



Sonoma County Board of Zoning Adjustments STAFF REPORT

Sonoma County Permit and Resource Management Department
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FILE: UPE09-0027
DATE: April 22, 2010
TIME: 2:00 p.m.
STAFF: Cynthia Demidovich

Appeal Period: 10 calendar days

SUMMARY

Applicant: Lester Schwartz

Location: 15001 Meyers Grade Road, Jenner
APN 109-160-020 Supervisorial District No. 5

Subject: Use Permit

PROPOSAL: Request for a Use Permit for a new 4,991 square foot retail tasting room open to the public with 18 special events per year with a maximum of 200 people per event.

Environmental Determination: Mitigated Negative Declaration

General Plan: RRD (Resource and Rural Development), 160 density

Ord. Reference: 26-10-020(e)

Zoning: Split Zoning: RRD (Resource and Rural Development), B7 (Frozen Lot Size) and TP (Timber Production), B7 (Frozen Lot Size)

Application Complete for Processing: November 16, 2009

RECOMMENDATION: Adopt the Mitigated Negative Declaration and approve the request for a Use Permit.

ANALYSIS

Background:

The subject 246 acre parcel was created by Parcel Map 91-991, recorded on February 8, 1996, and includes four new parcels and a Designated Remainder. The existing uses on the project site are a residence and the cultivation of approximately eight acres on-site vineyards. Approximately 42 acres of vineyard is located on two contiguous parcels owned by the same owner (APN 109-160-024 and 109-150-038) and the grapes from these vineyards will also be used for wine production to be tasted at the proposed tasting room. No on-site winery facilities exist or are proposed; all of the grapes are taken off-site for processing at a private facility.

Project Description:

The proposed project is a request for a Use Permit for a new retail tasting room open to the public with 18 special events with a maximum of 200 people per event on a 246 acre parcel. Eight of the 18 special events would be charitable fund raisers for various organizations, private and public events. The remaining ten special events will be promotional events sponsored by the vineyard. The promotional events will be for wine club members, restaurateurs, chefs, buyers, distributors and other members of the wine trade. All of the special events will be by invitation only. The location of the outdoor events that involve musical instruments (such as horns, drums, and cymbals) or amplified sound will be limited to the area on the "Outdoor Events Location Map," dated October 2, 2009, and prepared by Ray Carlson and Associates. The proposed new 4,991 square foot tasting room facility includes a 800 square foot tasting room area, 180 square foot office, 261 square foot kitchen, 840 square foot deck, a 1,600 square foot attic to be converted to an office in the future, and a 2,640 square foot basement for storage of case goods. The site will be improved with 31 new parking spaces. The cultivation of approximately eight acres of vineyard is currently present on the project site and this yields approximately 2,656 cases of wine. No on-site winery facilities exist or are proposed; all of the grapes are taken off-site for processing at a private facility.

It is anticipated that one full-time employee and one part-time employee will be required for the retail tasting room. Proposed hours of operations for the tasting room during the winter months, between December 1 and March 31, would be from 10:00 a.m. to 5:00 p.m., and special events would conclude by 5:00 p.m. During spring, summer, and fall, between April 1 and November 30, the tasting room would be open from 10:00 a.m. to 6:00 p.m., and special events would conclude one-half hour before sunset. The proposed tasting room will be served by an on-site septic system and water will be supplied by an existing on-site well. The large special events will be required to use portable toilets.

Site Characteristics:

The 248.38 acre parcel is located approximately 2.5 miles northeast of Highway 1 on Meyers Grade Road. The topography of the project site ranges from relatively flat areas to steep slopes and the west branch of Russian Gulch Creek traverses the site in a south east to a north west direction. An existing pond is located on the western portion of the site. Cattails and wetland plants border the pond shoreline. Most of the site is forested with douglas fir, redwood, madrone, tan oak, and bay trees. Eight acres of vineyard are located on the northwest portion of the project site. Several portions of the site are forested with timber, however, there is no active timber production on-site. The site is improved with a primary dwelling unit and an agricultural employee dwelling unit. The site is accessed from Meyers Grade Road by two existing driveways which are located on the north and south portion to the parcel. There are two existing roads on the project site that lead from the north and south driveways. The site is currently served by three wells and two septic systems. The site is not in a Williamson Act Contract.

Surrounding Land Use and Zoning:

Neighboring parcels located to the north, south and east are zoned RRD (Resources and Rural Development), and TP (Timber Production). Parcels located to the west are zoned RRD (Resource and Rural Development), LEA (Land Extensive Agriculture), TP (Timber Production), and CC (Coastal Combining District). The surrounding uses in the area are residential, timber land production, the cultivation of vineyards and cattle grazing.

DISCUSSION OF ISSUES

Issue #1: General Plan and Zoning Consistency

General Plan Consistency:

The site's General Plan land use designation is RRD (Resources and Rural Development) with a 160 acre density, and the zoning designation is RRD (Resources and Rural Development), TP (Timber Land Production), and B7 (Frozen Lot Size). The purpose of the Resource and Rural Development Land Use designation is to protect lands used for timber, geothermal, and mineral resource production and for

natural resource conservation. The intent of this General Plan Designation is that natural resource areas be managed and conserved and that production activities avoid depletion and promote replenishment of renewable resources. Listed below is the General Plan Policy for Resources and Rural Development land use (applicable portions of the policy are bolded):

(1) Protect timberlands needed for commercial timber production under the California Timberland Productivity Act,

(2) Protect lands needed for geothermal resource production,

(3) Protect lands for aggregate resource production as identified in the Aggregate Resources Management Plan,

(4) Protect natural resource lands including, but not limited to watershed, fish and wildlife habitat and biotic areas,

(5) Protect against intensive development of lands constrained by geologic hazards, steep slopes, poor soils or water, fire and flood prone areas, biotic and scenic areas, and other constraints,

(6) Accommodate agricultural production activities but limit such activities on timberland, or

(7) Protection of county residents from proliferation of growth in areas where there are inadequate public services and infrastructure, including water supply and safe wastewater disposal.

The bolded policy sections applicable to this project are one, four, five, six, and seven. The proposed tasting room will not interfere with the portion of the site that is designated as Timberland Production as the tasting room will be located outside of that designated portion of the site. A habitat assessment was prepared for the project site and indicated that the proposed tasting room will not impact any biotic resources located on the project site (see issue #5 listed below). The proposed tasting room will be constructed on a portion of the site that is relatively flat and not subject to a geological hazard. Standard requirements for issuance of a building permit require PRMD Building Division approval of a geotechnical report prior to building permit issuance. The site is served by a private well and septic system that meets County standards. A Geology and Ground Water Study was prepared for the proposed project and the study indicated that there is adequate ground water to support the project (see Issue # 3 listed below for further detail). Access to the site is directly off of Meyers Grade Road which is a County maintained road. The proposed project is consistent with the General Plan designation of Resources and Rural Development, which allows tasting room facilities related to agriculture activities.

The Land Use Element balances the various goals and objectives of the other elements of General Plan 2020. Policies in the Land Use Element support and are supported by policies stated in the other elements. The following goals and policy's from the Agricultural Resources Element apply to the proposed project because the proposed tasting room promotes an on-site agricultural use:

Policy AR-1a: Permit a wide variety of promotional and marketing activities of County grown and processed products.

The tasting room will promote wine from grapes that are grown and processed in Sonoma County. The majority of finished case goods will not be stored on-site, only the amount necessary for the tasting room use. The processing and bottling will be done at a private off-site facility located in Sonoma County. The tasting room facility is not an excessive use as the cultivation of vineyard located on the project site will produce approximately 2,656 cases of wine.

Policy AR-5g: Local concentrations of any separate agricultural support uses, including processing, storage, bottling, canning and packaging, agricultural support services, and visitor-serving and recreational uses as provided in Policy AR-6f, 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 shall be avoided. 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.

In cases where the proposed processing use would process only products grown on site, such use would not be subject to this concentration policy.

There are currently no tasting rooms in the immediate area or near vicinity. Traffic impacts are addressed in Issue #2 below, but staff believes that the proposed tasting room will have an insignificant impact on the existing traffic conditions and the exiting road will adequately support additional trips associated with the proposed project. Ground water impacts are addressed in Issue #3 listed below, and staff believes that the wells on the neighboring properties will not be influenced by the proposed tasting room. The proposed tasting room will not be detrimental to the rural character of the area as it supports an existing agricultural use on the project site.

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. Limit recreational uses to the "Land Extensive Agriculture" and "Diverse Agriculture" categories, specifically to bed and breakfast inns and campgrounds of 30 or fewer sites.

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.

Policy AR-6a and AR-6d permits tasting rooms and events that are secondary and incidental to the local agricultural production. Although the site is zoned RRD which is not an agricultural land use category these policies still apply because the primary use of the site and surrounding parcels is agriculture (vineyard). The applicant has eight acres of vineyard on-site and 42 acres off-site on adjacent property and uses grapes grown in the near vicinity to produce wine. The intent of the on-site tasting room, retail sales, and special events is to promote the wine produced by these agricultural products that is to be processed off-site. Previous approvals by the Board of Zoning Adjustments have demonstrated that such promotional events are in keeping with the intent of Policy AR-6a. The proposed use is secondary to the

eight acres of on-site vineyard. The proposed tasting room is compatible with, and secondary to, other agricultural production activities in the area. The use will be served by a private, on-site well and septic system and the request does not involve any type of lodging.

Zoning Consistency:

The project site has split zoning of RRD (Resources and Rural Development), B7 (Frozen Density), and TP (Timber Land Production), B7 (Frozen Density). The proposed tasting room will be constructed on a portion of the site that is zoned RRD. Section 26-10-020(e) of the RRD zoning district allows tasting rooms subject to Use Permit approval for agricultural products which are grown or processed on-site. The current cultivation of approximately eight acres of vineyard on-site yields approximately 2,656 cases of wine. The portion of the site that is zoned TP will remain in timber production and the new tasting room will not interfere with the portion of the site that is designated as Timberland Production. The proposal is consistent with the Resource and Rural Development zoning.

Issue #2: Traffic

A Focused Traffic Study dated October 15, 2009, was prepared for the proposed tasting room by W-Trans. The 248.38 acre parcel is located approximately 2.5 miles northeast of Highway 1 on Meyers Grade Road. The paved width of Meyers Grade Road is 24 feet at the frontage of the project site and between the site and the intersection of Highway 1. The average traffic speed on Meyers Grade Road is approximately 38 mph. The current traffic volumes on Meyers Grade Road were measured near the existing south driveway for seven days, between September 4, and 11, 2009, and the average daily volume (ADT) was approximately 400 vehicles per day. This traffic volume is significantly less than the roadway capacity. The study indicates that the proposed project will generate on average approximately 23 vehicle trips per day on Meyers Grade Road not including events. The analysis states that the proposed tasting room will have an insignificant impact on the existing traffic conditions and the exiting road will adequately support additional trips associated with the proposed project.

The Traffic Study reviewed the collision history for Meyers Grade Road and determined that between October 2005 and September 2008 there was one collision within a half-mile segment of Meyers Grade Road near the proposed project site. The collision involved a single vehicle driving on the wrong side of the road. The study indicated the collision rate on Meyers Grade Road is slightly lower than the average rate for similar roads statewide and the road is operating within acceptable safety standards.

There are two existing driveways located on the project site and are identified as Entry 1 and Entry 2 in the Traffic Study. Entry 1 is located on the south portion of the site and Entry 2 is located on the north portion of the project site. The site distance along Meyers Grade road was evaluated at both driveways using the criteria contained in "A Policy on Geometric Designs on Highways and Streets," published by American association of State Highway and Transportation Official (AASHTO). The measured site distance at Entry 1 for southbound drivers approaching the driveway was less than 180 feet, which is less than the required stopping sight distance. Northbound drivers approaching Entry 1 have a sight distance of approximately 360 feet, which meets the AASHTO standards. The measured site distance for Entry 2 was over 360 feet in both the northbound and southbound directions which meets the AASHTO standards. In order to meet the site distance standards the study recommends outbound traffic use Entry 1 located on the south portion of the site and inbound traffic use Entry 2 located north portion of the site. In addition, the study recommend that a "STOP" legend should be marked on the driveway at Entry 1 to ensure that exiting motorists stop where the best visibility can be achieved.

The study recommends restricting hours of operation as a precautionary measure in consideration of traffic operational efficiency as roadway visibility is enhanced during daylight hours. During the winter months, between December 1 and March 31, the tasting room would be open from 10:00 a.m. and 5:00 p.m., and special events would conclude by 5:00 p.m. During spring, summer, and fall, between April 1 and November 30, the tasting room would be open 10:00 a.m. to 6:00 p.m., and special events would conclude one-half hour before sunset.

The Traffic Study states that the proposed tasting room will have an insignificant impact on the existing traffic conditions and the exiting road will adequately support additional trips associated with the proposed project.

Issue #3: Hydrology and Water Quality

The proposed project is located in a Ground Water Zone 4 which is a water scarce area. A Geology and Ground Water Study was prepared by E.H. Boudreau a Registered Geologist, and the study is dated December, 2009. The study states that the tasting room would use a maximum of 750 gallons per day and 18,000 gallons per year. The tasting room well taps fractured sandstone that yields 3.5 gallons per minute (gpm) which is 5,000 gallons per day. The water storage available to the well is approximately 2 million gallons. The ground water recharge is approximately 1.3 million gallons per year.

According to the Ground Water Study the parcel to the north and adjacent to the proposed project site is served by a spring. The spring is located approximately 800 feet to the north of the well that will serve the tasting room. The study indicates there is no connection between the well that will serve the proposed tasting room and the spring located 800 feet to the north. The study also indicates that wells on other properties are at least 1,200 feet away. The study states that the tasting room well will support the proposed project without interfering with wells and springs on neighboring properties. The study was reviewed by the Project Review Health Specialist, who was satisfied by the conclusions reached in the study.

Issue #4: Special Events

The applicant is proposing to conduct 18 special events per year on the project site. The tasting room will be available for eight of the 18 special events to various organizations for fund raising, private and public events. The remaining ten special events will be promotional events to promote the on-site vineyard and wine product. All of the special events will be by invitation only. Two of the eight special events will have a maximum of 200 persons per event and the remaining six events will have a maximum of 100 persons per event. Two of the ten promotional special events will have a maximum of 150 persons and the remaining eight events will have a maximum of 100 persons per event.

All of the special events will occur during tasting rooms hours of operation during winter and extended during remainder of the year. During the winter months, between December 1 and March 31, the tasting room would be open from 10:00 a.m. to 5:00 p.m., and special events would conclude by 5:00 p.m. During spring, summer, and fall, between April 1 and November 30, the tasting room would be open 10:00 a.m. to 6:00p.m., and special events would conclude one-half hour before sunset.

The Sonoma County Noise Element of the General Plan establishes objectives, policies and performance standards for noise producing land uses which may affect noise sensitive land uses and vice versa. Tasting rooms with special events are recognized as a source of community noise because they are typically located in quiet rural areas. Exterior noise primarily occurs during special events and is usually less than 60 dBA at distances greater than 300 feet. The outdoor event location is approximately 1,200 feet to the northeast of the proposed tasting room. The closest neighboring residence is over 1,063 feet from the outdoor events location. The Project Review Health Specialist reviewed the project and determined that no Noise Study was necessary based on the distance to the nearest residence to the outdoor events location. The location of the outdoor events that involve very loud musical instruments (such as horns, drums, and cymbals) or amplified sound will be limited to the area on the "Outdoor Events Location Map," dated October 2, 2009, and prepared by Ray Carlson and Associates.

Issue #5: Biotic Resources

A Wildlife Habitat Assessment with a special reference to the California red-legged frog (CRF) was prepared by Fawcett Environmental Consulting, dated October 30, 2009. The assessment identified a reservoir located on the project site which is approximately 250 feet long and 120 feet wide when filled, and 20 feet deep in the center and holds water year round. Wetland plants are located along the shoreline of the reservoir. The reservoir is surrounded by forest and a gravel access road is located to the west of the reservoir. A culvert lies beneath the gravel road and collects water from a short segment of an ephemeral stream located to the west of the reservoir. This culvert is the main source of inflow to the reservoir. The reservoir drains to an unnamed ephemeral stream flowing east-northeast to the West Branch of Russian Gulch Creek. Riparian habitat is associated with both of the ephemeral streams.

The proposed project is within the range of the California red-legged frog, however, according to the assessment there are no known records of the CRF within one mile of the project site. The proposed tasting room is to be located approximately 680 feet to the south west of the existing reservoir. The main driveway and parking area is located approximately 400 feet to the south west of the existing reservoir. If the CRF was to occupy the reservoir there would be no incentive for the CRF to migrate away from the pond and riparian area toward the tasting area. The assessment indicates that all new construction is located several hundred feet to the south west of the reservoir and the operation of the tasting room and associated facilities will have no significant impact on California red-legged frogs or their habitat.

The Wildlife Habitat Assessment indicated that establishment of buffers around the reservoir, adjacent riparian areas and wetlands would not be necessary since the tasting room access roads and parking areas are confined to the south west portion of the project site. The proposed tasting room will not impact any biotic resources located on the project site.

Issue #6: _____ Site Development

The tasting room structure will be constructed on a portion of the site that is not visible from Meyers Grade Road. The parking lot will be visible from Meyers Grade Road and will be screened by existing vegetation. The project would not substantially degrade the existing visual character or quality of the site and its surroundings. The project site is not located in a Scenic Resource Combining District however, a Condition of Approval will require that, prior to issuance of building permits, Design Review Committee approval must be obtained to review the Site Plan, Building Elevations, Signage, Lighting Plan, Landscaping and Irrigation Plans to minimize any visual impact through design and landscaping.

STAFF RECOMMENDATION

Adopt the Mitigated Negative Declaration and approve the request for a Use Permit subject to Conditions of Approval.

FINDINGS FOR RECOMMENDED ACTION

1. The project is consistent with the General Plan land use designation of Resource and Rural Development, and the Agriculture Resource Element Goals and Policies.
2. The proposal is consistent with the Resource and Rural Development zoning district, which allows tasting rooms for agricultural products which are grown on site if a Use Permit is secured.
3. Based upon the information contained in the Initial Study included in the project file, it has been determined that there will be no significant environmental effect resulting from this project, because Mitigation Measures have been incorporated into the project as Conditions of Approval. The Mitigated Negative Declaration has been completed in compliance with CEQA State and County guidelines, and the information contained therein has been reviewed and considered.
4. The establishment, maintenance or operation of the use for which application is made will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such use, nor be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the area. The particular circumstances in this case are:
 - a) A focused Traffic Study indicates that the proposed tasting room will have an insignificant impact on the existing traffic conditions and the exiting road will adequately support additional trips associated with the proposed project. Hours of operation are shortened during the winter months because roadway visibility is enhanced during daylight hours.
 - b) A Ground Water Study indicates that wells on the neighboring properties will not be influenced by the proposed tasting room as the parcel to the north and adjacent to the project site is served by a spring. The study indicates there is no connection between the well that will serve the proposed tasting room and the spring located 800 feet to the north which will serve the adjacent parcel. The study also indicates that wells on other properties are at least 1,200 feet away.

- c) The project meets the General Plan objectives and policies of the Noise Element as the project will not create an adverse impact on adjoining properties as the location of the outdoor events will be limited to the area on the "Outdoor Events Location Map," dated October 2, 2009, and hours for events are restricted for neighborhood compatibility reasons and conformance with General Plan standards.

- d) A Wildlife Habitat Assessment indicates that the biotic resources located on the project site will not be impacted by the proposed tasting room as the tasting room will be located approximately 680 feet to the south west of the biotic resources and the main driveway and parking area will be located approximately 400 feet to the south west of the tasting room.

LIST OF ATTACHMENTS

- EXHIBIT A: Draft Conditions of Approval
- EXHIBIT B: Proposal Statement with Revision
- EXHIBIT C: Vicinity Map
- EXHIBIT D: General Plan Land Use Map
- EXHIBIT E: Zoning Map
- EXHIBIT F: Site Plans (2)
- EXHIBIT G: Aerial View
- EXHIBIT H: Aerial All Lands of Property Owner
- EXHIBIT I: Outdoor Events Location Map
- EXHIBIT J: Geology Map
- EXHIBIT K: Landscape Plan
- EXHIBIT L: Preliminary Grading Plan
- EXHIBIT M: Erosion Control Plan
- EXHIBIT N: Floor Plans (4)
- EXHIBIT O: Elevation Plans (3)
- EXHIBIT P: Letters of Opposition
- EXHIBIT Q: Letters of Support
- EXHIBIT R: Draft Resolution

Separate Attachment for Commissioners: Mitigated Negative Declaration and full size plans