



County of Sonoma  
Permit & Resource Management Department

## ***Sonoma County Board of Zoning Adjustments Draft Minutes***

Permit Sonoma  
2550 Ventura Avenue, Santa Rosa, CA 95403  
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December 8, 2022  
Meeting No.: 22-12

### **Roll Call**

Caitlin Cornwall, District 1  
Pat Gilardi, District 2  
Shaun McCaffery, District 4  
Eric Koenigshofer, District 5  
Jacquelynne Ocaña, Chair, District 3

### **Staff Members**

Brian Oh, Division Manager  
Georgia McDaniel, Project Planner  
Cecily Condon, Division Manager  
Hannah Spencer, Supervising Planner  
Liz Goebel, Secretary  
Jennifer Klein, Chief Deputy County Counsel

**1:00 PM** Call to order, Roll Call and Pledge of Allegiance.

### **Correspondence**

### **Planning Commission/Board of Supervisors Actions**

**Commissioner Announcements:** None

**Public Comments on matters not on the Agenda:** 0h3m

No Public Comments

**Public Comments on matters not on the Agenda will resume at the end of the hearing.**

**Items scheduled on the agenda:**

## **Board of Zoning Adjustments Regular Calendar**

**Item No.:** 1  
**Time:** 1:05 PM  
**File:** UPE19-0070; MacLaren Tasting Room  
**Applicant:** Bennett Martin  
**Owner:** Steven & Heather Law  
**Cont. from:** Not Applicable  
**Staff:** Georgia McDaniel  
**Env. Doc:** Categorically Exempt

**Proposal:** Use Permit to legalize an existing 688-square-foot standalone wine tasting room on a 1.45-acre property. The tasting room will serve local wines (produced offsite) by appointment only, operated by the landowners seven days a week, between the hours of 10 a.m. to 5 p.m. Wine tasting is limited to a maximum of two tasting appointments per day, with up to five people and one car per appointment. There are no employees, food and wine pairing, events, or amplified music proposed.

**Recommended Action:** Staff recommends that the Board of Zoning Adjustments find the project categorically exempt from the provisions of the California Environmental Quality Act and approve the Use Permit request to legalize the tasting room, subject to the attached Conditions of Approval.

**Location:** 211 Adobe Canyon Rd., Kenwood

**APN:** 051-040-018

**District:** One

**Zoning:** DA B6 10, SR VOH

**Commissioner Disclosures:** None

**Staff Georgia McDaniel** summarized the staff report, which is incorporated herein by reference. **0h8m**

**STRATA AP (Design Architect)** gave an overview of the background and timeline of project working with PRMD/Applicants. **0h19m**

**Applicant Steve Wall** provided a background of the winery over the last 15 years and what his goals are for the site. **0h22m**

**Public Hearing Opened: 1:26 PM**

Gail Ross

Alan Ross

Andriana Duckworth

Daniel Alegre

Michael Haney

Alana & Andrew Benedict

Steve Caniglia

Greg Nowell

Carolyn Verheyen

Chris K

Michael Woods

**Public Hearing Closed, and Commission discussion Opened: 1:53 PM**

**Commissioner Questions:**

**Commissioner Cornwall** mentioned she is baffled by the small project being the subject of attention and contention compared to much bigger projects. BZA has no authority or scope related to Code Enforcement, so it is out of their hands, they have to assume County is taking care of project. She is inclined to say yes. Suggests better signage, but otherwise it is a minor project that complies with all the rules. **0h52m**

**Commissioner Koenigshofer** mentioned he did not see a reserved area on the site plan for onsite waste treatment system, which is a requirement in event of potential future failure. **0h53m**

**Staff Georgia McDaniel** replied one of the Conditions of Approval is the well and septic system must handle everything. When it goes through Well & Septic Division, they will double-check. Currently an operating septic system with no issues. **0h53m**

**Commissioner Koenigshofer** said normally a project is required by PRMD to show reserve area. It is a small parcel with substantial developed footprint already. Wants to know the issue of a reserve area has been considered, given unusually small parcel for Diverse Agriculture zone (DA), it is basically a non-conforming sized parcel for DA. **0h55m**

**Staff Georgia McDaniel** said it is an approved septic system, met all requirements when it was approved, with no new construction. 0h56m

**Commissioner Koenigshofer** asked if original system was designed for house, or house + tasting room. 0h56m

**Staff Georgia McDaniel** responded that a third building used to be on the property but burned in 2017 fires. 0h56m

**Commissioner Koenigshofer** commented that it has no bearing if it wasn't originally a part of the residence. His understanding is there was a house, and the current building was converted without permits, which suggests current use and proposed use of tasting room building (with kitchen, bathroom) was not part of calculation for septic system requirement associated with house when it was built. 0h57m

**Staff Cecily Condon** said the septic system was originally designed for residential use. Condition 12 requires they designate and protect the septic reserve area prior to commencing with building permit legalization. For Condition 10, final clearance indicates they must meet all standards by Well & Septic Division referral review before they may commence with use; includes identifying and reserving septic area. 0h57m

**Commissioner Koenigshofer** asked if the applicants understand that this approval, if issued, could still fail to result in allowance of proposed use. 0h58m

**Staff Cecily Condon** replied that the applicants have reviewed and agreed to the conditions. 0h58m

**Commissioner Koenigshofer** said he doesn't doubt the Laws are good neighbors/nice people & contribute to community/economy, but use permits are issued to property/land, not people. Issue is not who owns it; it is approving a land use permit. Under recently developed winery/event ordinance, given it would be a tasting room, is there anything outside what is specifically proposed here that would be allowed under those baseline allowances to be conducted in the facility post-use permit? 0h59m

**Staff Cecily Condon** asked to invite Supervising Planner Hannah Spencer, who is one of the Supervisors working on the Winery Events Ordinance, to help answer Commissioner Koenigshofer's question. 1h0m

**Staff Georgia McDaniel** said the General Plan supports and promotes standalone tasting rooms, and Winery Events Ordinance has not been adopted yet, so current policy regulations apply. Board of Supervisors is currently reviewing Winery Events Ordinance, and in the first hearing/review they chose to allow standalone tasting rooms. Does not know what final vote will be on ordinance but does not believe there would be anything in ordinance that would not allow what is proposed with MacLaren tasting room. 1h0m

**Commissioner Koenigshofer** commented that his question was not answered. He asked whether the current/existing/new ordinance would prohibit anything that the BZA is considering. He is presuming under current ordinance, since new one has not been adopted, is there a baseline allowance of activity outside of two appointments per day, five max per appointment, two cars per appointment in the tasting room. 1h2m

**Supervising Planner Hannah Spencer** asked Commissioner Koenigshofer for clarification regarding whether he is asking if there are any baseline standards set by zoning code for standalone tasting rooms? 1h2m

**Commissioner Koenigshofer** responded no, the application as has been emphasized by most of the speakers is, all that is being asked for is two appointments per day limited to five persons per appointment, or a total max of 10 per day, a max of two cars per appointment. He is asking, beyond that level of activity, is there anything else that would be allowed to be conducted under current ordinance because they have a use permit for a tasting room. 1h3m

**County Counsel Jennifer Klein** answered they are allowed whatever use permit says they are allowed as authorized by use permit, but there is an entire zoning code of allowed-by-right uses that are separate from use permit. 1h3m

**Commissioner Koenigshofer** said they have just spent years discussing what is the scope of having a use permit for a winery with a tasting room, and the conclusion was "it includes a bunch of stuff." 1h4m

**County Counsel Jennifer Klein** clarified that the current discussion is a bit beyond what they are there to talk about. They have direction from the Board of Supervisors to bring back a Winery Events Ordinance precisely to define the policy. Other than that, what is allowed on an individual property is a case-by-case analysis. Depends on when the project started, what entitlements are there, and period of time in which there may have been a legal non-conforming use type analysis. Does not think they can make any broad statements to say there is a policy that something is allowed if it is not codified. **1h5m**

**Commissioner Koenigshofer** asked to clarify for the record that the absolute limit of activity allowed on property based on project statement and staff report/Conditions of Approval would be two appointments per day, five persons max per appointment, two cars max per appointment. **1h5m**

**Staff Cecily Condon** clarified they would also be allowed to execute regular permitted uses allowed within their zoning district. **1h6m**

**Commissioner Koenigshofer** asked what are the regular permitted uses that might occur in the tasting room. **1h6m**

**Staff Cecily Condon** answered they wouldn't particularly be able to identify that within the tasting room, but as an example, a permitted use on a DA property would be a farm stand. **1h6m**

**Commissioner Koenigshofer** asked if they would be able to have a winemaker dinner. **1h6m**

**Staff Cecily Condon** said no food services proposed or allowed with the use permit entitlement. **1h6m**

**Staff Georgia McDaniel** added the Applicant would have to go through and get a modified use permit in order to have any activities beyond what is stated in the permit application and Conditions of Approval. **1h6m**

**Commissioner Koenigshofer** asked, since food service is not part of proposal and it is restricted into conditions, why would they be approving a structure that has a kitchen? Why is the condition not present that requires removal of the kitchen, since food service will be prohibited? **1h7m**

**Staff Georgia McDaniel** replied that part of the permit is to legalize the entire building, and the kitchen/bath or guest room already existed and were part of the structure when it was purchased. The owners want to legalize all the building plus any future work that may need to be done for ADA compliancy. **1h7m**

**Staff Hannah Spencer** added as they discussed, the landowner will still have the option to apply for other permitted uses, and so they can anticipate they might apply for the periodic special event zoning permit, which could include a request to use the tasting room and kitchen to potentially serve meals and hold an event, but that would be reviewed in accordance with existing zoning code standards for periodic special events on a case by case basis. As an example, county health specialists require use of porta-potties to ensure the existing septic system is not overloaded with the periodic requests. **1h7m**

**Commissioner Koenigshofer** said he finds it the idea confounding that they have a recommendation to approve a use permit that prohibits food service, and they are going to approve a kitchen. By that standard, every place they are restricting the activity to prohibit food service would be allowed to develop a kitchen in case they want a special event zoning permit. He does not find it consistent with his experience or observation. If use permit request came in and there was not an existing building, would they be approving a use permit that did not provide for food service with the full kitchen? He understands kitchen was already present, but it is without permits, so it gets shoe-horned in. If there was a new permit that hadn't had a violation to begin with, they would not be considering improving a kitchen associated with it. **1h8m**

**Staff Cecily Condon** mentioned that it is expected that there are some limited kitchen facilities, even on those without food service, in order to be able to support the normal washing of dishes, storing of equipment as far as other kitchen items like the range grill - those types of aspects are within the purview to consider as alterations of the Conditions of Approval on the project. **1h10m**

**Commissioner Koenigshofer** commented that he can think of examples where the Conditions of Approval specifically prohibited full kitchens beyond capability of having a dishwasher; the load of dishwashing associated

with two appointments of five persons per day may not require a lot of equipment. There is the idea of two cars per appointment in two parking spaces, one of which is standard, and one which is ADA. That basically relegates the ADA parking space to be used by non-ADA user, which is a bad practice to introduce. In draft COA project description, it makes a reference to one car per appointment, which is inconsistent with conditions later on and needs to be reconciled. The reference to condition 14 – “*if project will operate under a wine tasting room exemption*” – what is that? Does not understand how it fits. Is it an ABC licensing feature? 1h10m

**Staff Hannah Spencer** said that condition is issued through the County Health Department, so all tasting rooms are required to obtain a health department permit. In some cases, tasting rooms are eligible for an exemption, but they have to submit an approved exemption to satisfy that condition to Staff Georgia McDaniel. 1h13m

**Commissioner Eric Koenigshofer** commented if they do that, they will not offer for-sale food or beverages for on-site consumption. If they are approving a kitchen, it has an influence on that. 1h13m

**Commissioner McCaffery** would like to move that the Board of Zoning Adjustments finds the project category to be exempt from provisions of CEQA and approve use permit request to legalize tasting room subject to the attached Conditions of Approval. 1h14m

**Commissioner Cornwall** seconded the motion. 1h14m

**Commissioner Ocaña** wanted to address the concerns of Gail & Alan Ross about signage and the issue of guests coming to their house and searching for directions. She did not drive by the property, but on Google Maps it does not appear that there is adequate signage to tasting room. She asked if staff might comment on whether they are allowed to put up signage, and if it would it be an appropriate a way to divert clientele from trespassing onto private properties. 1h15m

**Staff Georgia McDaniel** said they can add a Condition of Approval to install proper signage, and they would have to get approval to make sure it meets requirements. They were not able put out signage previously due to being in the process of getting permit for tasting room. 1h16m

**County Counsel Jennifer Klein** said she will find out if condition 42 is signage related to ensuring the premises is clearly identified for emergency response purposes so that they may find the property quickly. If those conditions are satisfied, one would presume that they equally would help the public in directional needs. 1h16m

**Commissioner Cornwall** suggested possibly doing two straw votes, or two regular votes – a motion with taking out the kitchen, and a motion without taking out the kitchen. They already have a motion on the floor, should they vote on that, and if it doesn't pass, then they go to Commissioner Koenigshofer? 1h19m

**Commissioner Koenigshofer** offered to simplify the procedure and amend the motion on the floor: kitchen features be modified for a minimal kitchen – no stove/oven for food prep. 1h19m

**Commissioner Ocaña** asked to clarify the amended motion; the use permit will not permit events, and no food prep or food & wine pairings, but there is potential to apply for conditional use permit that would allow certain offerings. Is Commissioner Koengshofer suggesting that they eliminate possibility of using the kitchen now or in the future with the conditional use permit? Also clarifying that they would not need to remove the oven and microwave, and staff could still use them. 1h21m

**Commissioner Koenigshofer** read the last sentence of the project description in the Conditions of Approval – “*there are no employees, food and wine pairing events, or amplified music*”. His point is, there is no food proposed, and they have conditions that prohibit food, therefore they should not be approving a full kitchen; the full kitchen is inconsistent with the action on the table. 1h22m

**Commissioner Gilardi** said she hears Commissioner Koenigshofer's concerns. The kitchen is already there. Is the request to completely dismantle the kitchen, or are they asking the applicant to take out oven and fridge? How much would they be asking applicants to remove in kitchen? 1h23m

**Commissioner Koenigshofer** responded that the applicant would not need to remove a sink, hot and cold water, or refrigerator, but anything with which food can be cooked. 1h23m

**Commissioner Gilardi** asked if the applicant removes the oven, would that be that satisfactory? 1h24m

**Commissioner Koegnishofer** said he is going off of previous clients of his who had wineries with tasting rooms approved, and there was no food prep allowed in use permit; PRMD prohibited the inclusion of stoves, ovens, and food prep. It is a matter of consistency. Found it shocking that due to having a kitchen already included before permitting, the applicant's reward is getting to keep it. If permit came on its own with no food prep proposed or allowed under Conditions of Approval, there would not be a kitchen allowed as part of the project. 1h24m

**Staff Cecily Condon** asked if it would be helpful if she shared her screen with the floor plan to discuss what needs to be removed. It is a relatively small kitchen, but conditioning to remove the stove/range would be sufficient language to modify. 1h25m

**Commissioner Cornwall** asked Commissioner Koenigshofer to make a very specific suggestion for the motion so they can make a decision. She is personally fine with leaving the kitchen in there since it already existed; the applicants did not build it. They could come back and ask for a special event permit for food service. There is a distinction between having kitchen and asking for food service. They are not asking for food service. Her perception is the applicant's incentive to do anything substantial with food services would be very small, and they have a lot of visibility on the project from their neighbors. She is fine just approving project as-is but would like to hear what Commissioner Koenigshofer is specifically requesting. 1h26m

**Commissioner Koenigshofer** said he withdraws his offered amendment. 1h27m

**Commissioner Ocaña** said she understands Commissioner Koenigshofer's premise, and thinks it is very important to take into consideration that they do have a Winery Events Ordinance before the Board. These were decisions that had already been discussed. It is important to keep in mind while moving forward with processing these permits, even if they do not yet have the final ordinance in place and appreciates Commissioner Koenigshofer bringing it up. If they are setting precedents after they have already made decisions, it will complicate things. She also believes County Counsel has a good point – we do not have an ordinance established yet by the Board. 1h27m

**Commissioner Ocaña** checked with the Commissioners if they are comfortable with what they remember from Commissioner McCaffery's original motion; Commissioners confirmed. Proposed that Staff Brian Oh proceeds with the vote. 1h29m

**Modified Conditions of Approval:** Not Applicable

**Action:** **Commissioner McCaffery** motioned to find the project Categorically Exempt and approve the use permit. Seconded by **Commissioner Cornwall** and approved with a 3-2-0 vote. 1h30m

**Appeal Deadline:** 10 days

**Resolution No.:** 22-10

**Vote:**

Commissioner Cornwall	Aye
Commissioner Gilardi	No
Commissioner McCaffery	Aye
Commissioner Koenigshofer	No
Chair Ocaña	Aye

Ayes: 3

Noes: 2

Absent: 0

Abstain: 0

**Hearing Closed: 2:35 PM**