



**File No: SP 22-04 & CUP 22-01 Agricultural Chemical Fertilizer Storage & Distribution Facility**

**Proposal:** The Site Development Review application is requesting an agricultural chemical and fertilizer storage and distribution facility. The site includes a 7,380-square-foot 2-story (14,760 square foot total) administration office building, a 52,500-square-foot operations warehouse with a 2,106-square-foot attached office, a 71,858-square-foot dry fertilizer building with an attached rail and truck covered loading area, a 11,250-square-foot maintenance shop/ laboratory with an attached 4,500-square-foot covered wash pad, a 28,080-square-foot liquid fertilizer tank farm on a concrete pad with a fabric structure cover, 49 passenger vehicle parking spaces, a new access road, and a new railroad spur. The Conditional Use Permit is requested for the fertilizer production.

**I. BACKGROUND**

- A. Applicant: Wilber-Ellis Company
- B. Location: Southerly of Conser Road NE, easterly of the Willamette River
- C. Review Type: The proposed Site Development Review and Conditional Use Permit require a hearing before the Planning Commission. The Planning Commission is scheduled to hold a hearing on the application on November 1, 2022. The Planning Commission decision can be appealed to the City Council. Any appeal of the City Council's decision relating to this matter will be considered by the Oregon Land Use Board of Appeals (LUBA).
- D. Public Notice and Hearing: Notice was mailed to all property owners within 200 feet of the proposed location, posted in City Hall on October 5, 2022, and posted on the City's website here - <http://cityofmillersburg.org/planning-commission/>
- E. Review Criteria: Chapter 5.05.060 Site Development Review Criteria and 5.04.050 Conditional Use Permit Criteria.
- F. Current Zoning: General Industrial (GI)
- G. Proposed Zoning: N/A
- H. Property Size: 25 acres plus several offsite requirements such as an access road, secondary access, rail spurs, water and sewer lines.

I. Background:

The project includes many offsite improvements including water lines, sewer lines, primary access, secondary access, and all new rail road spur. Some of these improvements are outside the City limits. An application has been submitted to the County for the primary access. Many of these improvements are proposed on property that is under the

ownership of Southern Pacific Rail Road. Traditionally, this would require signature authorization for the application submittal; however, the rail road property is not within the City limits. Therefore, authorization has not been requested.

## II. AFFECTED AGENCY, PUBLIC NOTICE, AND PUBLIC COMMENTS

### Agencies:

The applicant's Site Development Review materials were transmitted to the following agencies/departments on October 14, 2022: City of Albany, Albany Fire Department, City of Millersburg Engineer, PacificCorp, Linn County Planning and Building Department, Linn County GIS, and Northwest Natural Gas. To date, the following comments have been received:

- Albany Fire Department letter dated October 14, 2022
- City of Millersburg Engineering comments dated October 21, 2022

### Public:

Notice of the November 1, 2022, hearing was mailed to all property owners within 200 feet of the property on October 5, 2022. To date, no written comments from the public have been received by staff.

## III. CRITERION

### **CITY OF MILLERSBURG DEVELOPMENT CODE**

The applicable CUP criterion are from Code section 5.04.050; the Site Development Review criteria are from section 5.05.060. All analysis and findings below are in addition to those provided by the applicant, which are included by reference.

#### **5.04.050 Conditional Use Decision Criteria**

**A conditional use shall be approved if the applicant provides supporting evidence that all the requirements of this Code relative to the proposed use are satisfied, and demonstrates that the proposed use also satisfies the following criteria:**

- (1) **The use is listed as a conditional use in the underlying zone and complies with the development requirements of the underlying zone.**

**ANALYSIS:** The zoning for the site is General Industrial (GI). In that zone, agricultural chemicals/fertilizer storage and distribution is listed as requiring a conditional use permit in section 2.10.040(5). Any conditional use permit is secondary to a site development review permit, both are required for any CUP.

The development standards for the GI zone include all dimensional standards listed in Table 9. These include minimum lot area, setbacks, yards when next to residential, height, and lot coverage. Most of these standards are zero unless the property is located next to residential zoning. The applicant's site is far from any residentially zoned property, and thus meets all zoning development standards. The zoning standards also reference other development standards in the Development Code. These will be addressed in the last section of the staff report. With conditions, all development standards are met.

**FINDING:** Based on the analysis above, the project meets the required criteria.

**(2) The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, and location of improvements and natural features.**

**ANALYSIS:** The property is currently vacant. The site is generally flat with 8 feet of slope north to south over a span of about 1,700 feet. The site is free from significant vegetation or any other natural features that would inhibit development of the site.

The access to the site requires the construction of a new road, connecting to Conser Road NE. The new access road is considered part of this project and is shown on the drawings. Most of the new road is not located within the City jurisdiction, it is located within unincorporated Linn County. The applicant has submitted a separate application to the County for the road alone. Secondary access for emergency vehicles is planned going to the south of the property. The secondary access road exists but will need to be improved. Because both primary and secondary access will be required, but are located outside the City's jurisdiction, a condition of approval has been added that they both be constructed and fully functional prior to final inspection.

Water and sewer are similar in that they are both existing on the east side of the railroad tracks and need to be extended to the west side. The applicant and the property owner (the City of Millersburg) will work with the railroad to extend services through their property. All extensions are part of the project. It should be noted that while these utilities will cross the rail road tracks, which are not within the City of Millersburg, there is no need for separate land use permitting through the County for these actions. Building and safety permits may be needed through the County Building Department, but no land use permits are needed. No conditions have been added for utilities because these utilities are needed prior to operation with the need for conditions of approval. The business cannot operate without water and sewer.

**FINDING:** Based on the analysis above, with conditions of approval, the project meets the required criteria.

**CONDITIONS OF APPROVAL:**

- Prior to final inspection, both the primary and secondary access roads must be constructed and inspected. The primary road must be paved, to the satisfaction of the City engineer. The secondary access does not need to be paved but must be able to support use by emergency vehicles, to the satisfaction of the Albany Fire Department.

**(3) The proposed development is timely, considering the adequacy of transportation systems, public facilities, and services, existing or planned for the area affected by the use.**

**ANALYSIS:** As discussed previously, the project will require the construction of some infrastructure for access and utilities, though all are reasonable and feasible.

**FINDING:** Based on the analysis above, the project meets the required criteria.

- (4) **The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying zone.**

**ANALYSIS:** The site is located in a place that is very difficult to see from any right-of-way or public place. As discussed before, the site is vacant and free from any significant vegetation. The surrounding property to the west is generally undevelopable and is currently forested property between the applicant's site and the Willamette River. There is no active use planned or proposed on the property to the west. This project will not limit, impair or preclude the use of this property. The property to the north and east are planned for additional industrial development, property is currently vacant. The extension of the utilities will only help additional development, not impair or preclude it. The property to the south is an existing pond and is designated wetlands. This project will not drain into that pond and will have to impact or effect on the use of that property.

**FINDING:** Based on the analysis above, the project meets the required criteria.

#### **5.05.060 Site Development Review Decision Criteria**

**The review of the Site Plan shall be based upon the following criteria:**

- (1) **The proposed use is allowed in the zone and complies with the underlying zone development standards.**

**ANALYSIS:** See the discussion above in the analysis for 5.04.050(1). The project complies.

**FINDING:** Based on the analysis above, the project meets the required criteria.

- (2) **The proposed use will not create negative impacts on the surrounding area resulting from traffic flow, noise, dust, glare, odor, potential incompatible adjacent uses such as parking lots, or other impacts identified in the public hearing process.**

**ANALYSIS:** The project will increase traffic on NE Conser Road, though the City is constructing a new street designed to keep non-residential traffic off of NE Conser east of NE Woods Road. The new street is currently called NE Transition Parkway. This new street will be designed to accommodate the traffic from the applicant's project and additional industrial development west of the railroad tracks. The applicant provided a traffic study by Sandow Engineering which concluded all standards are met.

Regarding glare, the site plan shows some proposed lighting, but additional details are required. The narrative explains that the lighting details are still pending. The lighting will be required to not spill over the property lines in any way. A condition of approval has been added requiring the applicant to provide a lighting plan prior to construction.

There should be no other impacts to surrounding uses because the property surrounding the site will largely be vacant. The project should not have any impacts on the natural areas to the west. The project has been designed so that most of the active uses are located on the western side of the property, away from the natural area to the west. The north, south and east are all industrial areas. There will be no impacts to any of these areas. Additional impact discussions are addressed in the applicant's narrative.

**FINDING:** Based on the analysis above, with conditions of approval, the project meets the required criteria.

**CONDITIONS OF APPROVAL:**

- Prior to the issuance of building permits, the applicant shall provide a lighting plan to the City for review and approval. All lighting must stay within the project site through the use of shielding or other methods.

**(3) The City may impose conditions of approval intended to mitigate potential impacts including, but not limited to:**

**a. Provisions for public utilities, including drainage and erosion control needs;**

**ANALYSIS:** As discussed previously, the project is proposing to bring water and sewer to the site from locations east of the railroad tracks. The narrative explains that there is a 12" water line in NE Arnold Lane that will be used. The line is proposed to be upsized to an 18" line to accommodate the additional volume. The sewer line is closer. There is a 24" line east of the rail road tracks. These utilities will bore under the tracks. Construction of the public utilities will follow public standards.

Drainage and erosion control features are shown on the site plan, but there is not enough detail provided to show full compliance. As such, a condition of approval has been added requiring a full drainage plan to be submitted prior to building permit issuance.

**FINDING:** Based on the analysis above, with conditions of approval, the project meets the required criteria.

**CONDITIONS OF APPROVAL:**

- Prior to the issuance of building permits, the applicant shall submit for approval a drainage plan that meets all the requirements of the Millersburg Development Code Chapter 3.04, to the satisfaction of the City Engineer.
- Prior to final inspection, the applicant shall construct all required drainage facilities, or provide bonding (or similar) for all improvements approved by the City.

**b. Parking, traffic safety, and connectivity of internal circulation to existing and proposed streets, bikeways, and pedestrian facilities;**

**ANALYSIS:** The applicant's narrative explains:

*While individual building types of the proposed use can be found in Table 14 – Vehicle Parking Space Requirements, the greater use is not represented. As such, the applicant proposes to utilize MDC 3.03.050 to determine the appropriate number of parking spaces. This standard states “requirements for types of buildings and uses not specifically listed herein shall be determined by the Planning Director based upon the requirements of comparable uses listed and expectations of parking and loading need.”*

*Seventy-two employees will operate out of this facility; however, all 72 employees will never be on-site at the same time due to the nature of their day-to-day tasks, shifts, and functions - many employees will work remotely from potential buyers' or current clients' farm sites. Approximately 30 to 40 employees will routinely operate on-site during a standard 8:00 a.m. to 5:00 p.m. with seasonal adjustments plus-or-minus one hour during heavy spring and fall volume months. The facility will also be open Saturdays during heavy volume times (spring & fall months). The number of buyers or contractors who visit the site will be limited. Therefore, to ensure that sufficient parking is provided for employees and visitors to the site, the applicant proposes the construction of 49 parking spaces. This number will provide parking for all employees assigned to a given shift and any customers visiting the site. Consequently, the intent of this standard is met.*

Staff concurs with this analysis. The use is unique in that the applicant has stated that there is to be very minimal staff within the storage areas, so the typical warehouse standards would not apply. Additionally, a primary intent of the parking standards is to assure that there would be enough parking for any possible different tenants of the facility. The design would allow for additional parking if a different tenant were to occupy the space.

**FINDING:** Based on the analysis above, the project meets the required criteria.

**c. Provision for adequate noise and/or visual buffering from non-compatible uses including using site and landscaping design to provide needed buffering; and**

**ANALYSIS:** As mentioned previously, most operations will take place within the new structure, which will limit noise. There are no residential areas near the property.

**FINDING:** Based on the analysis above, the project meets the required criteria.

**d. Protections from any potential hazards.**

**ANALYSIS:** No hazards are anticipated on or near the property. No additional protections are needed. The type of chemicals and fertilizers stored are not related

to ammonium nitrate and should not present any kind of hazard to the City or surrounding properties.

**FINDING:** Based on the analysis above, the project meets the required criteria.

#### **IV. STANDARDS**

The proposed design complies with all the specifications and design requirements of Chapter 2, specifically the GI Zone setbacks and siting requirements, and Chapter 3 General Provisions as shown below. The following analysis is a summary of only the applicable standards or items that required additional explanation and/or additional conditions of approval to show clear consistency. Again, these findings are in addition to those made in the applicant's narrative which is included here by reference.

#### **CHAPTER 3.02 STREET STANDARDS**

The street standards explain the requirements for City public and private streets. While a street is required for and by this project, it is important to note that the street is partially within the County jurisdiction. The street is designed to meet County and "rural" City street standards. Section 3.02.050 allows the City to modify the required street section design, meaning street land widths, sidewalks and other required features. In order to approve a modification to the standard, the City must find that (as outlined in 3.02.050(2)) the specific design proposed provides adequate vehicular access based on anticipated traffic volumes. Based on a review by the City Engineer and the traffic study, the proposed street design will be adequate for the anticipated traffic.

The secondary access is within the City. This access will not be public and is intended for emergency access only. Because it will not be a public street the City street standards do not apply. The secondary access road will have to meet the requirements of the Albany Fire Department.

#### **SECTION 3.02.120 TRAFFIC IMPACT ANALYSIS**

**ANALYSIS:** The proposed project will trigger the requirements for a traffic study. The applicant has provided a study by Sandow Engineering dated September 30, 2022. The study found that the existing street system (with the new road) is adequate to accommodate the anticipated traffic levels from the project, and that truck queuing can be accommodated without any impact to the City.

**FINDING:** Based on the analysis above, the project meets the standards.

#### **CHAPTER 3.03 OFF-STREET PARKING AND LOADING**

#### **SECTION 3.03.050 GENERAL PROVISIONS OF OFF-STREET PARKING AND LOADING PARKING**

**ANALYSIS:** Parking requirements were addressed above in the project criteria requirements. The applicant has made an argument that the standard parking requirements should not apply and using 3.03.050 has requested that the Planning Director make a determination that the parking proposed is adequate for the use. As explained previously, staff acknowledges that the use is unique, and that the design of the project contains large open space areas that could be converted to future parking should the vendor change and the parking demands increase.

**FINDING:** Based on the analysis above, the project meets the standards.

### **SECTION 3.03.070 OFF-STREET LOADING REQUIREMENTS**

**ANALYSIS:** The applicant has explained that 8 loading spaces are required. They explain:

*Five of the proposed loading spaces are located on the north side of the operations warehouse – a loading bay is illustrated on the preliminary site plan. While other loading areas are not as clearly marked, the proposed development includes several structures and areas intended for the loading of vehicles. On the west side of the dry fertilizer building a 100-foot by 56-foot building will be constructed to provide an enclosed loadout area. A building of this size could provide up to 21 loading areas based on the 12 feet wide and 30 feet long dimensional standards. The west side of the liquid dike provides a pathway for trucks to maneuver and accept fluids – this portion of the liquid dike is 216 feet long by 25 feet wide. That provides seven more loading spaces. The truck routes through this area are demonstrated by the traffic patterns and arrows on the preliminary site plan. Furthermore, while not strictly defined, a truck pull-off area is located on the east side of the operations warehouse to provide additional loading area if needed. Therefore, this standard is met.*

Staff concurs with this analysis.

**FINDING:** Based on the analysis above, the project meets the standards

### **SECTION 3.03.080 PARKING, DRIVEWAY, AND LOADING AREA DEVELOPMENT REQUIREMENTS.**

**ANALYSIS:** The Code specifies in subsection (1) that all driving surfaces are to be paved. However, the project proposes to only pave about half of the project. Section (1)c allows the City Engineer to allow alternative surfaces for industrial projects. In this case, the City Engineer is comfortable with the gravel proposed on half of the property.

Passenger vehicle parking has only been provided around the office building. Subsection (2) explains that all spaces must be at least 9 feet wide and 20 feet long. As shown on sheet 6 of the proposed plans, the parking spaces measure only 9 feet wide and 18 feet deep. A condition of approval has been added to revise the



spaces to meet the City standard. The parking shown appears to be at a 45-degree angle, which requires a 13-foot driveway aisle. The narrative says they are at a 60-degree angle which would require an 18 foot aisle width. Either way, as shown there is 20 feet (one way only), which conforms.

Subsection (8) requires specific landscaping for the parking area. This is discussed more in the analysis of section 3.09 below.

**FINDING:** Based on the analysis above, with conditions of approval, the project meets the standards.

**CONDITIONS OF APPROVAL:**

- Prior to final inspection, all parking spaces must be revised to be 9 feet wide and at least 20 feet in length.

**CHAPTER 3.09 LANDSCAPING REQUIRED- MIXED-USE AND NON-RESIDENTIAL ZONES**

**SECTION 3.09.030(1)b NON-RESIDENTIAL LANDSCAPING**

**ANALYSIS:** The site does not abut any residential property; no screening is required. The applicant provided a landscape and irrigation plan. No setbacks are required. Landscaping is proposed in the parking area only.

**FINDING:** Based on the analysis above, the project meets the standards.

**SECTION 3.09.030(2) PARKING LOT LANDSCAPING**

Parking areas have specific landscape requirements. These include:

- i. Planter bays for more than 12 parking spaces in a row.
- i. Walkways must surround buildings or include 5 feet of landscaping.
- ii. Parking lot landscaping must be separated from gravel areas by boulder or other blockades.

**ANALYSIS:** There are no areas in the proposed lot that use more than 11 parking spaces together, thus planter bays intended to break up large sections of parking are not required, though landscaped areas at the ends of the parking aisles are still required. These are provided. The building is shown with a walkway surrounding the entire structure. Lastly, the landscape areas do not seem to include any boulders or other method to separate the landscape areas from the adjacent graveled areas. A condition of approval has been added to require such.

**FINDING:** Based on the analysis above, with conditions of approval, the project meets the standards.

**CONDITIONS OF APPROVAL:**

- Prior to final inspection, the office landscaping areas must install boulders or similar barriers between the landscaping and the graveled areas, such that vehicles are prevented from driving into the landscape areas.

### **SECTION 3.26 COMMERCIAL DESIGN STANDARDS**

Commercial Design Standards are intended to create an attractive vista, enhancing the ability to attract business investment and livability. Requirements include:

**(1) Exterior walls of buildings shall be constructed using the installation of a combination of architectural features and a variety of building materials.**

**ANALYSIS:** This requirement only applies to the office building. This section was revised in July of this year, so the new standards apply. As submitted the elevation of the office building appears to be a combination of metal wall panels and stone veneer. The stone veneer appears to cover most of the front façade and the first 12 feet of the exterior walls on three sides. The proposed design addresses the requirement for a variety of materials. The front façade of the structure features gables and different roof elements at each level of the building. These meet the requirements for the required architectural features on the facade. Other sides of the structure are addressed later. It should be noted that the elevations show an electronic message board on the façade. This is not permitted without a separate Sign Permit and Conditional Use Permit.

**FINDING:** Based on the analysis above, the project meets the standards.

**(2) Walls that can be viewed from adjacent public streets including Interstate 5 shall be designed with windows totaling a minimum of 10% of the wall area and using architectural features and landscaping (abutting the building) for at least 50% of the wall length. Other walls shall incorporate architectural features and landscaping for at least 30% of the wall length.**

**ANALYSIS:** The structure is not visible from adjacent streets or I-5 so this standard does not apply.

**FINDING:** This standard does not apply.

**(3) Architectural features shall include at least three of the following: recesses, projections, wall insets, arcades, window display areas, balconies, window projections, landscape structures, or other features that complement the design intent of the structure and are approved in the Site Design Review process.**

**ANALYSIS:** The code text does not clarify if these are required on all sides of the structure. The applicant has stated the following in the narrative:

*Each façade of the proposed office building will contain three architectural features. While several are listed in this standard*

(landscaping, window projections, building projections), the building also incorporates the use of multiple building materials – which is not listed in this standard, to provide architectural interest. Building materials include stone veneer, brick veneer, and metal panels to provide a variety of textures and visual contrast. It is compatible with the intent of this standard and can be permitted through this Site Design Review process. Table 2, Description of Architectural Features, outlines how each façade complies with this requirement below.

<b>Wall Direction</b>	<b>Total Length</b>	<b>Required Feature Length</b>	<b>Length of Features</b>	<b>Features provided</b>
<b>North</b>	98 ft.	29.4 ft.	98 ft.	Landscaping, projections, and multiple building materials
<b>South</b>	98 ft.	29.4 ft.	91 ft.	Window projections, multiple building materials, and landscaping
<b>East</b>	70 ft.	21 ft.	40 ft.	Window projections, multiple building materials, and landscaping
<b>West</b>	70 ft.	21 ft.	59 ft.	Window projections, multiple building materials, and landscaping

If the Planning Commission interprets the requirement is only for the front façade, then the standard appears to be met. Staff would interpret this to mean all sides, otherwise it would specify that it only applies to the façade.

If the standard applies to all sides, three features are required on each side. Each of the applicant's responses is reviewed below:

- The applicant's narrative states that there are window projections, though the elevations do not seem to show any projecting windows (like bay windows for example). It seems that this would not qualify as an architectural feature.
- The applicant lists multiple building materials as an architectural feature. It is true that the standard allows an applicant to use the Site Development Review process to identify an equivalent feature that may not be included on the list; however, the use of different building materials is a specific requirement elsewhere in the Commercial Design Standards. For this reason, they should not be used here as well to satisfy this standard. It seems that this would not qualify as an architectural feature.
- The applicant states that landscaping is provided against the walls. This is true, as reflected on Sheet 6 of the plans provided. This would qualify as one of the three features (because it is specifically listed).

Using staff's interpretation of this standard the building does not meet the requirement on three of the sides. A condition of approval has been added to require two additional architectural features on three sides of the structure. The proposed condition of approval also gives the

Community Development Director the ability to determine if they comply, this avoids the need to bring the project back before the Planning Commission for a determination.

**FINDING:** Based on the analysis above, with conditions of approval, the project meets the standards.

**CONDITIONS OF APPROVAL:**

- Prior to issuance of building permits, the applicant shall provide revised building elevations for the office structure that incorporate at least two additional architectural elements listed in Development Code section 3.26.030(3) on each side of the structure, except the front which already meets the standards. The Community Development Director will determine if the additions meet the standard.

**(4) The predominant building materials shall be either brick, wood, stone, decorative steel paneling (not standard metal wall panels), and/or tinted/textured concrete masonry units, or glass products, or a combination thereof. Other materials such as smooth-faced concrete block, or undecorated tilt-up concrete panels, shall not exceed 25% of the material used for walls adjacent to the street or 75% of any other wall. All roof types are allowed including metal roofs; however, flat roofs shall be surrounded by a vertical extension of the adjacent wall.**

**ANALYSIS:** As explained above, the structure features several different materials on the façade. The elevations state that the building does use metal wall panels. The standard specifically states that metal wall panels cannot be the predominant building material. The applicant's narrative references the older version of the Development Code which is tied to visibility from a street. The new version of this standard does not include any such provision for visibility from a street. Therefore, this standard applies to the office building.

As submitted most of the front façade is covered by glass or stone veneer. The remaining three sides are only covered in stone veneer on the lower 12 feet of the façade. The rest of the structure uses metal wall panels. The standard says the predominant building material cannot be metal wall panels. It is assumed that predominant in this case would mean more than 50%. Given that the front of the structure features offices that project out from the structure, and given that those additional sections of the structure are completely covered in glass or stone veneer, and given that most of the front façade is covered in stone veneer, it seems that less than ½ of the structure is a material other than the metal wall panels.

**FINDING:** Based on the analysis above, the project meets the standards.

**(5) Exterior colors shall be of low reflectance and shall be earth tone or dark shades of primary or secondary colors. The use of high intensity colors such as black, neon, metallic, or fluorescent for the facade and/or roof of the building is prohibited except as approved for building trim.**

**ANALYSIS:** The applicant has not provided color elevations but has stated in the narrative that earth tone colors will be used.

**FINDING:** Based on the analysis above, the project meets the standards.

**(6) Awnings that provide a minimum three feet of shelter from rain are required unless other architectural elements are provided for similar protection, such as an arcade.**

**ANALYSIS:** The project does not comply with this requirement. A condition of approval has been added to provide the required rain protection.

**FINDING:** Based on the analysis above, with conditions of approval, the project meets the standards.

**CONDITIONS OF APPROVAL:**

- Prior to issuance of building permits, the applicant shall provide revised building elevations for the office structure that incorporates at least a three feet deep area intended to provide a rain shelter for pedestrians near the entrance of the structure, as required in Development Code section 3.26.030(6). The Community Development Director will determine if the additions meet the standard.

**(7) Loading areas shall be located to the side or rear of the building when viewed from the arterial or collector. If a loading area is visible from an arterial or collector, it must be screened with vegetation or a screen made of materials matching the building materials.**

**ANALYSIS:** The building is not viewable from an arterial or collector. This standard does not apply.

**FINDING:** Based on the analysis above, the project meets the standards.

**(8) The development shall provide a plaza consistent with the following standards:**

- a) The plaza must be at least 10 square feet. The area must be for public use or similar activated and usable public space (not just landscaped area), in addition to required sidewalk(s), for every 1,000 square feet of floor space.**
- b) The plaza must include at least one of the following: patio-seating area, pedestrian plaza with benches, covered playground area, kiosk**

area, water feature, clock tower, or other similar focal feature or amenity.

c) The plaza may be located within a setback or landscape area.

**As an alternative the Planning Commission may approve a public art piece to substitute for the plaza. The size of the art shall scale in proportion to the amount of plaza space required.**

**ANALYSIS:** The intent of this standard is to provide a public amenity in a place where a private and public area interface, typically a sidewalk on a street. The proposed structure does not include a location where the public has any pedestrian interface with the building. The office building is located interior to the project site, in an area where the public would generally not be permitted. For this reason, this standard does not apply.

**FINDING:** This standard does not apply.

**(9) As an alternative to the standards listed above, an applicant may apply for a Conditional Use Permit (CUP), satisfying all CUP criterion and the following additional criterion:**

- a) The proposed development meets the intent of, or exceeds, the applicable standards;
- b) The proposed design of the structures, including all finishes and architectural features, will blend with the surrounding community.
- c) All portions of the development are accessible by a direct, convenient, attractive, safe, and comfortable system of pedestrian facilities, and the development provides appropriate pedestrian amenities. The design of buildings supports a safe and attractive pedestrian environment.
- d) Building façades are designed to a human-scale, for aesthetic appeal, pedestrian comfort, and compatibility with the design character of the district or neighborhood.

**ANALYSIS:** The applicant did not apply for a CUP to propose alternative standards. The applications do include a CUP but it is for the use proposed, not alternative standards.

**FINDING:** This standard does not apply.

## **V. RECOMMENDATION**

Based on the above findings of fact, and the conditions of approval, the proposed project satisfies the applicable criteria and standards, and staff recommends the Planning Commission approve Application No. SP 22-04 and CUP 22-01.

## **VI. PROPOSED MOTION**

I motion that the proposed project satisfies the applicable criteria and standards, and the Planning Commission approves Site Plan SP 22-04 and CUP 22-01 with the conditions of approval.

## **VII. ALTERNATIVE RECOMMENDATION**

Should the Planning Commission not elect to approve the proposed development, they could continue the item for further discussion or deny the application citing the specific criteria not satisfied by the applications.

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## **VIII. CONDITIONS OF APPROVAL**

### **General Conditions:**

1. This land use approval shall substantially comply with the submitted preliminary plans included as Exhibit C (a-g) dated as noted below, except as indicated in the following conditions:

- Sheet 1- Cover sheet dated September 28, 2022
- Sheet 2- Existing Conditions dated September 28, 2022
- Sheet 3- Site Plan dated October 6, 2022
- Sheets 4 & 5- Access Road dated August 29, 2022
- Sheet 6- Office Insert dated September 28, 2022
- Sheet 7- Utility Plan dated September 28, 2022
- Sheet 8- Grading & Drainage dated September 28, 2022

Additional development or change of use may require a new development application and approval.

2. Copies of any federal or state permits that may be required shall be filed in the Record File of this application.
3. This approval does not negate the need to obtain permits as appropriate from other local, state, or federal agencies, even if not specifically required by this decision.
4. The applicant has included a warehouse on the site plan, marked as a future structure. No elevations were provided for this structure. This approval does not include approval for the 26,800 square foot warehouse. A separate site development plan approval will be required prior to the construction of the warehouse.
5. A Private Construction of Public Infrastructure (PCPI) permit is required for all new public infrastructure. Proposed water and sewer mains shall be constructed to public infrastructure standards and easements shall be provided to the City of Millersburg in accordance with City of Millersburg Engineering Standards (15' for water main, 30' for parallel water and sewer main). Spacing between parallel water and sewer mains shall be minimum 10 feet.
6. Primary site access shall be via a new access road from Conser Road. Secondary access in compliance with fire code is required.

7. City water must be extended to the site for fire protection, potable, and process use.
8. Sanitary sewer must connect to City's existing collection system.

**Prior to Building Permit Issuance:**

9. Prior to the issuance of any building permits the applicant shall provide evidence to the City that all requirements of the Albany Fire Department letter dated October 14, 2022, have been met to the satisfaction of the Albany Fire Department.
10. All applicable System Development Charges (SDCs) will be due at the time of building permits.
11. Prior to the issuance of building permits, the applicant shall submit for approval a drainage plan that meets all the requirements of the Millersburg Development Code Chapter 3.04, to the satisfaction of the City Engineer.
12. Prior to issuance of building permits, the applicant shall provide revised building elevations for the office structure that incorporate at least two additional architectural elements listed in Development Code section 3.26.030(3). The Community Development Director will determine if the additions meet the standard.
13. Prior to issuance of building permits, the applicant shall provide revised building elevations for the office structure that incorporates at least a three-foot-deep awning or other architectural feature intended to provide a rain shelter for pedestrians near the entrance of the structure, as required in Development Code section 3.26.030(6). The Community Development Director will determine if the additions meet the standard.

**Prior to Grading:**

14. Prior to grading the applicant must obtain a City of Millersburg Erosion Control Permit and Grading Permit prior to construction.
15. Obtain a 1200C Erosion Control Permit and a City of Millersburg Erosion Prevention and Sediment Control Permit for all the disturbed ground, both on and off site that is in excess of one acre. The applicant shall follow the latest requirements from DEQ for NPDES 1200-C Permit submittals.
16. Stormwater facilities shall be designed and constructed in accordance with the City of Millersburg Engineering Standards. A grading permit is required for earthwork in excess of 50 cubic yards; a storm drainage report and grading plan shall be submitted for review. A final grading and stormwater inspection will be required prior to issuance of a certificate of occupancy.
17. All required public improvement plans shall be approved by the City prior to beginning construction. All utilities shall remain uncovered until inspected and approved by the City.



### **Prior to Final Inspection:**

18. All required public improvements shall be completed and approved by the City prior to final inspection.
19. Prior to final inspection, the applicant shall provide evidence to the City that all requirements of the Albany Fire Department letter dated October 14, 2022, have been met to the satisfaction of the Albany Fire Department.
20. Prior to final inspection, the applicant shall construct all required drainage facilities, or provide bonding (or similar) for all improvements approved by the City.
21. Prior to final inspection, all parking spaces must be revised to be 9 feet wide and at least 20 feet in length.
22. Prior to final inspection, the office landscaping areas must install boulders or similar barrier between the landscaping and the graveled areas, such that vehicles are prevented from driving into the landscape areas.
23. Prior to final inspection, both the primary and secondary access roads must be constructed and inspected. The primary road must be paved, to the satisfaction of the City Engineer. The secondary access does not need to be paved but must be able to support use by emergency vehicles, to the satisfaction of the Albany Fire Department.

### **IX. NOTICES TO THE APPLICANT**

The applicant should also be aware of the following standards and processes that are required for development. These are not part of the decision on this land use case and are provided as a courtesy to the applicant. Please contact City Hall with any questions.

1. All applicable Connection Charges will be due at the time of building permits.
2. Compliance with the Conditions of Approval is the responsibility of the developer or its successor in interest.
3. All required street signage and street lighting shall be approved by the City Engineer and installed.
4. Dust shall be controlled within the development during construction and shall not be permitted to drift onto adjacent properties.
5. The developer is responsible for all costs associated with any public facility improvements and shall ensure the construction of all public streets and utilities as required by these conditions of approval to the plans, standards, and specifications of the City of Millersburg.
6. **This approval is valid for a period of two (2) years from the date of the decision notice.** Extensions may be granted by the City as afforded by the Millersburg Development Code.

7. The continual operation of the property shall comply with the applicable requirements of the Millersburg Development Code.
8. Noise shall be kept at the minimum level possible during construction. The developer shall agree to aggressively ensure that all vehicles working in the development shall have adequate and fully functioning sound suppression devices installed and maintained at all times.
9. All construction sites shall be maintained in a clean and sanitary condition at all times. Construction debris includes food and drink waste. All waste shall be contained on-site in proper containers or construction fencing enclosures and shall leave the construction site in proper disposal containers. Failure to comply with this condition may result in a "Stop Work" order until deficiencies have been corrected to the satisfaction of the City.

**X. EXHIBITS**

- A. Zoning Map
- B. Vicinity Map
- C. Applicant's Site Plans:
  - a. Sheet 1- Cover sheet dated September 28, 2022
  - b. Sheet 2- Existing Conditions dated September 28, 2022
  - c. Sheet 3- Site Plan dated October 6, 2022
  - d. Sheets 4 & 5- Access Road dated August 29, 2022
  - e. Sheet 6- Office Insert dated September 28, 2022
  - f. Sheet 7- Utility Plan dated September 28, 2022
  - g. Sheet 8- Grading & Drainage dated September 28, 2022
- D. Applicant's Elevations:
  - a. Sheet AD 2- Elevations- Covered Dike dated August 2022
  - b. Sheet AS 5- Elevations- Lab/ Shop dated August 2022
  - c. Sheet GA 10 & 11- Elevations- Operations Building dated January 14, 2022
  - d. Sheet AO 4 & 5- Elevations- Office Building dated August 2022
  - e. Sheet AW 5 & 6- Elevations- Operations Warehouse dated August 2022
- E. Applicant's Narrative dated October 3, 2022
- F. Agribusiness Millersburg Site Traffic Impact Analysis by Sandow Engineering dated September 30, 2022 (not included in the staff report for file size purposes, available upon request)
- G. Millersburg City Engineer Comments dated October 21, 2021
- H. Albany Fire Department Comment Letter dated October 14, 2022
- I. Public Hearing Notice