

Hardwick Development Review Board  
Conditional Use Review Request  
Baumann, Daniel  
313 Kate Brook Road, Hardwick  
Application #2023-026  
August 2, 2023

To consider a Conditional Use Review request by Daniel Baumann for an expansion of an existing Agricultural and Forest Processing in the Rural Residential zoning district. Development would occur at 313 Kate Brook Road in Hardwick, VT.

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 5.2 Conditional Use Review; and Section 5.2 G4 Rural Residential District Standards.

**Warnings** were posted on Wednesday, July 19, 2023 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.; Julie and James Maples; and Louis Dornbierer III; on Wednesday, July 19, 2023. It was also published in The News & Citizen on Thursday, July 20, 2023.

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

**Development Review Board members absent:** None

**Others present:** Kristen Leahy, Zoning Administrator (acting clerk); Daniel Baumann, Applicant; Barbara LaPointe and Louis Dornbierer, III, neighboring property owners.

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

1. **Vermont Cannabis Control Board certification of a Licensed Small Cultivator Cannabis Establishment.**

**Summary of Discussion**

Chair John Mandeville began the hearing at 7:00 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 seeking to complete the existing 640 sf unfinished structure with 10 feet walls and an additional 900 square feet of space. The footprint of the structure will increase from 44 feet x 26 feet to 48 feet by 36 feet. The indoor cultivation operation will continue to function in a similar manner. Mr. Baumann is not seeking a license for a larger facility (See Exhibit #1). The operation will continue to be sealed with no retail elements on site. The applicant believes that the expansion and completion of the existing structure will improve the aesthetic value of the property.

Mr. Baumann explained that he has a Tier 1 Cultivation license (Exhibit #1) which allows a grower to have up to 1000 square feet of canopy space. He currently has 750 square feet of canopy space. Finishing the existing building will allow him to fulfill his Tier 1 license.

The existing structure does not have flood lights. The expansion will have a similar lighting scheme. The motion sensor activated security system will continue to function as a deterrent. Neighbor, Louis Dornbierer, is concerned with the apparent growing light pollution in the Kate Brook section of town. Mr. Dornbierer also inquired about the carbon footprint of cannabis cultivation operations.

The hearing ended at 7:30 pm. Helm Nottermann made the motion to enter into deliberative session after the following hearing and Ruth Gaillard 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 applicant is seeking to expand the footprint of the previously permitted Agricultural and Forest Processing structure. **The Agricultural and Forest Processing structure and its proposed expansion will meet the setbacks of the district – the setback from Kate Brook Road is over 60 feet and the setbacks from the side and rear are over 50 feet.**

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

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

**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”. **No additional employees will be hired due to this expansion. No parking design was deemed to be necessary.**

### **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 expansion will not affect either capacity.
2. **Character of the area affected.** The expansion matches the purpose of the Rural Residential district and the character of the surrounding area.
3. **Traffic on roads and highways in the vicinity.** The circulation and traffic patterns on Kate Brook Road will not be impacted by the expansion. No increase in traffic will be created by the proposal.
4. **Bylaws in effect.** N/A

5. **The utilization of renewable energy resources.** This proposal will not affect sustainable use of renewable energy resources.

**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. **The standards will be met by the proposed expansion.**

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. **There is a gate, which can be locked, at the beginning of the driveway. 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. Additional plans were not 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 expand an existing 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 expansion will minimize the loss of productive agricultural and forest land.**

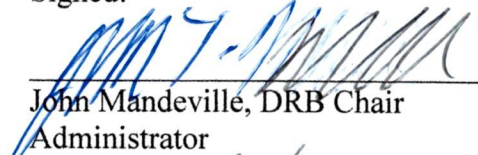
**Decision and Conditions**

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 8/9/23

Date 8/9/23

**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;



*State of Vermont*

## **Vermont Cannabis Control Board**

HEREBY CERTIFIES THAT

**DCB LLC, with a DBA of "High Altitude Cannabis"**

The requirements have been fulfilled and therefore this license has been endorsed by the Cannabis Control Board  
Chair

## **Licensed Small Cultivator Cannabis Establishment**

License No. SCLT0162

Issued: 10/18/22

Expired: 10/18/23

THIS LICENSE SHOULD BE CONSPICUOUSLY POSTED IN PLACE OF BUSINESS OR AS REQUIRED BY LAW

Exhibit #1