

BEFORE THE BOARD OF COUNTY COMMISSIONERS

TETON COUNTY, WYOMING

IN THE MATTER OF:

CONDITIONAL USE PERMIT APPROVAL (CUP2021-0001)

**FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER GRANTING APPROVAL
OF A CONDITIONAL USE PERMIT**

THIS MATTER came before the Teton County Board of County Commissioners (hereafter “Board” or “Board of Commissioners”) for public hearing on August 2, 2022, upon the application of Ian McGregor, in representation of landowner Robert McGregor, for approval of a Conditional Use Permit, pursuant to Section 8.4.2, Conditional Use Permit of the Teton County Land Development Regulations. The Board considered a presentation from staff and heard from the applicant. The Board of Commissioners, being fully advised herein, finds, concludes and orders as follows:

FINDINGS OF FACT

1. The property, being an unplatted parcel located at 1910 South Park Ranch Road South Fork, consists of 2.54 acres in size. The property is zoned Rural-3 (R-3) and is not within any Zoning Overlays.
2. The applicant has requested approval of a Conditional Use Permit to allow for an Accessory Use, Home Business Cidery, CUP2021-0001.
3. The initial application of February 23, 2021 was for an Accessory Use, Home Business Winery. Based on LDR Text Amendment AMD2021-0009, effective March 1, 2022, the applicant amended the initial application on June 13, 2022 to comply with the amended text of the LDRs, which now specifies the distinction of an Accessory Use, Home Business Cidery. The amended application includes removal of references to a Variance, which is no longer required, and revises the applicant’s Findings for a Conditional Use Permit, to address the amended LDR Text for a Home Business Cidery.

4. This application was brought before the Teton County Planning Commission on June 28, 2021 with a recommendation from the Planning Director for denial of CUP2021-0001.
5. On June 28, 2021, the Planning Commission voted 3-1 with Commissioner Lurie opposed resulting in a recommendation of approval of CUP2021-0001 application dated February 23, 2021 to the Board of Commissioners, with the following two (2) conditions, based on the findings recommended in the Staff Report dated June 28, 2021.
 - a. Applicant shall obtain approval of a variance, VAR2021-0002.
 - b. Daily vehicle trips shall not exceed twice the estimated average residential daily trips as described in the Street and Road Standards in the Land Development Regulations.
6. The public hearings of the Planning Commission and the Board of Commissioners were properly noticed pursuant to the Section 8.2.14.C. of the LDRs.
7. The application was brought before the Board of Commissioners on July 20, 2021.
8. A staff report dated July 20, 2021, was submitted to the Board of County Commissioners for review regarding the Conditional Use Permit (CUP2021-0001) pursuant to Section 8.4.2. of the LDRs for an Accessory Use, Home Business Winery.
9. As set forth in the July 20, 2021 staff report, the recommendation from the Planning Director to the Board of County Commissioners was for denial of the Conditional Use Permit (CUP2021-0001).
10. The Board heard a presentation from staff and from the applicant on the Conditional Use Permit application, and a concurrent application for a Variance (VAR2021-0002).
11. The Chair closed public comment with no public comment given, and the Board discussed the application.
12. Being unable to make the Findings for a concurrent application for Variance, the Board of County Commissioners made a motion to continue CUP2021-0001 to a date uncertain, such that the applicant could explore application for an amendment to the LDRs for the proposed Use.

13. On July 20, 2021, the Board voted on the matter, which vote was 5 to 0 with all Commissioners in favor, resulting in an approved motion to continue Conditional Use Permit CUP2021-0001 to a date uncertain.
14. On February 1, 2022 the Board heard an application from Ian McGregor for LDR Text Amendment (AMD2021-0009) that proposed new standards to the Accessory Use, Home Business section of the LDRs pertaining to Winery, Cidery or Micro-Brewery operations. This LDR Text amendment was approved on this date unanimously by the Board and became effective on March 1, 2022.
15. The CUP application (CUP2021-0001), as amended on June 13, 2022, was brought back before the Board of Commissioners on August 2, 2022.
16. A staff report dated August 2, 2022, was submitted to the Board of Commissioners for review at their August 2, 2022 meeting. This application was heard by the Board on August 2, 2022. As set forth in the staff report, the recommendation of the Planning Director and the Planning Commission in this matter was for approval with the following recommended condition.
 - a. Daily vehicle trips shall not exceed twice [19] the estimated average residential daily trips [9.5] as described in the Street and Road Standards in the Land Development Regulations.
17. At the August 2, 2022 meeting the Board discussed the application and the applicant responded to Board questions.
18. On August 2, 2022, the Board voted 4 to 0 to approve the Conditional Use Permit (CUP2021-0001) dated February 23, 2021, as amended June 13, 2022, for the proposed Accessory Use, Home Business Cidery, with the following condition, based on the recommended findings.
 - a. Daily vehicle trips shall not exceed twice [19] the estimated average residential daily trips [9.5] as described in the Street and Road Standards in the Land Development Regulations.

CONCLUSIONS OF LAW

- I. Based on the presentation and staff report of the Planning Department, the information presented by the applicant, the application from Ian McGregor for a Conditional Use Permit complies with all applicable provisions of the Teton County Comprehensive Plan.

- II. Based on the presentation and staff report of the Planning Department, the information presented by the applicant, the application from Ian McGregor for a Conditional Use Permit complies with all applicable provisions of the Teton County Land Development Regulations.

- III. The Board concludes and hereby finds that the application dated February 23, 2021, for a Conditional Use Permit (CUP2021-0001) does comply with and meet all eight (8) findings required pursuant to Section 8.4.2. of the LDRs for the proposed Accessory Use, Home Business Cidery, as recommended by the Planning Commission and Planning Director for approval of the Conditional Use Permit, and specifically finds as follows:
 1. *Is compatible with the desired future character of the area*
Can be made. The South Park Ranches neighborhood is where the residential workforce character of the subarea is intended to be preserved. The conservation of agricultural lands and agriculture in southern south park speaks to the interior agricultural open space area of the subarea, that is not impacted by this application. The site has approximately 2,500 square feet of potential, additional floor area for development. This could be developed as habitable, or non-habitable floor area. The applicant has indicated the possibility of building a new production outbuilding in the northeast corner of the property. This is the total of new potential development possible on the site, and to the extent that it represents potential increased development on an existing developed lot within an established neighborhood, it meets this subarea objective.

 2. *Complies with the use specific standards of Div. 6.1 and the zone*
Can be made. The property is zoned Rural 3 (R-3). There are no zone-specific use standards. The application complies with all specific standards of Div. 6.1 that relate to the Accessory Use, Home Business Cidery.

 3. *Minimizes adverse visual impacts*
Can be made. Staff finds that the proposed Use will minimize adverse visual impacts within the neighborhood given that the proposed cider production facility will not impact visual foregrounds or skylines in the neighborhood. In

addition, the parcel is not within the Scenic Resources Overlay (SRO), where additional standards would comply.

4. *Minimizes adverse environmental impacts*

Can be made. A proposal for physical development or use in the R-3 Zone, that was zoned Neighborhood Conservation prior to April 1, 2016, is exempt from the requirement to prepare an Environmental Analysis (EA). The surface water on the property is entirely irrigation infrastructure, and there are no protected wetlands or waterbodies on the property. In addition, the property does not fall within the Natural Resources Overlay (NRO). The project encourages development of local agricultural production. Exclusionary fences are not proposed at this time, and the production process as represented by the applicant indicates very limited use of water.

5. *Minimizes adverse impacts from nuisances*

Can be made, as conditioned. For approval, the determination must be made that the full realization of this Cider production facility will remain a minority of the use and character of the parcel, and that it remains secondary and subordinate to the primary, residential existing use. This is an allowed Accessory Use in the zone, with the only foreseeable nuisance issues stemming from the potential increase in vehicular traffic to and from the property. The Planning Commission recommended a Condition of Approval, as follows: “Daily vehicle trips shall not exceed twice [19] the estimated average residential daily trips [9.5] as described in the Street and Road Standards in the Land Development Regulations”. Based on this standard the Finding can be made that with the recommended condition of approval the application minimizes impacts from nuisances.

6. *Minimizes adverse impacts on public facilities*

Can be made. The establishment of a Home Business Winery is not anticipated to contribute significantly to demands on roads, water/sewer systems, parks, schools, police, fire and EMS. The intent of the application is to develop agricultural production on an existing residential parcel that is served by a minor local road in a developed neighborhood. There is no expansion of existing private ground water well or septic proposed in the application. Use of such resources as characterized in the application does not exceed typical residential consumption.

7. *Complies with all other relevant standards of these LDRs and all other County Resolutions*

Can be made. The proposed Home Business Cidery complies with the relevant standards in the LDRs, given the amendment of the standards pertaining to the Accessory Use, Home Business Cidery, effective on March 1, 2022.

8. *Is in substantial conformance with all standards or conditions of any prior applicable permits or approvals*

Can be made. There are no prior applicable permits or approvals relevant to this application.

IV. These conclusions are based upon the analysis of the findings as detailed in the August 2, 2022 staff report, as well as the Board's analysis of the required findings for the Conditional Use Permit that occurred at the August 2, 2022 public hearing on the matter.

IT IS HEREBY ORDERED:

The Board **APPROVES** the application for a Condition Use Permit (CUP2021-0001) received February 23, 2021, as amended June 13, 2022, for an Accessory Use, Home Business Cidery, being able to make all eight (8) findings of approval for a Conditional Use Permit pursuant to Section 8.4.2. of the Teton County Land Development Regulations.

DATED this ___ day of August, 2022.

BOARD OF COUNTY COMMISSIONERS
TETON COUNTY, WYOMING

BY: _____
Natalia D. Macker, Chairwoman

ATTEST: _____
Maureen E. Murphy, County Clerk

CERTIFICATE OF SERVICE

I, Maureen E. Murphy, Teton County Clerk, do hereby certify that I sent a true and correct copy of the FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER for the APPROVAL OF A CONDITIONAL USE PERMIT, postage prepaid by U.S. Mail or other delivery as indicated below on this ____ day of August, 2022, to the following addresses:

Ian McGregor
1910 South Fork Road
Jackson, WY 83001

Keith Gingery, Deputy County Attorney
Teton County Attorney's Office
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Via Email Only or Hand Delivery Only

Hamilton Smith, Principal Planner
Teton County Planning and Building Services
hsmith@tetoncountywy.gov

Via Email or Hand Delivery Only

Maureen E. Murphy, County Clerk