

Hardwick Development Review Board  
Conditional Use Review Request  
Baumann, Daniel  
313 Kate Brook Road, Hardwick  
Application #2022-015  
May 4, 2022

To consider a Conditional Use Review request by Daniel Baumann for a change of use of an existing Single Family Dwelling and an Accessory Structure to Agricultural and Forest Processing in the Rural Residential zoning district. Development would occur at 313 Kate Brook Road in Hardwick, VT. The Agricultural and Forest Processing will be for commercial cultivation that is not covered by agricultural exemptions to zoning.

The application requires a review under the following sections of the Hardwick Unified Development Bylaws: Table 2.6 Rural Residential District; 3.11 Performance Standards; Section 3.13 Parking and Loading Requirements; Section 4.11 Agricultural and Forest Processing; Section 5.2 Conditional Use Review; and Section 5.2 G4 Rural Residential District Standards.

**Warnings** were posted on Wednesday, April 13, 2022 at the Hardwick Memorial Building, at the Hardwick Post Office and the East Hardwick Post Office. The warning was sent to the following neighboring property owners: Bill and Kelly Putvain; Sundog Ag Ventures LLC; Rosemary Gillen; Skyview Naturals Co.; John Robert Martyn, Sr Trust; Louis Dornbierer III; and The Helen M. Gates 2009 Rev. Trust on Tuesday, April 12, 2022. It was also published in The News & Citizen on Thursday, April 14, 2022.

**Development Review Board members present:** Helm Nottermann; Kate Brooke; John Mandeville, Chair; Ruth Gaillard; and Kole.

**Development Review Board members absent:** Ed Keene

**Others present:** Kristen Leahy, Zoning Administrator (acting clerk), Louis and Barbara Dornbierer, abutters.

**During the course of the hearing and prior to the hearing the following exhibits were submitted:**

1. Letter from the State of Vermont's Cannabis Control Board dated 4/11/22.

**Summary of Discussion**

Chair John Mandeville began the hearing at 7 pm. He noted that the hearing was quasi-judicial, explained the hearing procedure, asked board members for any disclosures of conflict of interest, and swore in all those who wished to speak at the hearing.

Mr. Mandeville invited the applicant to present his proposal. Mr. Baumann is pre-qualified (see Exhibit #1) for a 1000 sf indoor cannabis cultivation license (from the State of Vermont). Mr. Baumann and his business partner will be the only employees in the operation. They intend to sell their cannabis flowers to retailers who will process and sell the crop. No cannabis processing will occur on the property. This is a completely enclosed indoor growing proposal. Mr. Baumann utilizes LED lights for a higher yield.

No nutrient run-off will be generated. The water will evaporate in the growing rooms. Solar energy will eventually power the operation.

Mr. Baumann reiterated that there will be no visible cannabis plants from the road and no cannabis cultivation will occur externally to the structures. The existing Single Family Dwelling and the proposed accessory structure (garage) will be converted to growing spaces for the cannabis. On the outside, these structures will

have metal siding. Eventually, the spaces will be returned to the original use (residential) when the operation grows and pursues a larger location.

The business hours will be the standard 9 am to 5 pm.

No signage is being requested as there will not be any retail. This will be strictly a cannabis cultivation operation.

Per the requirements from the State of Vermont, there will be security cameras and secure doors. This will be a year-round endeavor.

Louis and Barbara Dornbierer, neighbors on Kate Brook Road, attended the hearing. Mr. Dornbierer stated that he is not in favor of expanding the commercial element on Kate Brook Road. Mr. Dornbierer described his location as a previously residential area of the town. With the hemp farming in the neighborhood, there have been impacts on their quality of living. The Dornbierers are concerned that information about the location of the cannabis cultivation will become public knowledge and may attract a criminal element. Mr. Dornbierer testified that he dislikes the hemp production but understands that this is not the issue in this particular hearing. He also stated that they are affected by the light pollution from the hemp farms (floodlights) and by the odor. He feels that the presence of this type of development may impact his property values.

The hearing ended at 7:30 pm. Helm Nottermann made the motion to enter into deliberative session after the hearing and Kole seconded. All members were in favor.

#### **Findings of Fact:**

Based on the application and testimony, the Development Review Board makes the following findings:

**2.6 Rural Residential** – Agricultural and Forest Processing is listed as a Conditional Use in this district. The cultivation of an agricultural item is typically exempted from zoning. The applicant is seeking to change the use of an existing Single Family Dwelling and a permitted Accessory Structure to an indoor cannabis cultivation location. Cannabis is excluded from the Agricultural Zoning exemption. **The Single Family Dwelling exists and meets the setbacks of the district – Setback from Kate Brook Road is over 60 feet and setbacks from the side and rear are over 50 feet. The permitted Accessory Structure would also meet setback requirements if built as permitted.**

**3.11 Performance Standards** – review was made of the performance standards by the DRB.

- 1) Regularly occurring noise - **The design of the proposed development does not include the use of a generator. This potentially regularly occurring noise will not be incorporated into this operation as there is on-site power connection in place.**
- 2) Releases of heat, cold, moisture, mist, fog - **The design of the proposed development traps and evaporates all water generation within the structures.**
- 4) Glare, lumen, light or reflection – **The design of the proposed development will not include external floodlights and will only have lights at the doorways.**
- 8) Smoke, dust, noxious gases, or other forms of air pollution – **The design of the proposed development will have carbon filters in each space and does not exchange air with the outside. The air inside the growing spaces does not leave the growing spaces.**

**3.13 Parking & Loading Requirements** – the property is located in the Rural Residential district which requires “off-street loading space shall be provided for commercial, industrial or institutional uses...” Table 3.1 lists Agricultural and Forest Processing as Other – parking spaces are “as determined under site plan or

conditional use review”. **The two owners of the facility will be the only employees. No parking design was deemed to be necessary.**

**4.11 Agricultural and Forest Processing** – the following provisions must be met: (1) The processing facility shall be of a size and scale appropriate for the neighborhood in which it is proposed, (2) Where a processing facility uses or generates hazardous materials, the applicant shall demonstrate compliance with applicable state or federal regulations, (3) Wholesale sales of processed products are allowed as a part of any approval. Retail sales may be allowed as a part of conditional use approval. Sales of products in addition to those processed on the site will be limited to those clearly incidental, secondary and ancillary to those processed products or as declared and approved as a part of the conditional use permit. **Applicable provisions are met as the facility is only allowed to grow 1000 sq ft of the crop; cannabis is not considered to be a hazardous material; and retail is not allowed at this location.**

## **5.2 Conditional Use Review**

### **E) General Review Standards**

The proposed conditional use will/ will not result in an undue adverse effect on any of the following:

- 1. The capacity of existing or planned community facilities and services.** The proposed use will not affect either capacity.
- 2. Character of the area affected.** The conversion and building use matches the purpose of the Rural Residential district and the character of the surrounding area. Kate Brook Road is already the location of hemp processing and growing fields.
- 3. Traffic on roads and highways in the vicinity.** The circulation and traffic patterns on Kate Brook Road will not be impacted by the change of use. No increase in traffic will be created by the proposal.
- 4. Bylaws in effect.** N/A
- 5. The utilization of renewable energy resources.** Solar energy will be incorporated in the future.

### **F) Specific Review Standards shall include:**

- 1. Siting & Dimensional Standards.** All conditional uses shall meet minimum applicable dimensional and density standards as specified for the district in which the use is located (Article 2), the particular use (Article 4), and for the protection of surface waters (Section 3.12). **All standards are met by the proposal.**
- 2. Performance Standards.** All conditional uses shall meet performance standards as specified in Section 3.11. **The performance standards were reviewed. See Condition #2.**
- 3. Access & Circulation Standards.** All conditional uses shall meet applicable access management standards as specified in Section 6.6. **Standards will be met by the proposed changes.**
- 4. Landscaping & Screening Standards.** The Board may require landscaping, fencing, screening or site grading as necessary to maintain the character of the area, or to screen unsightly or incompatible uses from town highways, other public rights-of-way, or adjoining properties. **The ac condensers will be located behind the structures. There will be a locked gate on the start of the driveway and there are apple trees on location. Additional landscaping was not indicated as necessary.**

5. **Stormwater Management & Erosion Control Standards.** All conditional uses shall incorporate accepted stormwater management and erosion control practices as appropriate for the setting, scale and intensity of the existing and planned development. **State approved wastewater and potable water systems are in place on the site. No additional plans were indicated as necessary.**

**5.2 G4 Rural Residential and Compact Residential District Standards.**

A) Development shall be designed to minimize loss of agricultural land and natural habitat, impact on water quality, and diminishment of the scenic and rural qualities of the site as experienced both on-site and from other vantage points in the town. **The proposed development will convert an existing structure and a planned structure.**

B) Access roads, driveways and utility corridors shall be shared to the extent feasible; and, where sites include linear features such as existing roads, tree lines, stone walls, and/or fence lines, shall follow these features to the extent feasible in order to minimize the loss of productive agricultural and forest land, and to avoid physical and visual impacts. **The proposed development will minimize the loss of productive agricultural and forest land.**


**Decision and Conditions**

Based upon these findings, the Development Review Board voted 5-0 to approve the Baumann conditional use application as presented and amended with the following conditions:

**Conditions:**

1. Any and all necessary state and federal permits must be in place before development can commence.
2. The Applicant will adhere to the Performance Standards as detailed in the Hardwick Unified Development Bylaws, Section 3.11 (Attached).
3. The applicant must adhere to the all licensing requirements from the State of Vermont, including no on premise retail sales.
4. The only external lighting to be allowed will be down lit lighting at the external doors. No external flood lights will be permitted.

Signed:

  
\_\_\_\_\_, Chair  
John Mandeville, DRB Chair  
Administrator

  
\_\_\_\_\_, acting clerk  
Kristen Leahy, Zoning

Date 5/9/2022

Date 5/9/22

**NOTICE:**

This decision may be appealed to the Vermont Environmental Court by an interested person who participated in the proceeding (in person or in writing) before the Development Review Board. Such appeal must be made within 30 days of the date of this decision, pursuant to 24 V.S.A. #4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.

## Hardwick Unified Development Standards

### Section 3.11 Performance Standards

(A) The following performance standards must be met and maintained for all Conditional Uses and Home Occupation uses in all districts, except for agriculture and forestry, as measured at the property line. In determining ongoing compliance, the burden of proof shall fall on the applicant, property owner, and/or all successors and assigns; in the case of appeals to the Zoning Administrator alleging a violation of one or more of the following standards, the burden of proof shall rest with the appellant. No Conditional Uses or Home Occupation uses, under normal conditions, shall cause, create or result in:

(1) **regularly occurring noise**, which:

represents a significant increase in noise levels in the vicinity of the use so as to be incompatible with the surrounding area; or

in excess of 65 decibels, or 70 decibels within the Industrial District.

(2) **releases of heat, cold, moisture, mist, fog** or condensation which are detrimental to neighboring properties and uses, or the public health, safety, and welfare;

(3) **any electromagnetic disturbances or electronic transmissions or signals** which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals, or which are otherwise detrimental to public health, safety and welfare (except from telecommunications facilities which are specifically licensed and regulated through the Federal Communications Commission);

(4) **glare, lumen, light or reflection** which constitutes a nuisance to other property owners or tenants, which impairs the vision of motor vehicle operators, or which is otherwise detrimental to public health safety and welfare;

(5) **liquid or solid waste or refuse** in excess of available capacities for proper disposal which cannot be disposed of by available existing methods without undue burden to municipal or public disposal facilities; which pollute surface or ground waters; or which is otherwise detrimental to public health, safety and welfare;

(6) **undue fire, safety, explosive, radioactive emission or other hazard** which endangers the public, public facilities, or neighboring properties; or which results in a significantly increased burden on municipal facilities and services.

(7) **clearly apparent vibration** which, when transmitted through the ground, is discernable at property lines without the aid of instruments; or

(8) **smoke, dust, noxious gases, or other forms of air pollution** which constitute a nuisance or threat to neighboring landowners, businesses or residents; which endanger or adversely affect public health, safety or welfare; which cause damage to property or vegetation; or which are offensive and uncharacteristic of the affected area;

**CANNABIS CONTROL BOARD**89 Main Street Montpelier, VT 05602 | [ccb.vermont.gov](http://ccb.vermont.gov)

4/11/2022

Daniel Baumann  
313 Kate Brook Rd  
Hardwick, VT 5843

Dear High Altitude LLC,

This letter is to certify that based on the information provided to the Board in your prequalification application on 3/18/2022, High Altitude LLC (submission number 122) has been prequalified by the Vermont Cannabis Control Board for a Tier 1 Indoor Cultivator license.

Prequalification does not entitle the holder to a license, and it does not authorize the holder to operate a cannabis establishment. This prequalification is good for one year from the prequalification date.

The following is a list of all principals and controllers of High Altitude LLC:

- Daniel Baumann

If you apply for a cannabis establishment license within one year from the date of this letter, the fee for the license application will be reduced by the amount of the prequalification fee. If you submit your application for a cannabis establishment license after one year from the date of this letter, the full non-refundable application fee will be required.

Sincerely,

Brynn Hare

Executive Director, Cannabis Control Board

