



1 BAGG, Referee.

2 NATURE OF THE DECISION

3 Petitioners challenge the grant of a conditional use  
4 allowing "a commercial horse stable and arena on Yamhill County  
5 Tax Lot 3236-1200 and 1300 to be used for the boarding,  
6 training and breeding of horses."

7 FACTS

8 In August of 1981, Applicant Robert Lanphere began  
9 construction of a building on his property in Yamhill County.  
10 Construction was initiated before receipt of a building  
11 permit. After complaints from neighbors, the county issued a  
12 stop work order on the project. According to staff testimony  
13 in the record, a building permit was issued specifying that the  
14 building was to be used only for private use. The permit given  
15 was for an agricultural building, and after construction was  
16 resumed pursuant to the permit, the applicant applied for a  
17 conditional use permit in order to use the structure to board  
18 horses for profit.

19 A conditional use permit was issued by the Yamhill County  
20 hearings officer along with conditions. The conditional use  
21 permit allowed the applicant to use the building for his horse  
22 boarding enterprise. Petitioners and others appealed this  
23 decision to the Board of County Commissioners, and the County  
24 Commissioners held a hearing on the matter on December 16,  
25 1981. On January 6, 1982, the Board of Commissioners approved  
26 the conditional use permit, and this appealed followed.

1       The property is located six miles southeast of the City of  
2 Newberg and is in the AF-10 zone. The AF-10 zone is a mixed  
3 agricultural and forestry use zone in Yamhill County. The  
4 acknowledged comprehensive plan designates the property as  
5 agricultural/forestry small holding. The building which will  
6 house the horse stable and arena is approximately 25,000 square  
7 feet in size. The evidence shows that associated with the  
8 boarding facility will be a hydrotherapy pool and other  
9 facilities for the care of horses. The building housing these  
10 activities is 16 feet from the applicant's property line.  
11 Petitioner's house is 33 feet from this same property line.

#### 12       County Findings

13       The county begins by interpreting Section 42.100 of its  
14 zoning ordinance, the provision stating the "purpose" of  
15 conditional uses. The county's interpretation is the section  
16 which provides

17       "very little latitude in the area of a denial of the  
18 use since the inclusion of uses as conditional uses  
19 within the Zoning Ordinance is a prima facie  
20 determination that the characteristics of the proposed  
use are compatible with the permitted uses in the  
surrounding area."<sup>1</sup>

21       The county states that Section 42.100 means that conditional  
22 uses are uses which normally should be permitted outright in a  
23 zone but because of problems they may cause within a particular  
24 neighborhood, "it is necessary for them to go through a review  
25 process so that conditions may be imposed which will reasonably  
26 lessen that impact."

1           The county then finds that boarding horses for profit is  
2 compatible with uses permitted outright in the surrounding  
3 area.<sup>2</sup> The county views the purpose of the AF-10 zone as  
4 seen in Section 13.10(1) of its ordinance to provide for small  
5 scale agricultural or forestry uses. The problems cited by the  
6 opponents to this development, i.e. dust, noise and smell are  
7 problems common to agricultural enterprises involving raising,  
8 keeping and breeding of livestock. The county recognized the  
9 scale and proximity of the use to adjoining residences, but the  
10 county notes that these facts, particularly building size, can  
11 occur without restriction as permitted uses by any individual  
12 in an AF-10 zone. In other words, the county found the size  
13 and "proximity of the proposed use to adjoining residences" to  
14 be the same as that permitted outright in the AF-10 zone. The  
15 county board then finds that compatibility problems raised by  
16 the opponents to the development could be solved through the  
17 imposition of conditions as provided in the conditional use  
18 ordinance. The county viewed these problems to be not of  
19 "sufficient magnitude for the Board to find that the  
20 characteristics of the proposed use would, in fact, be  
21 incompatible \* \* \* \*" Next, the county interprets the purpose  
22 of the AF-10 district to provide for both agriculture and rural  
23 residential development. The county says that when it adopted  
24 the "purpose" section of the AF-10 zone, the two kinds of uses  
25 were seen to be compatible.<sup>3</sup> The county board concludes that  
26 the "characteristics" of the proposed use are identical "to

1 those of an individual who would choose to raise, breed and  
2 keep his own horses, a permitted use in the agricultural zone"  
3 and "the board finds that the characteristics of the proposed  
4 use are not incompatible with the types of uses permitted in  
5 the surrounding areas including rural residential uses."

6 Among other findings, the board concludes that the use  
7 complies with the goals and policies of the comprehensive plan  
8 and applicable statewide land use planning goals (through the  
9 comprehensive plan which has been acknowledged by LCDC). The  
10 county determines that the remaining issues about waste,  
11 traffic, fire safety, odor, noise, shading, visual impact and  
12 "impact on the domestic water supply" can be satisfactorily  
13 managed through the imposition of conditions. The county then  
14 imposes ten conditions. The ten conditions seek to minimize  
15 noise impact on the petitioners' residence, provide adequate  
16 waste disposal and landscaping, comply with the local building  
17 code, limit the number of horses that may be kept in any given  
18 period, provide a review after one year to determine the  
19 effectiveness of the conditions, and provide surface water  
20 disposal, parking and traffic. Also, the county requires a  
21 specific acknowledgment by the applicant of the conditions and  
22 a security deposit to cover the cost of the landscaping plan.<sup>4</sup>

23 ASSIGNMENT OF ERROR NO. 5

24 We discuss assignment of error no. 5 first because it  
25 establishes the standard against which the applicant's proposal  
26 was tested.

1 "The County of Yamhill erred in hearing this  
2 application by failing to establish sufficiently  
3 specific criteria for the review of conditional use  
4 permits."

5 Assignment of error no. 5 argues that Section 42.100 of the  
6 zoning ordinance provides for review of conditional use  
7 applications but does not provide any criteria for that  
8 review. Petitioners argue that the ordinance lacks any  
9 criteria for a conditional use approval or denial, and,  
10 therefore, an applicant and the opponents of an application  
11 have no objective standard by which they may evaluate the  
12 proposal. This lack of sufficient criteria, according to  
13 petitioners, makes appellate review for substantial evidence to  
14 support the approval or denial impossible. Objective criteria  
15 are particularly necessary

16 "where the local jurisdiction felt constrained from  
17 denying the application and had removed from their  
18 consideration several of the key considerations for  
19 conditions that might have been imposed by the county  
20 which would have mitigated the effect of the use on  
21 the surrounding area. Sun River Drive-Inn Dairy, Inc.  
22 v. OLCC, 16 Or App 63, 517 P2d 289 (1973)." Petition  
23 for Review at 10.

24 Respondent points to Section 42.100 of the zoning ordinance  
25 wherein the purpose of the conditional use section is  
26 described. Within that provision, the ordinance provides that  
27 review

28 "shall be to determine that the characteristics of any  
29 such use shall not be incompatible with the type of  
30 uses permitted in surrounding areas and for the  
31 purpose of establishing such conditions as may be  
32 reasonable so that the basic purposes of the zoning  
33 districts in which they are located shall be met."

1 Respondent argues this section provides clearly that  
2 conditional uses are permitted uses with special  
3 characteristics requiring a review. That review is to assure  
4 (1) compatibility with the type of uses permitted in the  
5 surrounding areas, and (2) to provide appropriate and  
6 reasonable conditions. Respondent argues that the findings in  
7 the case reflect "that in legislatively approving this language  
8 the Board of Commissioners do [sic] not leave itself a great  
9 deal of latitude to deny a conditional use."<sup>5</sup> Respondent's  
10 Brief at 11. (Emphasis in original).

11 We believe that sufficient standards exist to allow a  
12 proponent and an opponent to know what is expected of them and  
13 upon what the county must base its decision. As we understand  
14 Section 42.100, the county must determine the characteristics  
15 of the use, must determine the characteristics of the permitted  
16 uses in the surrounding areas and make a finding that the  
17 proposal is not incompatible with those surrounding uses.  
18 Additionally, the county is allowed to establish such  
19 conditions as may be necessary to insure that the purposes of  
20 the zoning district in which the proposed use is located will  
21 be followed. We understand the county's various zones to  
22 include within them a statement of purpose and sufficient  
23 description of conditional and permitted uses so a reader can  
24 understand what uses are allowed in the zone. A reader has  
25 adequate guidance as to what conditions may be imposed to  
26 affect those purposes. See Lee v. Portland, 3 Or LUBA 31

1 (1981), aff'd, \_\_\_\_ Or App \_\_\_\_ (1982).

2 Assignment of error no. 5 is denied.

3 ASSIGNMENT OF ERROR NO. 1

4 "The County of Yamhill erred in considering that  
5 the use to which the property was to be put was a  
6 conditional use in an AF-10 zone, and there was no  
7 substantial evidence on the record to support a  
8 finding that the proposed use was 'boarding of horses  
9 for profit.'

10 ASSIGNMENT OF ERROR NO. 2

11 "The County of Yamhill erred in failing to make  
12 specific findings that the use to which the property  
13 was to be put was similar in character, scale and  
14 performance standards to the permitted uses in AF-10  
15 zoning district."

16 COMBINED ARGUMENT FOR ASSIGNMENTS OF ERROR 1 and 2.

17 Petitioners begin by pointing out that the boarding of  
18 horses for profit is a specified conditional use in both the  
19 EF-40 and the EF-20 zoning districts (and thereby the AF-10  
20 district), but "all other uses except uses related to permitted  
21 uses" are prohibited in the AF-10 zone. Petitioners argue that  
22 the "facilities of the operation planned by Applicant Lanphere  
23 go far beyond that associated with the simple boarding of  
24 horses and accordingly should not have been considered as a  
25 conditional use." Petition for Review at 4. Petitioner says  
26 the operation includes an arena, hydrotherapy pool, and a "hot  
walker." Petitioners point out the applicant has indicated  
that he intends to store machinery, equipment and antique  
automobiles, and those uses are not among those specified as  
permitted uses in the AF-10 zone. Additionally, petitioners

1 argue the conditions imposed on the applicant do not prohibit  
2 those non-agricultural and non-forestry uses. Petitioners do  
3 not mention whether the zoning ordinance could be used to  
4 prohibit such non-agricultural and non-forest uses in an  
5 enforcement proceeding.

6 In support of its second assignment of error, the  
7 petitioners argue that as the boarding facility allowed in the  
8 AF-10 zone is not what is being proposed, the county must look  
9 to Section 13.200(2) of its zoning ordinance. That section  
10 states:

11 "Notwithstanding any use provisions or specification  
12 standards set forth in Schedule 'A' and subject to the  
13 provisions of Article IV to IX, inclusive, of this  
14 Ordinance, the Commission may permit in the AF-10  
15 District any use not specifically listed in Schedule  
16 'A' and prescribe any other specification or  
17 performance standards, provided the use is similar in  
character, scale and performance to the permitted uses  
specified therein, and the granting, extension or  
alteration of such use is consistent with the  
statement of purpose of this District. All other uses  
are hereby specifically prohibited in this District."  
(Emphasis in original).

18 Petitioners argue the county was required to make findings that  
19 the proposed use was similar in character, scale and  
20 performance to the permitted uses in the AF-10 zone and did not  
21 do so. Petitioners conclude the plan facility is not a small  
22 scale agricultural operation.

23 The county responds that training, rehabilitation and  
24 breeding of horses is a use associated with boarding of  
25 horses. The county points out that the zoning ordinance lists  
26 agriculture as a permitted use in the AF-10 zone, and Section

1 5.200(2) of the zoning ordinance defines agriculture to include  
2 farm use as that term is defined in ORS 215.203. Farm use  
3 includes "feeding, breeding, management and sale of, or the  
4 produce of, livestock \* \* \* \*" ORS 215.203(2)(a). The county  
5 argues that if an individual were keeping horses for himself,  
6 the training, breeding and rehabilitation of those horses would  
7 clearly be a permitted use. Training, rehabilitation and  
8 breeding, according to the county, would then logically be part  
9 of a conditional use for boarding horses for profit.

10 To bolster its argument, the county points to Condition E  
11 (See Footnote 4) requiring that no more than 20 horses be  
12 housed. The county posits that the scale of the operation  
13 would not be limited at all if it were the applicant's own  
14 horses that were to be held (as with a farm use).

15 As to the matter of the applicant conducting uses that are  
16 not permitted by the zoning ordinance, the county responds that  
17 the only use involved here is the boarding of horses for  
18 profit. The other incidental activities are not uses at all as  
19 that term is defined in the zoning ordinance. Use is defined  
20 in Section 5.200(106) as "the purpose for which land or a  
21 building or structure is used, designed, arranged or intended,  
22 or for which it is occupied or maintained." The county argues  
23 that a hydrotherapy pool and a hot walker constitute simply a  
24 part of the use permitted which is the boarding of horses for  
25 profit.

26 The county also objects to the petitioners' argument

1 regarding the storage of machinery and automobiles. The county  
2 says the record only shows that the petitioners own farm  
3 equipment and antique cars, and there is no indication in the  
4 record that a "storage area" is contemplated. The application  
5 mentions no such storage area and the site plan refers to a  
6 storage area only in reference to a manure trailer. Storage of  
7 autos is not a permitted or conditional use in the AF-10 zone.

8 As to petitioners' second assignment of error, that the  
9 county was required to make findings under Section 13.200 of  
10 its ordinance showing that the proposal is similar in character  
11 scale and performance to a permitted use, the county argues  
12 that it did apply the proper procedure for a conditional use,  
13 and no such supplemental findings are necessary. Even if it is  
14 assumed that Section 13.200 applies, the county argues that its  
15 findings are adequate. The findings show, with the required  
16 specificity, that the use proposed is in fact similar in  
17 character, scale and performance to permitted uses in the AF-10  
18 zone.

19 In Theland v. Multnomah County, 4 Or LUBA 284, we relied on  
20 Springfield Education Assn. v. The School District, 290 Or 217,  
21 621 P2d 547 (1980) in an analysis of terms in a local  
22 ordinance. In the Springfield case, the Supreme Court noted  
23 three classes of statutory terms:

24 "1.) Terms of precise meaning, whether of common  
25 or technical parlance, requiring only factfinding by  
26 the agency and judicial review for substantial  
evidence;

1           "2.) Inexact terms which require agency  
2 interpretation and judicial review for consistency in  
3 legislative policy; and

4           "3.) Terms of delegation which require  
5 legislative policy determination by the agency and  
6 judicial review of whether that policy is within the  
7 delegation." Springfield, 290 Or at 223.

8           The court went on to describe an exact term as one which  
9 imparts "relatively precise meaning, e.g. 21 years of age,  
10 male, 30 days, Class II farmland, rodent, Marion County \* \* \*  
11 \*" Springfield, 290 Or at 223. An inexact term is one whose  
12 meaning depends on what the user intended to communicate. With  
13 inexact terms, "courts tend to look to extrinsic indicators  
14 such as the context of the statutory term, legislative history,  
15 a cornucopia of rules of instruction, and their own intuitive  
16 sense of the meaning which legislators probably intended to  
17 communicate by use of the particular word or phrase."  
18 Springfield, 290 Or at 224.

19           It is our view that "boarding of horses for profit" is an  
20 inexact term that requires some interpretation by the county.  
21 The county must explore whether or not the activities that are  
22 allowed within and without the structure are those normally  
23 associated with the boarding of horses for profit. We think it  
24 entirely reasonable that the boarding of any live animal would  
25 include provisions for exercise of the animal as well as its  
26 care and grooming. We note also, that the care and grooming of  
animals for farm purposes could conceivably include the  
activities complained of by petitioners. However, the county

1 did not precisely address all of the activities which the  
2 record shows are planned to take place in the structure. The  
3 county did make a number of conditions which evidence the  
4 county's recognition of the kind of use contemplated, but there  
5 is no discussion of the scope of activities permitted in  
6 conjunction with "boarding horses for profit."

7 We must remand this case for additional findings on what  
8 the county understands to be activities normally associated  
9 with the boarding of horses for profit. The county should have  
10 included such an analysis in its findings. Without the  
11 analysis, we are unable to conclude that the applicant's  
12 proposal is indeed the boarding of horses for profit within the  
13 meaning of the county's ordinances, and, therefore, whether the  
14 proposal falls within the allowable conditional use in the  
15 AF-10 zone. Similarly, we are unable to conclude that the use  
16 is "similar in character, scale and performance to the  
17 permitted uses" in the AF-10 zone as provided in Section  
18 13.200(2) of the county's zoning ordinance.

19 Assignments of error no. 1 and 2 are sustained.

20 ASSIGNMENT OF ERROR NO. 3

21 "The County of Yamhill erred in that there was  
22 not substantial evidence to support a finding that the  
23 use of the property was not incompatible with type of  
24 uses permitted in the surrounding areas.

24 ASSIGNMENT OF ERROR NO. 4

25 "The County of Yamhill erred in concluding that  
26 the applicable law left them 'very little latitude in  
the area of denial of the [proposed] use.'"

1 COMBINED ARGUMENT FOR ASSIGNMENTS OF ERROR 3 AND 4.

2 Firstly, petitioners argue that even if the county were  
3 correct in qualifying the project as one of "boarding horses  
4 for profit" and, therefore, a proper conditional use, "the  
5 county could not have found from the evidence on record that  
6 the use was compatible with surrounding areas \* \* \* \*"  
7 Petitioners argue that the "sheer scale" of the operation "is  
8 grander by several fold than anything of its kind within  
9 miles." The project is not small scale agricultural and  
10 forestry use, according to petitioners. Petitioners complain  
11 there simply does not appear to be evidence in the record  
12 showing that the proposed use is compatible with the forestry  
13 and agriculture use or any of the other permitted uses in the  
14 area. The county is obliged to find the project so compatible,  
15 and the county's findings do not touch on those uses, according  
16 to petitioners.

17 Secondly, petitioners take issue with the county belief  
18 that it has very little authority to deny the application.  
19 Petitioners disagree with this interpretation and state that  
20 the ordinance even recognizes a "revocation" of a previously  
21 issued conditional use permit, citing Section 42.500 et seq. of  
22 the zoning ordinance.<sup>6</sup> The petitioners complain that the  
23 county was faced with a building which was near completion at  
24 the time the conditional use was considered, and this fact  
25 "foreclosed the county's ability to impose conditions  
26 concerning size and height of the building, the location of the

1 structure on the property and the lot or side area or yard  
2 dimensions." Petitioners believe these factors are important  
3 when considering conditions necessary to protect the values of  
4 the surrounding area.

5 As to the claim in assignment of error no. 3 that  
6 substantial evidence is lacking to support the county's  
7 conclusion, respondent claims the record shows that surrounding  
8 properties are characterized by rural residential and  
9 agricultural uses. The county found in finding no. 2 that the  
10 proposed use was compatible with outright permitted uses  
11 because the particular concerns of the opponents, noise, and  
12 smell, are identical to those concerns which would be  
13 occasioned by the raising of livestock as a permitted use in  
14 the zone. In short, as the purpose of the AF-10 zone includes  
15 both rural residential and agricultural uses, and as

16 "the characteristics of the proposed use are identical  
17 to those of an individual who would choose to raise,  
18 breed and keep his own horses, a permitted use under  
19 the agricultural zone, the Board finds that the  
20 characteristics of the proposed use are not  
incompatible with the types of uses permitted in the  
surrounding areas including rural residential uses."  
Record at 4, Finding no. 3.

21 In other words, rather than citation to evidence in the record  
22 to support its position, the county relies primarily on a  
23 reading of its ordinance. Uses which are like agricultural  
24 uses in terms of their impact on permitted uses are compatible  
25 within the meaning of the ordinance because agricultural uses  
26 have been deemed compatible.

1           As to the second argument, the respondent states that it is  
2 not the county's position that there is something in the  
3 conditional use ordinance which prohibits denial of a  
4 conditional use application in an appropriate case. The  
5 respondent simply states that it interprets its ordinance as  
6 providing very little latitude for denial because inclusion of  
7 a use as a conditional use within the ordinance is "a prima  
8 facie determination that the characteristics of the proposed  
9 use are compatible with the permitted uses in the surrounding  
10 areas." It is the position of Respondent County that the Board  
11 of Commissioners defines a conditional use as essentially a  
12 permitted use subject to limitations as to scope and operation  
13 in order to preserve the intent of the zoning district and the  
14 surrounding area. Respondent states this interpretation is  
15 reasonable and one to which LUBA must defer unless it can be  
16 said that the interpretation is clearly contrary to the  
17 expressed language and intent of the ordinance. Respondent  
18 cites Cascade Broadcasting v. Groener, 51 Or App 533, 626 P2d  
19 386 (1981), Bienz v. City of Dayton, 29 Or App 761, aff'd, 566  
20 P2d 904 (1977) and Tribbet v. Benton County, 2 Or LUBA 161  
21 (1981).

22           We find the record contains discussions of the mixed  
23 character of uses in the area. The record also shows that the  
24 concerns of the opponent about noise, smell and the impact of  
25 the use on petitioners were considered by both the hearings  
26 officer and the county board. However, because the findings

1 show no examination of the character and scale of the boarding  
2 enterprise, we can not tell with certainty what the county  
3 believed would be the impacts of the enterprise on the  
4 surrounding permitted uses.<sup>7</sup> Without that analysis, we can  
5 not begin to examine the record to see if substantial evidence  
6 exists to support the county's findings and conclusions as to  
7 compatibility.<sup>8</sup> Hill v. Union County Court, 42 Or App 883,  
8 601 P2d 905 (1979).

9 Assignments of error no. 3 and 4 are sustained.

10 Assignment of Error no. 6 was withdrawn at oral argument.

11 The grant of a conditional use by Yamhill County is  
12 remanded for further proceedings not inconsistent with this  
13 opinion.

FOOTNOTES

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3 "42.100 Purpose. All uses permitted conditionally possess  
4 unique and special characteristics making impractical their  
5 inclusion as outright permitted uses in particular zoning  
6 districts. The process for review herein shall be to  
7 determine that the characteristics of any such use shall  
8 not be incompatible with the type of uses permitted in  
9 surrounding areas and for the purpose of establishing such  
10 conditions as may be reasonable so that the basic purposes  
11 of the zoning district in which they are located shall be  
12 met. Location and operation of designated conditional uses  
13 shall be subject to review and authorized only by issuance  
14 of a conditional use permit." (Emphasis in original).

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12 The conditional uses that are allowed in the F-40, EF-40  
13 and AF-20 districts (with certain exceptions) are also allowed  
14 as conditional uses in the AF-10 zone. One of the conditional  
15 uses in the AF-20 zone is "the boarding of horses for profit."  
16 AF-20 Zone Conditional Uses (10).

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16 The purpose of the AF-10 zone is "to provide for a small  
17 scale agricultural or forestry as dominant uses of such lands,  
18 at the same time allowing for limited non-farm, rural  
19 residential development."

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19 The conditions imposed by the county are as follows:

20 "A. Studs shall be housed and all breeding activities  
21 shall occur in the west half of the existing  
22 structure. It is the purpose of this condition  
23 to lessen the noise impact on the Hannans'  
24 residence.

25 "B. The animal waste disposal storage unit shall be  
26 located west of the existing structures so that  
27 said unit shall not be with the prevailing  
28 southeasterly winds, upwind from the Hannan  
29 residence. Further, said unit shall be screened  
30 or covered in order to minimize vector and fly  
31 harborage and habitat. The purpose of this  
32 condition is to lessen the impact of smell and

1 vector upon neighboring residences and the Hannan  
2 residence in particular.

3 "C. That the applicant shall prepare a landscape plan  
4 to provide substantial buffering of the existing  
5 building from the Hannan residence, suitable  
6 buffering from the County road and adjacent  
7 property and, in addition, the landscaping of the  
8 entire site; and shall provide, along with the  
9 plan, an implementation schedule. Further, the  
10 plan shall provide for plant materials of  
11 sufficient size, type and maturity to achieve the  
desired effect within a period of time as  
determined by the Planning Director. The permit  
shall not issue hereunder until said plan has  
been submitted and approved by the Planning  
Director. The implementation of said plan shall  
be in accordance with the implementation schedule  
and maintained as provided therein. The purpose  
of this condition is to lessen the visual impact  
on surrounding uses.

12 "D. The applicant, prior to issuance of this permit,  
13 shall bring himself into compliance with the  
14 Yamhill County building code, including the  
payment of all fees and penalties if any.

15 "E. That no more than 20 horses not owned by the  
16 applicant shall be housed, kept or boarded on the  
17 applicant's property at any time. The purpose of  
18 this condition is to ensure that the impact of  
conditional use remains in proportion to the  
neighborhood and to reduce the impact of said use  
on established values of the surrounding area.

19 "F. That the permit issued hereunder shall be subject  
20 to review one year from the date of issuance  
21 thereof. The purpose of this condition is to  
22 give the Board an opportunity to evaluate the  
effectiveness of these conditions in lessening  
the impact of the conditional use upon adjacent  
property.

23 "G. The applicant shall submit a surface water  
24 disposal plan and implementation schedule. Said  
25 plan shall be submitted and approved by the  
26 Planning Director prior to issuance of the permit  
hereunder. Said plan shall be implemented and  
maintained as set forth therein. The purpose of  
this condition is to limit the erosional impact  
of conditional use and associated structures.

1 "H. The applicant shall submit a parking, traffic  
2 circulation and loading plan with implementation  
3 schedule. Said plan shall be submitted and  
4 approved by the Planning Director prior to the  
5 issuance of the permit hereunder. Said plan  
6 shall [be] implemented and maintained as set  
7 forth therein. The purpose of this condition is  
8 to lessen the impact of the use on the narrow,  
9 existing County road.

10 "I. That prior to issuance of the permit herein, the  
11 applicant shall execute an affidavit suitable for  
12 recording, acknowledging the conditions set forth  
13 herein.

14 "J. The applicant shall provide suitable security as  
15 provided by the Zoning Ordinance to ensure  
16 appropriate compliance with Condition No. 3.  
17 Said security shall be equal to 150% of the cost  
18 of implementing said landscape plan as determined  
19 by the Planning Director and shall be of a form  
20 approved by the County Counsel. The permit shall  
21 not be issued herein until said security has been  
22 received and approved."

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5 We understand respondent, at least in part, to be arguing  
that the purposes section of the conditional use ordinance,  
Section 42.100, includes within it a sufficient standard to  
provide notice to proponents and opponents of an application.

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6 Section 42.500 provides for enforcement and revocation of  
conditional use permits. Violation of the conditions of a  
conditional use may result in revocation under this provision.

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7 On remand, the county may wish to address the size of the  
building in which this activity will be conducted. The parties  
did not fully brief this issue, but a possible reading of the  
county's definition of "use" in Section 5.200(106), supra,  
suggests that the county may be obliged to consider the  
building itself, as well as the boarding enterprise, in  
analyzing whether the proposed use is compatible with  
surrounding uses.

2 Under the county conditional use ordinance, the matter of  
3 compatibility is not tested against the neighbor's house or  
4 property. Compatibility in the county's ordinance goes only to  
5 other permitted uses, not necessarily to what exists on the  
6 ground next door to the proposed use. That is, whether a  
7 building or horse boarding enterprise is compatible with a  
8 particular house is not the standard imposed by the ordinance.  
9 The standard is whether the building or enterprise is  
10 compatible with residential uses generally, as residential uses  
11 are permitted in the zone.  
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