Highway 240 and 40 feet wide further north along the road.
6. The Property is within the Yamhill Rural Fire Protection District. Applicant has several sources of water on the Property and Applicant’s adjacent parcel. Applicant has a rainwater collection system that includes onsite storage tanks. Applicant also purchases water for use on the Property. There is an existing well on the Property that is not currently in use. Applicant has an additional well on Applicant’s adjacent Tax Lot 1600 that Applicant established in 2022 to serve the dwelling on that tax lot. There is also an existing septic system on the Property.
7. Applicant is requesting site design review for a phased, permitted use winery on the Property. Phase 1 is a wine production-only facility to be located in an existing agricultural building on the Property. Applicant also requests a variance from the

setback standards at ORS 215.452(11)(a) for Phase 1 wine production in that building. Phase 2 is a future winery and tasting room in a separate location on the Property.

## **B. Procedural Findings**

1. On December 13, 2024, Applicant initiated pre-application discussions with County Staff regarding the subject proposal. Applicant filed the subject site design review and variance application on March 26, 2025, and the County Planning Director issued a decision approving the permit on May 23, 2025.
2. The County received two timely requests for an appeal on June 9, 2025 by neighbors of the Applicant. One appeal was filed by William Paolo and the other appeal was filed by Danny and Amie Luttrell. Appellant Paolo filed additional material for the record on June 2 and July 29, 2025. Applicant filed a response to the appeals on July 30, 2025.
3. The Yamhill County Board of Commissioners (“Board”) held a public evidentiary hearing on July 31, 2025. At the hearing, the Board received oral and written testimony in favor of and in opposition to the permit. No party requested to continue the hearing or for an open record period following the hearing. The Board therefore closed the public record, discussed the issues, deliberated, and unanimously affirmed the Planning Director’s approval of the permit subject to the conditions of approval stated in the Planning Director’s decision, plus two new conditions developed by the Board.

## **C. Findings under the Yamhill County Zoning Ordinance and state law**

The Board finds that the request is subject to ORS 215.452 and Yamhill County Zoning Ordinance (YCZO) sections 402.02(H), 1101.02(A), 1203.02 and 1203.04.

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

### **1. YCZO 402.02(H) and ORS 215.452 Winery Criteria**

YCZO 402.02(H) lists a winery as a permitted use in the EFU zone. 2013 Senate Bill 841 amended the EFU permitted use winery rules, and this statute supersedes the YCZO regarding these winery siting criteria because the YCZO winery criteria reflect an earlier version of the statute. The statutory criteria are described below, along with the Board’s findings regarding these criteria.

*[ORS] 215.452 Winery; conditions; permissible uses.*

- (1) *A winery may be established as a permitted use on land zoned for exclusive farm use under ORS 215.213 (1)(p) and 215.283 (1)(n) or on land zoned for mixed farm and forest use if the winery produces wine with a maximum annual production of:*
- (a) *Less than 50,000 gallons and:*
    - (A) *Owens an on-site vineyard of at least 15 acres;*
    - (B) *Owens a contiguous vineyard of at least 15 acres;*
    - (C) *Has a long-term contract for the purchase of all of the grapes from at least 15 acres of a vineyard contiguous to the winery; or*
    - (D) *Obtains grapes from any combination of subparagraph (A), (B) or (C) of this paragraph; or*
  - (b) *At least 50,000 gallons and the winery:*
    - (A) *Owens an on-site vineyard of at least 40 acres;*
    - (B) *Owens a contiguous vineyard of at least 40 acres;*
    - (C) *Has a long-term contract for the purchase of all of the grapes from at least 40 acres of a vineyard contiguous to the winery;*
    - (D) *Owens an on-site vineyard of at least 15 acres on a tract of at least 40 acres and owns at least 40 additional acres of vineyards in Oregon that are located within 15 miles of the winery site; or*
    - (E) *Obtains grapes from any combination of subparagraph (A), (B), (C) or (D) of this paragraph.*

**Board Findings:** Based on testimony and photographs provided by the Applicant, the Board finds that there is a 29-acre existing vineyard on the Property known as Deux Vert Vineyard. The Applicant has therefore demonstrated compliance with the acreage requirement for a permitted use winery. The Board also finds that it is feasible for Applicant to adhere to the wine production limitations in ORS 215.452(1) because Applicant estimates a maximum production of 2,000 gallons per year in the Phase 1 winery and Applicant agrees to adhere to the statutory limit in the Phase 2 winery. Condition 7 requires Applicant to produce no more than 50,000 gallons of wine annually on the Property.

- (2) *In addition to producing and distributing wine, a winery established under this section may:*
- (a) *Market and sell wine produced in conjunction with the winery.*
  - (b) *Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:*
    - (A) *Wine tastings in a tasting room or other location on the premises occupied by the winery;*
    - (B) *Wine club activities;*

- (C) *Winemaker luncheons and dinners;*
  - (D) *Winery and vineyard tours;*
  - (E) *Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;*
  - (F) *Winery staff activities;*
  - (G) *Open house promotions of wine produced in conjunction with the winery; and*
  - (H) *Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery.*
- (c) *Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to on-site retail sale of wine, including food and beverages:*
- (A) *Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or*
  - (B) *Served in conjunction with an activity authorized by paragraph (b), (d) or (e) of this subsection.*
- (d) *Carry out agri-tourism or other commercial events on the tract occupied by the winery subject to subsections (5), (6), (7) and (8) of this section.*
- (e) *Host charitable activities for which the winery does not charge a facility rental fee.*
- (3) *A winery may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in subsection (2)(c) of this section. Food and beverage services authorized under subsection (2)(c) of this section may not utilize menu options or meal services that cause the kitchen facilities to function as a cafe or other dining establishment open to the public.*
- (4) *The gross income of the winery from the sale of incidental items or services provided pursuant to subsection (2)(c) to (e) of this section may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery. The gross income of a winery does not include income received by third parties unaffiliated with the winery. At the request of a local government with land use jurisdiction over the site of a winery, the winery shall submit to the local government a written statement that is prepared by a certified public*

*accountant and certifies the compliance of the winery with this subsection for the previous tax year.*

**Board Findings:** Condition 16 requires Applicant to adhere to the above limitations on visitor activities associated with the winery. The Board finds that it is feasible for Applicant to comply with these limitations based on Applicant's description of its intended visitor activities in the Phase 2 winery and Applicant's permitting history. Although appellant Luttrell alleges violations of land use rules on the Property and/or Applicant's adjacent parcel, the record demonstrates that complaints against Applicant have been investigated by County Staff and found to be without merit. Relatedly, the record indicates that the Board previously approved a home occupation permit for Applicant's adjacent tax lot 1600, which is documented in Board Order 23-289.

- (5) A winery may carry out up to 18 days of agri-tourism or other commercial events annually on the tract occupied by the winery.*
- (6) For events described in subsection (5) of this section for a winery in the Willamette Valley:
  - (a) Events on the first six days of the 18-day limit per calendar year must be authorized by the local government through the issuance of a renewable multi-year license that:
    - (A) Has a term of five years; and*
    - (B) Is subject to an administrative review to determine necessary conditions pursuant to subsection (7) of this section.**
  - (b) The local government's decision on a license under paragraph (a) of this subsection is not:
    - (A) A land use decision, as defined in ORS 197.015, and is not subject to review by the Land Use Board of Appeals.*
    - (B) A permit, as defined in ORS 215.402 or 227.160.**
  - (c) Events on days seven through 18 of the 18-day limit per calendar year must be authorized by the local government through the issuance of a renewable multi-year permit that:
    - (A) Has a term of five years;*
    - (B) Is subject to an administrative review to determine necessary conditions pursuant to subsection (7) of this section; and*
    - (C) Is subject to notice as specified in ORS 215.416 (11) or 227.175 (10).**
  - (d) The local government's decision on a permit under paragraph (c) of this subsection is:
    - (A) A land use decision, as defined in ORS 197.015, and is subject to review by the Land Use Board of Appeals.*
    - (B) A permit, as defined in ORS 215.402 or 227.160.***
- (7) As necessary to ensure that agri-tourism or other commercial events on a tract occupied by a winery are subordinate to the*

*production and sale of wine and do not create significant adverse impacts to uses on surrounding land, the local government may impose conditions on a license or permit issued pursuant to subsection (6) of this section related to:*

- (a) The number of event attendees;*
  - (b) The hours of event operation;*
  - (c) Access and parking;*
  - (d) Traffic management;*
  - (e) Noise management; and*
  - (f) Sanitation and solid waste.*
- (8) A local government may charge a fee for processing a license or permit under subsections (6) and (7) of this section. A fee may not exceed the actual or average cost of providing the applicable licensing or permitting service.*

**Board Findings:** The appellants express concerns about large “agri-tourism” events at the winery such as weddings and concerts. The Board finds Applicant does not seek to conduct agri-tourism events at this time and Condition 15 prohibits Applicant from holding these events without additional approval. The Board therefore finds that ORS 215.452 subsections (5) to (8) are not applicable to this permit.

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

**Board Findings:** The Board finds that the geography of the Property and Applicant’s site plan demonstrate that Applicant has ample parking area available for both Phase 1 and Phase 2 of the project. Phase 1 of the winery requires parking only for winemaking staff, and there is approximately 7,000 square feet of existing parking adjacent to the existing building.

Applicant proposes that the visitor area in the Phase 2 tasting room be a maximum of 1,500 square feet of floor area. A tasting room of this (maximum) size would require 15 visitor parking spaces pursuant to the County’s parking standards at YCZO 1007 (one space per 100 square feet). Applicant estimates a maximum of eight employees per working shift of the winery and tasting room combined. This would require an additional eight parking spaces. Twenty-three total parking spaces would require an area of roughly 4,500 square feet for parking. This is a fraction of the 90,000 square foot area that Applicant has reserved for the Phase 2 winery site. It is therefore feasible for Applicant to provide adequate parking. Condition 10 requires establishment of parking areas consistent with YCZO 1007. The Board therefore finds that Applicant has demonstrated compliance with this criterion.

- (10) Prior to the issuance of a permit to establish a winery under this section, the applicant shall show that vineyards described*

*in subsection (1) of this section have been planted or that the contract has been executed, as applicable.*

**Board Findings:** As described above, the Board finds that there are 29 acres of existing vineyard on the Property. Applicant has demonstrated compliance with this criterion.

*(11) A local government shall apply the standards described in this subsection. Standards imposed on the siting of a winery shall be limited solely to each of the following for the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands:*

*(a) Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places unless the local government grants an adjustment or variance allowing a setback of less than 100 feet; and*

\* \* \*

*YCZO 1203.02 and 1203.04 [County variance requirements; text omitted]*

**Board Findings:** Applicant requests a variance from the 100-foot setback requirement for the Phase 1 winery, which is a production-only facility in an existing agricultural building on the Property. Appellants have not challenged this variance. The Board finds that the variance is appropriate because Applicant does not propose visitor activities in the Phase 1 winery, the building and parking area are existing facilities, and there are no dwellings or other sensitive uses in the vicinity of this facility.

The variance would further County agricultural and economic policy supporting the development of local vineyards and wineries. The Phase 1 winery would allow Applicant to quickly begin producing wine made from Applicant's grapes on site, which will further increase the value of the agricultural crop grown on the Property and enable the Applicant to realize its Phase 2 plans.

The Board therefore finds that the Phase 1 setback variance meets ORS 215.452(11)(a) because it will not conflict with accepted farming and forestry practices on adjacent lands, and it meets the County's variance criteria for the reasons described above.

The Board finds that Applicant's Phase 2 winery will meet the 100-foot setback requirement. Site plans provided by Applicant demonstrate that the Phase 2 winery site will be a minimum of 100 feet from the nearest property line (Luttrell). Condition 1 requires adherence to Applicant's site plan.

*[ORS 215.45(11)](b) Provision of direct road access and internal circulation.*

**Board Findings:** The Board finds that the proposed winery has direct access from NE Morrelli Drive and there is ample area for vehicle circulation as shown on the site plan. Condition 6 requires Yamhill Fire Department and Public Works Department approval of a traffic management plan prior to any Phase 2 visitor activities on the Property. Applicant has therefore demonstrated compliance with this criterion.

*(12) A local government shall apply:*

- (a) Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar access and airport safety;*
- (b) Regulations of general applicability for the public health and safety; and*
- (c) Regulations for resource protection acknowledged to comply with any statewide goal respecting open spaces, scenic and historic areas and natural resources.*

**Board Findings:** Appellants express concern about Applicant's water use, and Appellant Paolo argues that the Board should regulate Applicant's water use at the winery under ORS 215.452(12). The Board finds that subsection (12)(c) of the winery statute is a reference to the County's natural resource protection rules adopted under Statewide Planning Goal 5. The County's Goal 5 water rules are limited to protections for municipal watersheds (they protect city water supplies from conflicting land uses), as set forth in the Yamhill County Comprehensive Plan at YC 11.05.04.01(b)(15) and the County's municipal watershed overlay zone rules at YCZO 905. The County's Goal 5 rules therefore do not regulate water use at Applicant's winery.

The Board finds that Applicant does not propose development in the floodplain, Willamette Greenway or in a geologic hazard area. The Board finds that the conditions of approval ensure Applicant's compliance with generally applicable health and safety rules, specifically Conditions 2-6, 17 and 18.

*(13) When a bed and breakfast facility is sited as a home occupation on the same tract as a winery established under this section and in association with the winery:*

- (a) The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and*
- (b) The meals may be served at the bed and breakfast facility or at the winery.*

**Board Findings:** The Board finds that this criterion is not applicable because Applicant's existing home occupation is not a bed and breakfast and no meal service is permitted through the home occupation pursuant to Board Order 23-289.

## 2. YCZO 1101.02(A) Site Design Review Criteria

### *1101.02 Evaluation of Site Development Plans.*

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

1. *Characteristics of adjoining and surrounding uses;*

**Board Findings:** The Board finds that surrounding uses include vineyards, a wine tasting facility, other farms and residential uses. The neighboring property on the west side of NE Morrelli Drive from the Phase 1 winery site is an agricultural field, and the nearest residence is approximately 500 feet southwest of the Phase 1 winery site.

The Phase 2 site is a minimum of 100 feet from the neighboring property line, and the nearest structure on this neighboring property is a large agricultural building.

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

**Board Findings:** The County's Comprehensive Plan calls for preserving agriculture and forestry as a dominant role in the County's economy while increasing economic diversification and employment. The Board finds that Applicant's winery would further County agricultural and economic policy supporting the development of local vineyards and wineries.

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

**Board Findings:** For the reasons described above, the Board finds that Applicant has demonstrated adequate parking, circulation and access to NE Morrelli Drive. The Board finds that Conditions 5 and 6 ensure that Applicant will adhere to all County roadway, circulation and parking requirements that are regulations of general applicability under ORS 215.452(12)(a). When Applicant wishes to proceed with Phase 2 of the winery, Applicant must submit a traffic and emergency management plan based on Applicant's Phase 2 building plans. The County will then apply the road and fire standards that are applicable based on Applicant's plans. The record demonstrates that it is feasible to improve NE Morrelli Drive if required based on the width of the right-of-way.

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

**Board Findings:** The Board finds that there will be adequate visual and noise buffering between the winery and other uses. Appellant Luttrell argued that the Phase 2 winery would be approximately 147 feet from her house, but the mapping provided to the Board by the Applicant shows that the Phase 2 winery will be a minimum of 250 from the Luttrell dwelling and 725 from the Paolo dwelling. Condition 12 regulates artificial lighting to ensure that it does not shine on or

create glare onto dwellings or roads. Condition 14 prohibits outdoor amplified music or sounds at the winery.

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

**Board Findings:** The Board finds that Applicant’s proposed use will not affect natural features on site. The Phase 1 winery and parking lot are existing facilities and the Phase 2 winery area is unplanted land.

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

**Board Findings:** As described above, the Board finds that Applicant does not propose development in hazard areas. Appellant Luttrell alleged that construction of the access road to Applicant’s caretaker dwelling caused flooding of her property. Applicant disputed that and noted that the flooding occurred during a month of record rainfall. The Board has imposed Condition 18 requiring Applicant to develop a stormwater management plan for construction of the Phase 2 winery. The Board therefore finds that this criterion is met.

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

**Board Findings:** The Board has considered the oral and written testimony of Appellants as well as the testimony of another neighbor, Koh Murai, at the hearing. The Board finds that the conditions of approval adequately address the neighbors’ concerns within the bounds of the approval criteria that apply to Applicant’s proposed use.

### 3. Conclusion

Based on the findings above, the request for site design review and variance for the phased winery and tasting room complies with the applicable criteria listed in ORS 215.452 and YCZO 402.02(H), 1101.02(A), 1203.02 and 1203.04 with conditions. Therefore the request is approved with the conditions identified in Section D below.

#### D. Conditions of Approval

1. The Phase 1 and Phase 2 developments shall substantially conform to the site maps submitted with this application (see enclosures).
2. Prior to issuance of Oregon Liquor & Cannabis Commission (OLCC) permits or the operation of the winery and tasting room, the Applicant shall obtain all necessary building, septic, plumbing, and electrical permits and inspections from the Yamhill County Planning Department.

3. Prior to issuance of building and/or Oregon Liquor & Cannabis Commission (OLCC) permits, the Applicant shall obtain all necessary authorizations, inspections, and permits from the County Sanitarian for installation of a new septic system or connection to an existing septic system to serve the winery and/or tasting room.
4. Prior to issuance of building and/or Oregon Liquor & Cannabis Commission (OLCC) 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 tasting room will not exceed the allowable daily usage for a permit-exempt well under ORS 537.545.
5. Prior to issuance of building permits, the water supply and access shall be required to meet the Yamhill Fire Department standards and conditions.
6. A traffic and emergency management plan shall be prepared by the Applicant, approved by the Yamhill Fire Department and Public Works Department, and then provided to the Planning Department prior to hosting any events on the subject lot.
7. The winery shall produce no more than 50,000 gallons of wine annually.
8. The tasting room may be open for daily tastings from 10:00 a.m. to 7:00 p.m.
9. 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.
10. A parking area shall be established and permanently maintained for as long as the winery and/or tasting room are operating so that there is a minimum of one (1) parking space for each employee working a maximum shift, and one (1) parking space per 100 square feet of wine tasting area, pursuant to Section 1007 of the YCZO.
11. Parking shall not be permitted on the NE Morrelli Drive public right-of-way.
12. Any artificial lighting which may be provided shall be placed, shielded, or deflected so as not to shine or create glare onto adjacent dwellings or create excessive glare along adjacent roads.
13. 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.
14. The use of outdoor amplified music or sound shall be prohibited.
15. “Agri-tourism or other commercial events” per subsection (2)(d) of ORS 215.252 are not authorized without additional approval. “Agri-tourism or other commercial events” include outdoor concerts for which admission is charged, educational,

cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of wine produced in conjunction with the winery is a secondary purpose of the event.

16. In addition to producing and distributing wine, this winery may:
2. *(a) Market and sell wine produced in conjunction with the winery.*
    - (b) Conduct operations that are directly related to the sale or marketing of wine produced in conjunction with the winery, including:*
      - (A) Wine tastings in a tasting room or other location on the premises occupied by the winery;*
      - (B) Wine club activities;*
      - (C) Winemaker luncheons and dinners;*
      - (D) Winery and vineyard tours;*
      - (E) Meetings or business activities with winery suppliers, distributors, wholesale customers and wine-industry members;*
      - (F) Winery staff activities;*
      - (G) Open house promotions of wine produced in conjunction with the winery; and*
      - (H) Similar activities conducted for the primary purpose of promoting wine produced in conjunction with the winery.*
    - (c) Market and sell items directly related to the sale or promotion of wine produced in conjunction with the winery, the marketing and sale of which is incidental to on-site retail sale of wine, including food and beverages:*
      - (A) Required to be made available in conjunction with the consumption of wine on the premises by the Liquor Control Act or rules adopted under the Liquor Control Act; or*
      - (B) Served in conjunction with an activity authorized by paragraph (b), (d) or (e) of this subsection.*
    - (d) Carry out agri-tourism or other commercial events on the tract occupied by the winery subject to subsections (5), (6), (7) and (8) of this section.*
    - (e) Host charitable activities for which the winery does not charge a facility rental fee.*
  3. *A winery may include on-site kitchen facilities licensed by the Oregon Health Authority under ORS 624.010 to 624.121 for the preparation of food and beverages described in subsection (2)(c) of this section. Food and beverage services authorized under subsection (2)(c) of this section may not utilize menu options or meal services that cause the kitchen facilities to function as a cafe or other dining establishment open to the public.*

4. *The gross income of the winery from the sale of incidental items or services provided pursuant to subsection (2)(c) to (e) of this section may not exceed 25 percent of the gross income from the on-site retail sale of wine produced in conjunction with the winery. The gross income of a winery does not include income received by third parties unaffiliated with the winery. At the request of a local government with land use jurisdiction over the site of a winery, the winery shall submit to the local government a written statement that is prepared by a certified public accountant and certifies the compliance of the winery with this subsection for the previous tax year.*
5. *A winery may carry out up to 18 days of agri-tourism or other commercial events annually on the tract occupied by the winery.*
6. *For events described in subsection (5) of this section for a winery in the Willamette Valley:*
  - (a) *Events on the first six days of the 18-day limit per calendar year must be authorized by the local government through the issuance of a renewable multi-year license that:*
    - (A) *Has a term of five years; and*
    - (B) *Is subject to an administrative review to determine necessary conditions pursuant to subsection (7) of this section.*
  - (b) *The local government's decision on a license under paragraph (a) of this subsection is not:*
    - (A) *A land use decision, as defined in ORS 197.015, and is not subject to review by the Land Use Board of Appeals.*
    - (B) *A permit, as defined in ORS 215.402 or 227.160.*
  - (c) *Events on days seven through 18 of the 18-day limit per calendar year must be authorized by the local government through the issuance of a renewable multi-year permit that:*
    - (A) *Has a term of five years;*
    - (B) *Is subject to an administrative review to determine necessary conditions pursuant to subsection (7) of this section; and*
    - (C) *Is subject to notice as specified in ORS 215.416 (11) or 227.175 (10).*
  - (d) *The local government's decision on a permit under paragraph (c) of this subsection is:*
    - (A) *A land use decision, as defined in ORS 197.015, and is subject to review by the Land Use Board of Appeals.*
    - (B) *A permit, as defined in ORS 215.402 or 227.160.*
7. *As necessary to ensure that agri-tourism or other commercial events on a tract occupied by a winery are subordinate to the production and sale of wine and do not create significant adverse impacts to uses on surrounding land, the local*

*government may impose conditions on a license or permit issued pursuant to subsection (6) of this section related to:*

- (a) The number of event attendees;*
- (b) The hours of event operation;*
- (c) Access and parking;*
- (d) Traffic management;*
- (e) Noise management; and*
- (f) Sanitation and solid waste.*

- 8. A local government may charge a fee for processing a license or permit under subsections (6) and (7) of this section. A fee may not exceed the actual or average cost of providing the applicable licensing or permitting service.*
- 9. A winery operating under this section shall provide parking for all activities or uses of the lot, parcel or tract on which the winery is established.*
- 10. Prior to the issuance of a permit to establish a winery under this section, the applicant shall show that vineyards described in subsection (1) of this section have been planted or that the contract has been executed, as applicable.*
- 11. A local government shall apply the standards described in this subsection. Standards imposed on the siting of a winery shall be limited solely to each of the following for the sole purpose of limiting demonstrated conflicts with accepted farming or forest practices on adjacent lands:*
  - (a) Establishment of a setback of at least 100 feet from all property lines for the winery and all public gathering places unless the local government grants an adjustment or variance allowing a setback of less than 100 feet; and*
  - (b) Provision of direct road access and internal circulation.*
- 12. A local government shall apply:*
  - (a) Local criteria regarding floodplains, geologic hazards, the Willamette River Greenway, solar access and airport safety;*
  - (b) Regulations of general applicability for the public health and safety; and*
  - (c) Regulations for resource protection acknowledged to comply with any statewide goal respecting open spaces, scenic and historic areas and natural resources.*
- 13. When a bed and breakfast facility is sited as a home occupation on the same tract as a winery established under this section and in association with the winery:*
  - (a) The bed and breakfast facility may prepare and serve two meals per day to the registered guests of the bed and breakfast facility; and*
  - (b) The meals may be served at the bed and breakfast facility or at the winery.*

14. *As used in this section:*

(a) *“Agri-tourism or other commercial events” includes outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of wine produced in conjunction with the winery is a secondary purpose of the event.*

(b) *“On-site retail sale” includes the retail sale of wine in person at the winery site, through a wine club or over the Internet or telephone.*

17. Prior to operation of the winery and tasting room, the Applicant shall obtain all permits required by the Oregon Liquor & Cannabis Commission (OLCC) and the Department of Agriculture (ODA).
18. Prior to issuance of building permits for the Phase 2 winery and tasting room structure, the Applicant shall submit a drainage plan showing that no natural drainage is disturbed by the development of the new winery and tasting room structure and supporting parking area. The drainage plan shall be prepared by a registered engineer and shall be submitted to and approved by the County Public Works Director.
19. Prior to operation of the Phase 2 winery and tasting room, the Applicant shall submit to the Planning Director a Landscape Plan for only the western property line of the subject parcel. The Landscape Plan shall be prepared, implemented, and maintained in a manner consistent with the requirements set forth in Section 1010 of the Yamhill County Zoning Ordinance.
20. The construction of any additional structures for use as part of the winery or tasting room not evaluated or approved for the Phase 1 and Phase 2 developments stages, or substantial modification to the footprint of the winery or tasting room or change in use of the current structures shall require the submission and approval of a site design review application.
21. This tentative approval shall expire one (1) year from the date of this letter unless all conditions have been met and the use has been initiated, however this does not apply to Phase 2 so long as Phase 1 has been initiated prior to the one (1) year expiration date.
22. Modification of any of the above conditions requires approval under Section 1202.05 of the Yamhill County Zoning Ordinance. Violation of any of the above conditions may result in revocation of the conditional use permit with the process detailed in Section 1202.07 and 1202.08 of the Yamhill County Zoning Ordinance.

\*END\*

