



Sonoma County Board of Zoning Adjustments

STAFF REPORT

FILE: UPE19-0070
DATE: December 8, 2022
TIME: At or after 1:05 pm
STAFF: Georgia McDaniel, Project Planner

SUMMARY

Property Owner: Steve and Heather Law
Applicant: Bennett Martin
Address: 211 Adobe Canyon Road, Kenwood
Supervisory District(s): 1
APN: 051-040-018
Description: Request for a Use Permit to legalize an existing 688 square foot standalone wine tasting room on a 1.45-acre property. The tasting room will serve Sonoma County wines produced offsite by a local winery producing approximately 1,400 cases annually. Tasting will be 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 pairings, events, or amplified music proposed.

CEQA Review: Categorical Exemption Sections 15301 (Existing Facility) and 15061 (Common Sense Exemption) because no new construction is proposed and there is no possibility that the activity in question may have a significant effect on the environment.

General Plan Land Use: Diverse Agriculture 10
Specific/Area Plan Land Use: N/A
Ordinance Reference: 26-18-210 Tasting Rooms
26-64-020 –Scenic Landscape Units
26-67 – Valley Oak Habitat

Zoning: Diverse Agriculture (allowed density: 10 acres per dwelling) and combining zones for Scenic Resources and Valley Oak Habitat

Recommendation



The Permit Resource and Management Department (Permit Sonoma) 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.

EXECUTIVE SUMMARY

The purpose of this Use Permit is to legalize a standalone wine tasting room. The tasting room will serve Sonoma County wines produced offsite by a local winery producing approximately 1,400 cases annually. Tasting will be by appointment only, operated by the landowners seven days a week, between the hours of 10 a.m. to 5 p.m. The existing facility is a 688 square foot barn converted to an indoor tasting room, with a kitchen, bathroom, and a parking area. 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 pairings, events, or amplified music proposed.

On July 28, 2022, staff posted a 10-day Notice of Hearing Waiver pursuant to Sonoma County Code Section 26-92-040 (d), in an attempt to administratively approve the project. On July 28, 2022, a formal request for public hearing was received for the project. Public comments made on the project include concerns with the tasting room continuing to operate without a permit and impacts to the rural residential neighborhood. Staff has also received public comments in support of the project.

PROJECT SITE AND CONTEXT

Background

The 1.45-acre property contains a 0.4-acre vineyard, a 2-bedroom residence occupied by the landowners, a pool, a 688-square foot barn, and parking area. It appears the previous landowner converted the 688-square foot barn to a wine tasting room or similar facility by adding the kitchen and bathroom areas without obtaining building permit or use permit approvals though no complaints were received at this time. The current landowners, Steve and Heather Law, purchased the property in 2017, added a deck and various cosmetic upgrades to the building, and continued to operate the building as an unpermitted wine tasting room. After receiving a complaint in August 2019, Code Enforcement issued zoning and building violations for the conversion of the barn to a tasting room. In response, the landowners submitted Use Permit File No. UPE19-0070 to legalize the tasting room use and worked through Code Enforcement to resolve building code violations (VCM19-1100, VBU19-0681, VBU19-0682, VPL19-0740, VPL19-0741). Approval of the use permit request would legalize the barn as a tasting room and resolve the outstanding zoning violation. All other code violations have been closed.

Currently MacLaren Wines produce 1,400 cases annually in an industrial area located at 22020 Carneros Vineyard Way, Suite 2, in southern Sonoma County. The landowners wish to use the existing barn on their residential property in Kenwood (project site) as a private tasting room to serve the wines they produce offsite. MacLaren Wines source grapes locally throughout Sonoma County, including the 0.4-acre vineyard located at the project site.

Area Context and Surrounding Land Uses



The 1.45-acre project site is located in Kenwood, approximately 1/4 mile north of Highway 12. The area is relatively flat and designated as a Scenic Landscape Unit. The neighborhood is zoned Diverse Agriculture and is primarily developed with vineyards and rural residential uses. The project site shares its property boundaries with two wineries – La Rochelle Winery produces 2,000 cases annually and offers tasting; Landmark Vineyards produces 35,000 cases annually and offers public tasting and events. Kenwood is located in the northern portion of Sonoma Valley and is known for a potential overconcentration of winery visitor serving uses.

Direction	Land Uses
North	Vineyards, rural residential, La Rochelle Winery and tasting room
South	Vineyards, rural residential, Landmark Vineyards winery and tasting room
East	Vineyards, rural residential
West	Vineyards, rural residential

Significant Applications Nearby

A Design Review application for Kenwood Ranch Winery is currently under review by Permit Sonoma. File No. PLP01-0006 (formerly known as “Sonoma Country Inn”) approved a use permit for 10,000 case per year winery with a public tasting room, retail wine sales, and 20 events per year with 200 persons in attendance at a site accessed from Campagna Lane in Kenwood, approximately 0.5 miles northwest of the project site.

Access

Access to the property is via an existing 10-foot-wide private driveway easement located off Adobe Canyon Road. The driveway extends across an easement located on an adjacent residential parcel, serving only the project site. Adobe Canyon Road is a county-maintained public road.

Wildfire Risk

The site is served by the Kenwood Fire Protection District and is located in a Local (LRA) Fire Protection Responsibility Area. According to the Sonoma County General Plan Public Safety Element Fire Hazard Areas Map, the property is not located in a Fire Hazard Severity Zone. The property was burned in the 2017 Nuns Fire and lost an agricultural structure. The project proposes to utilize an existing remodeled barn as a tasting room serving up to 10 customers per day. A standard project Condition of Approval requires the project complies with all County Fire Code requirements. Approving the barn as a tasting room will require a change in building occupancy prior to operating the use permit.

Water/Wastewater/Utilities

There will be no changes to the existing water system. The property is located in a Groundwater Class 1 – Major Groundwater Basin, outside of a priority groundwater basin. The existing well and septic systems located onsite were installed in the mid-1970’s. Conditions of Approval for the project require the applicant to demonstrate the existing septic and water well systems have capacity to serve the residential, vineyard, and tasting room uses.

Agricultural Conditions/Land Encumbrances/Contracts



There is no Williamson Act Contract or other land encumbrance.

Other Environmental Conditions

The property is located within the VOH (Valley Oak Habitat) combining district. Removal of Valley Oak trees would require mitigation; however, the project does not involve any new construction or removal of any protected tree species.

PROJECT DESCRIPTION

The purpose of this Use Permit is to legalize a standalone wine tasting room. The tasting room will serve only Sonoma County wines produced offsite by a local winery producing approximately 1,400 cases annually. Tasting will be by appointment only,, operated by the landowners seven days a week between the hours of 10 a.m. to 5 p.m. The existing facility is a 688 square foot barn converted to an indoor tasting room with a kitchen, bathroom; as well as a parking area for two vehicles (includes one ADA-compliant space). 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. All existing exterior lighting fixtures are “Dark Sky Compliant”.

Project History

The table below summarizes key project milestones and events.

Date	Project Event/Milestone
08/08/2019	Code Enforcement issues building and zoning violations
08/28/2019	Application submitted
11/08/2019	Early neighborhood notification
11/07/2019	Referral to prominent agencies
12/24/2019	Code Enforcement closes building and zoning violations
06/16/2022	Code Enforcement issues new zoning violation
07/07/2022	Revised project description submitted; application deemed complete
07/28/2022	Public Hearing Waiver Posted; Public Hearing requested
11/28/2022	Board of Zoning Adjustments Public Hearing Notice Posted

General Plan and Area Plans

In addition to the underlying land use of the site, Diverse Agriculture, the following General Plan and Area Plan policies are applicable to the project. Staff analysis related to each of these policies begins on page 7 of this report.

Policy AR-6a: *Permit visitor serving uses in agricultural categories that promote agricultural production in the County, such as tasting rooms, sales and promotion of products grown or processed in the County, educational activities and tours, incidental sales of items related to local area agricultural products, and promotional events that support and are secondary and incidental to local agricultural production.*



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Policy AR-6d: Follow these guidelines for approval of visitor serving uses in agricultural areas:

- (1) The use promotes and markets only agricultural products grown or processed in the local area.
- (2) The use is compatible with and secondary and incidental to agricultural production activities in the area.
- (3) The use will not require the extension of sewer and water.
- (4) The use is compatible with existing uses in the area.
- (5) Hotels, motels, resorts, and similar lodging are not allowed.
- (6) Activities that promote and market agricultural products such as tasting rooms, sales and promotion of products grown or processed in the County, educational activities and tours, incidental sales of items related to local area agricultural products are allowed.
- (7) Special events on agricultural lands or agriculture related events on other lands in the Sonoma Valley Planning Area will be subject to a pilot event coordination program which includes tracking and monitoring of visitor serving activities and schedule management, as necessary, to reduce cumulative impacts.

Policy AR-6f: Local concentrations of visitor serving and recreational uses, and agricultural support uses as defined in Goal AR-5, even if related to surrounding agricultural activities, are detrimental to the primary use of the land for the production of food, fiber and plant materials and may constitute grounds for denial of such uses. In determining whether or not the approval of such uses would constitute a detrimental concentration of such uses, consider all the following factors:

- (1) Whether the above uses would result in joint road access conflicts, or in traffic levels that exceed the Circulation and Transit Element’s objectives for level of service on a site specific and cumulative basis.
- (2) Whether the above uses would draw water from the same aquifer and be located within the zone of influence of area wells.
- (3) Whether the above uses would be detrimental to the rural character of the area.

Zoning

The table below summarizes the development standards that apply to the site as outlined in the Sonoma County Zoning Ordinance, the existing and proposed development, and whether the project is consistent with the Zoning Ordinance.

Standard	Ordinance	Existing Condition	Proposed Project
Minimum Lot Area	10 acres	1.45 acres	No Change
Land Use	Diverse Agriculture	Diverse Agriculture	No Change
Residential Density	40 acres per dwelling	1 Single Family Dwelling	No Change
Front Setback	30’-0”	30’-0”	No Change
Side Setback	10’-0”	30’-0” and 200’-0”	No Change
Corner Setback	10’-0”	N/A	No Change
Rear Setback	20’-0”	80’-0”	No Change
Max. Building Height	35 ft.	18 ft. at residence roof ridge line 16 feet at tasting room roof ridge line	No Change



Max. Lot Coverage %	30,000 sq. ft. or 10%, whichever is greater	7.4%	No Change
Min. Parking Spaces	1 covered space for the residence; no minimum parking space limit for tasting rooms.	2 uncovered spaces for the tasting room + 2 covered spaces in garage for the residence	No Change

Other Development Regulations or Guidelines

The property is zoned DA (Diverse Agriculture). The DA zoning district allows Tasting Rooms with use permit approval. Tasting Rooms are subject to the following standards:

Tasting Rooms Section 26-18-210

A. Definition. A retail food facility where one (1) or more agricultural products grown or processed in the county are tasted and sold. Agricultural products sold may include alcoholic beverages.

1. Includes: Wine tastings, olive oil, honey, fruit preserves.
2. Excludes: Farm stands, farm retail sales.

B. Standards.

1. Shall not require the extension of sewer and water.
2. RRD zone: Allowed only for agricultural products grown or processed onsite.

C. General Plan Consistency.

1. Must be consistent with general plan policy AR 6-d and AR 6-f.

The property zoning includes the following combining zones:

Scenic Resources (SR) Combining District – Scenic Landscape Unit, Section 26-64-020

The purpose of the Scenic Landscape Unit combining district is to preserve the visual character and scenic resources of lands in Sonoma County. Development within the designated scenic areas are subject to established design guidelines.

Valley Oak Habitat (VOH) Combining District Section 26-67

The VOH zoning overlay covers a portion of the project property, however the project does not result in any new grading or construction.

ANALYSIS

General Plan Consistency

The project site is designated Diverse Agriculture (DA) 10 acres per dwelling unit by the General Plan. This land use category was established to “protect those land areas where soil, climate, and water conditions support farming but where small acreage intensive farming and part time farming activities are predominant.” General Plan Policy AR-6a allows “visitor serving uses in agricultural categories that promote agricultural production in the County, such as tasting rooms, sales and promotion of products grown or processed in the County, educational activities and tours, incidental sales of items related to local area agricultural products, and



promotional events that support and are secondary and incidental to local agricultural production.” Visitor serving uses such as Tasting Rooms require a use permit.

The proposed project is consistent with General Plan Policy AR-6d because it meets the guidelines for approval of visitor serving uses in agricultural areas, such as wine tasting:

(1) The use promotes and markets only agricultural products grown or processed in the local area.

Staff comment:

The proposed tasting room will sell locally produced wines. Currently MacLaren produces 1400 cases annually in a warehouse located at 22020 Carneros Vineyard Way, Suite 2, in Sonoma. MacLaren wines uses grapes grown in Sonoma County, including the grapes produced by the ½ acre vineyard located on the project site.

(2) The use is compatible with and secondary and incidental to agricultural production activities in the area.

Staff comment:

The proposed tasting room would promote an agricultural product grown and processed in Sonoma County. Further, the tasting room would be compatible with existing agricultural activities in that it is relatively small in size and, therefore, the impacts generated by visitors is expected to be minimal.

(3) The use will not require the extension of sewer and water.

Staff comment:

The use will not require the extension of sewer and water. Conditions of approval for the project require the applicant demonstrates the existing private onsite well and septic systems have capacity to serve the tasting room.

(4) The use is compatible with existing uses in the area.

Staff comment:

Surrounding uses include rural residential and vineyards uses on properties zoned Diverse Agriculture. Nearby residential properties range in size from 0.5 acres to 7 acres. The project site shares its eastern property line with La Rochelle winery and tasting room (Use Permit No. UPE02-0004; previously known as Kaz Winery) and its western property line with Landmark Vineyards winery and tasting room (Use Permit No. UPE00-0171). La Rochelle Winery is located on a 2.26 acre property approved for a 2,000 annual case production and daily public tasting between 11am-5pm with approximately 50 people per day. Landmark Vineyards is on a 10.24 acre property approved for a 35,000 annual case production, tasting for up to 62 visitors per day, and 13 events with a maximum of 50 attendees per event.

The project proposes to legalize an existing standalone wine tasting room, serving up to 10 customers per day by appointment only, located in an existing building. Events and amplified music are not included in the request. The site is served by an existing private driveway and parking area, as well as an existing well and septic system. No new construction is proposed and all exterior lighting will be



darksky compliant. The 688-square foot tasting room is relatively small in size and will not generate a significant amount of noise or traffic. Project conditions of approval limit the tasting room to two appointments per day with a maximum of 5 customers and one vehicle per appointment. Therefore, the project would not be detrimental existing rural residential and agricultural uses in the area.

(5) Hotels, motels, resorts, and similar lodging are not allowed.:

Staff Comment:

The request for a tasting room does not include any lodging.

(6) Activities that promote and market agricultural products such as tasting rooms, sales and promotion of products grown or processed in the County, educational activities and tours, incidental sales of items related to local area agricultural products are allowed.

Staff comment:

The proposed tasting room will promote an agricultural product grown and processed in Sonoma County, MacLaren Wine. Standard conditions of approval for the project limit the sale of incidental items. No additional food service is proposed.

(7) Special events on agricultural lands or agriculture related events on other lands in the Sonoma Valley Planning Area will be subject to a pilot event coordination program which includes tracking and monitoring of visitor serving activities and schedule management, as necessary, to reduce cumulative impacts.

Staff comment:

The request does not include events.

Additionally, the project is consistent with General Plan Policy AR-6f as the tasting room would not constitute a detrimental concentration of visitor serving uses. This determination is based on the following factors:

1. There will be no change in the existing use of the tasting room building. The building has been operated as a small tasting room since the landowners purchased the property in 2017. The tasting room will continue to be managed by the landowners with no additional employees. The project site is served by an existing private driveway accessed off Adobe Canyon Road, which is a County-maintained public road. The 688-square foot tasting room is relatively small in size and will be limited to two appointments per day. Therefore, the use permit request is not expected to result in joint road access conflicts, or traffic levels that exceed General Plan objectives.
2. The project site is located within Groundwater Availability Zone 1, Major Groundwater Availability. The existing well on-site was constructed in the 1970's. Permit Sonoma's Geologist reviewed the application and concluded that the water use meets the threshold to be considered de minimis. No additional information or groundwater monitoring was required for the project.



3. The project proposes to legalize an existing wine tasting room, serving up to 10 customers per day by appointment only, located in an existing building. Events and amplified music are not included in the request. The site is served by an existing private driveway and parking area, as well as an existing well and septic system. No new construction is proposed and all exterior lighting will be darksky compliant. The 688-square foot tasting room is relatively small in size and will not generate a significant amount of noise or traffic. Project conditions of approval limit the tasting room to two appointments per day with a maximum of 5 customers and one vehicle per appointment.

Zoning Consistency

The proposed tasting room meets all the development standards for the Diverse Agriculture Zoning District as well as the Zoning Code’s standards for Tasting Rooms required under Section 26-18-210. No new construction is proposed.

To minimize visual impacts, consistent with the zoning criteria for Scenic Landscape Units, the project includes standard conditions of approval that require all exterior lighting to be "Dark Sky Compliant" and fully shielded in order to avoid nighttime light pollution. All exterior lighting shall be downward facing, and located at the lowest possible point to the ground to prevent spill over onto adjacent properties, glare, nighttime light pollution and unnecessary glow in the rural night sky. Security lighting shall be put on motion sensors. Flood lights and uplights are not permitted.

Environmental Analysis

Staff determines the project is exempt from the provisions of the California Environmental Quality Act pursuant to the Provisions of Title 14 of the California Administrative Code, Section 15061, Common Sense Exemption, because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Specifically, the project does not incur new construction; the proposed tasting room will utilize an existing facility and will be accommodated by the existing parking lot, septic system and well; the noise generated by the proposed use will comply with General Plan Noise Standards; and the expected increase in traffic and water use is negligible.

The project is also exempt from the provisions of the California Environmental Quality Act pursuant to the Provisions of Title 14 of the California Administrative Code, Section 15301, Existing Facilities, because the tasting room building is an existing facility that involves no negligible or expansion of the existing use beyond the existing at the time of the lead agency’s determination.

NEIGHBORHOOD/PUBLIC COMMENTS

The project is located within the boundaries of the Sonoma Valley Citizens Advisory Commission (SVCAC). The SVCAC provides recommendations to elected officials and other decisions makers on new or modified use permits on land that is zoned Agricultural (LIA, LEA, DA) and Resource and Rural Development (RRD). The application was referred to SVCAC on November 7, 2019, however, Permit Sonoma did not receive a response indicating that the CAC did not have comments to provide on the project.

One neighbor has raised multiple concerns over the project proposal and requested Permit Sonoma bring the project to a public hearing for a decision on the project. Concerns include the project landowners’ continued unpermitted use of the tasting room and impacts to the rural residential neighborhood.



Six letters in support of the proposed tasting room have been submitted to Permit Sonoma. Supporters of the project include four neighbors, the Sonoma Valley Vintners & Growers Alliance (SVVGA) and the Valley of the Moon Alliance (VOTMA). VOTMA recommends the maximum number of persons tasting at each appointment be specified in the use permit, considering the size the tasting room, parking availability, and septic capacity.

Copies of the public comments are provided in Attachment 10.

RECOMMENDATIONS

Preceding Review Authority Recommendation

None.

Staff Recommendation

The Permit Resource and Management Department (Permit Sonoma) 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.

Attachments

1. Draft Conditions of Approval
2. Proposal Statement prepared by applicant, July 7, 2022
3. Vicinity Map
4. General Plan Map
5. Zoning Map
6. Assessor's Map
7. Aerial Map
8. Overall Site Plan
9. Tasting Room Floor Plan
10. Public Comments
11. CEQA Common Sense Exemption
12. Draft Resolution

