



## Notice of Hearing Examiner Decision

04/19/2017

To: Interested Parties and Parties of Record

RE:           Project Name: OLALLA VALLEY WINERY & VINEYARD  
              Applicant: CHISHOLM STUART & HOUSTON MARY ELLEN  
                          PO BOX 990  
                          OLALLA, WA 98359-0990  
              Application: CONDITIONAL USE PERMIT (CUP)  
              Permit Number: 16 01455

Enclosed is the Decision issued by the Kitsap County Hearing Examiner for the  
aforementioned project.

The applicant is encouraged to review the Kitsap County Office of Hearing Examiner  
Rules of Procedure found at:

[http://www.kitsapgov.com/dcd/lu\\_env/he/HE%20Rules%20for%20Kitsap%20County%20-%2006-23-09.pdf](http://www.kitsapgov.com/dcd/lu_env/he/HE%20Rules%20for%20Kitsap%20County%20-%2006-23-09.pdf)

The Decision of the Hearing Examiner is final, unless appealed, as provided under  
Washington law.

Please note affected property owners may request a change in valuation for property  
tax purposes, notwithstanding any program of revaluation. Please contact the  
Assessor's Office at 360-337-5777 to determine if a change in valuation is applicable  
due to the issued Decision.

The complete case file is available for review at the Department of Community  
Development, Monday through Thursday, 8:00 AM to 4:00 PM and Friday 9:00 AM to  
1:00 PM, except holidays. If you wish to view the case file or have other questions,  
please contact [Help@Kitsap1.com](mailto:Help@Kitsap1.com) or (360) 337-5777.

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**KITSAP COUNTY HEARING EXAMINER  
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DECISION**

**In the Matter of Request for Conditional Use Permit  
Olalla Valley Vineyard & Winery  
File No. 16 01455**

**April 17, 2017**

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The Hearing Examiner makes the following Findings of Fact, Conclusions of Law, and Decision:

**1. FINDINGS OF FACT**

**1.1 Proposal.** The Applicants, Mr. Chisholm and Ms. Houston, request a Conditional Use Permit ("CUP") to operate the Olalla Valley Vineyard and Winery's tasting room and venue for public and private events. Such events will include weddings, musical events, arts and crafts functions, and charity functions. The Applicants will continue to operate their vineyard and winery, a permitted agriculture use which does not require a CUP.

**1.2 Applicants/Property Owners and Site Location.** Stuart Chisholm and Mary Ellen Houston, 13176 Olalla Valley Road SE, Olalla, WA 98359 (Assessor No. 042202-1-007-2005).

**1.3 Administrative Record.** Prior to the hearing, the Hearing Examiner reviewed Exhibits 1-41, which included the Staff Report. At the hearing, the Department of Community Development ("DCD") proposed adding additional exhibits, including a power point and Applicant comment as Exhibits 42-43. Following the hearing, the Applicants submitted photographs, which the Examiner has marked as Exhibit 44. The Examiner admitted all exhibits.

**1.4 SEPA.** DCD issued a Determination of Non-Significance on March 8, 2017, following a comment period which, per WAC 197-11-355, occurred concurrent with the Notice of Application.<sup>1</sup> Three conditions were imposed, related to wetland, stream and slope buffer requirements (KCC Title 19.200, 19.300, and 19.400), stormwater control requirements (KCC Title 12), and health code requirements.<sup>2</sup> The DNS was not appealed.

**1.5 Notice.** Public notice met all local requirements, with publication and mailing to surrounding property owners provided for both the notice of application and public hearing.<sup>3</sup> No concerns as to notice were raised.

**1.6 Hearing.** The Hearing Examiner considered the proposal at an open record public hearing on March 30, 2017. DCD, through Ms. Sands, elaborated on the Staff Report,

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<sup>1</sup> Exhibit 25 and 10.

<sup>2</sup> Exhibit 25.

<sup>3</sup> Exhibits 10 and 40, and DCD testimony.

providing detail on the proposal, applicable requirements, and site conditions. DCD and Health District staff provided additional information on stormwater and water/septic requirements. As DCD found the proposal consistent with applicable requirements, it recommended approval subject to a series of conditions.

**1.6.1 Applicant Testimony.** The Applicants' representative, Mr. Palmer, noted his clients' appreciation for DCD's recommendation of approval, but identified concerns about various proposed conditions, as also detailed in written comment. These concerns included how impervious surface is defined (*i.e.*, the grass parking area should not be characterized as impervious surface), and are summarized in further detail below. Mr. Chisholm and Ms. Houston also provided sworn testimony. Both emphasized the importance of the proposed use to them. Mr. Chisholm stated that when they purchased the acreage, it was believed that the use was permitted outright.

**1.6.2 Public Testimony.** Several community members provided sworn testimony. This testimony, without exception, supported CUP issuance. Testimony viewed the use as compatible with surrounding properties, as well as with the area's rural, agricultural nature. In summary, comment described the use as an asset to the Olalla area,<sup>4</sup> and one which serves as a community focal point, providing a forum for musicians, an opportunity for rest and relaxation, and a place to appreciate excellent wine. Testimony also addressed recent code revisions, which would allow the use either outright or through an administrative conditional use permit.

**1.7 Agency Comment.** The proposal was circulated within the County, and comment was received regarding regulatory compliance. There were no objections to approval, as long as applicable requirements are met.<sup>5</sup>

**1.8 Written Comment.** The Applicants submitted written comment during DCD's review process, and added Exhibit 43 at the hearing, which the Applicants supplemented with photographs (Exhibit 44). The written comment identified objections to various proposed conditions and related issues. Due to the considerable length of the written comments, reviewing and understanding the exact points of contention presented a challenge, and took considerable time, a challenge DCD likely faced as well. However, the Hearing Examiner has considered the comments in conjunction with the record and KCC, and as a result of that review, has modified several of the proposed conditions. Despite those modifications, all applicable KCC requirements must still be complied with. The Examiner encourages the Applicants to cooperate fully with DCD and other relevant agencies as is needed to accomplish same.

**1.9 Zoning/Plan Designations.** The Comprehensive Plan and zoning designations are both Rural Protection (RP).<sup>6</sup> The immediate surrounding properties are also zoned RP. When the application was submitted, a CUP was required for the proposed use. Last year, the County adopted a new code chapter which permits uses such as this outright in the RP, subject to various requirements. "Up to eight assembly events" per year are authorized (up to 200 people)

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<sup>4</sup> Meaning land of berries, according to hearing participants.

<sup>5</sup> Exhibits 26 and 27.

<sup>6</sup> Exhibits 28 and 29.

following an administrative permit approval, with more than nine such events being subject to an administrative CUP.<sup>7</sup>

**1.10 Site and Surrounding Land Uses.** The irregular shaped 5.98 acre parcel is developed with a single family residence near the site's south central area. The property includes a winery building with a tasting room to the north. A barn/garage is located to the northwest, with another barn and shed to the winery building's east.<sup>8</sup>

The site has forested screening on three sides. Deciduous trees, with some coniferous trees mixed in, grow along Olalla Valley Road (north property line) and along the east and south property lines.<sup>9</sup> Much of the site is rolling pasture, with more standard residential vegetation near the single family residence and a vineyard. Additional grape plantings are planned south of the drainfield and west of the grass parking area. A small vineyard area is located to the east and southeast. The surrounding area is predominantly developed with single family residences on acreage lots or undeveloped.

**1.11 Operating Hours.** The existing Olalla Valley Winery tasting room operates May through October, Thursday through Saturday, noon to 6:00 p.m., and Sunday, 1:00 p.m. to 5:00 pm.; and November through April by appointment only. Outdoor events, to include two to four wedding and/or other events per month, would operate June through September, from noon to 9:00 p.m., for a maximum of 100 guests. Temporary tent structures may be used for outdoor events. Indoor events for a maximum of 35 people would occur in the existing winery building throughout the year, but primarily on weekends, from noon to 9:00 p.m.<sup>10</sup>

**1.12 Utility and Public Services.**

- **Water:** On-site well
- **Power:** Puget Sound Energy
- **Sewer:** On-site septic
- **Police:** Kitsap County Sheriff
- **Fire:** Fire Protection District No. 7
- **Schools:** South Kitsap School District No. 402

**1.13 Access.** Access to the site is off of Olalla Valley Road SE, a paved county road classified as a rural major collector.

**1.14 Conditions.**

**1.14.1 Grassy Field for Parking - Pervious or Impervious?** Much of the Applicants' testimony and written comment focused on whether the intermittent parking of up to 37 cars on a grassy field during the summer months created an impervious surface. The Applicants contended such a surface is pervious; DCD contended otherwise. The Applicants

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<sup>7</sup> KCC 17.455.060(I)(5-6).

<sup>8</sup> Exhibits 35 and 37.

<sup>9</sup> Exhibit 35.

<sup>10</sup> This description is contained within the Staff Report and Applicants' comment, Exhibit 43, p. 12.

submitted a letter from Mr. Kegel, P.E., P.L.S., of Kegel Engineering. The analysis describes the proposal, identifies the area as pervious, and addresses the effectiveness of the grassy area as stormwater mitigation.

[T]he proposed parking areas are to be utilized only during infrequent summer events, such as wine tasting parties, wedding or similar private parties. Based upon the most practical assumption, these type of events would most likely occur during late spring, summer or early fall periods. Of course, this is the time of year when rainfall frequencies and quantities are at the lowest levels. Therefore, potential stormwater runoff from a grassed area would be very minimal and consequently the grass would mitigate any water quality concerns.

Based upon your proposed site plan, I would recommend that the grass areas be designated only as temporary parking areas for the events occurring during the dry summer months. **This would preclude the need or creation of additional impervious areas, which would indeed require added water quality control features.** The grass covered areas actually act as water quality mitigation for any potential stormwater runoff from a parking area. I also notice that there is substantial native vegetation, tree and shrub cover areas adjacent to the proposed temporary parking lots. It appears that there is sufficient distance for any runoff to disperse within these areas and therefore enter the natural hydrology of the site.

Those vegetated areas are also accepted and qualified mitigation features for stormwater runoff control per the Code. We have used this design method on other projects that have infrequent parking usage. It is a cost effective and environmentally friendly usage of the land for temporary parking, and in certain instances, also for permanent parking.

... [I]t appears that your design concept is appropriate from a stormwater mitigation standpoint.<sup>11</sup>

To assist the Hearing Examiner in assessing this issue, the Applicants suggested a site visit. As an alternative, the Examiner suggested that the Applicants provide photographs of the area. The record was held open through April 6, 2017 to allow for same. The photographs (Exhibit 44) depict a permeable pasture-type area. The Applicants noted that vehicles have been parking on this grass area for the past nine years, when the previous owner opened the winery to the public, and the grass area has remained pervious throughout that use.<sup>12</sup>

Given the facts presented, it is reasonable to find that the proposed temporary seasonal parking will not, without heavier use or improvements beyond those described, create impervious surfaces. These facts are consistent with KCC definitions. Both Titles 12 and 17 define impervious surface, with revisions to same occurring in 2016, after application vesting. Under all definitions (including past and present), the grass parking area will function as a pervious area which allows for stormwater infiltration. The current versions of KCC 17.110.367

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<sup>11</sup> Exhibit 43, attachment, emphasis added.

<sup>12</sup> Exhibit 44.

and KCC 12.08.010 provide that an impervious surface "means a **hard** surface area which either **prevents or retards the entry of water** into the soil mantle as under natural conditions prior to development." The code goes on to clarify that where surface run off occurs in greater quantities or at an increased rate of flow with a proposal, the surface is viewed as impervious. Examples provided include paved areas and parking lots, gravel roads with compacted subgrade, packed earthen materials, and oiled surfaces which impede infiltration. The earlier version of this definition is similar, although the amended definition refers to an impervious surface as "a non-vegetated surface area."<sup>13</sup> The seasonal and temporary parking area here is vegetated. The pervious nature of the grassy parking area (which is not compacted, paved, graveled, or oiled), as described in evidence presented at the hearing and afterwards, is not likely to change with the proposed use such that it retards stormwater infiltration. Thus, for this project, the grass parking area is properly treated as pervious. However, should usage occur in such a way that compaction does in fact occur and a hard surface is created which retards infiltration, language is incorporated into the conditions below to address same.

**1.14.2 Tasting Room/Winery Operation During Events?** The Applicants questioned whether proposed conditions 12 and 13 meant the tasting room/winery could be open during events. At the hearing, the Examiner indicated that her reading of the conditions was that an event and winery/tasting room could operate simultaneously as long as cumulatively all code and permit requirements were met. DCD took a different approach. The Applicants' representative explained that those attending a wedding may wish to purchase wine, as there is a potentially synergistic relationship between the activities. The Applicants stated that their operation would meet all code requirements. Certainly, it would be consistent with comprehensive plan policies supporting the rural agricultural economy to allow that relationship to unfold. And, as long as individually and cumulatively all permit and code conditions are met, there is no reason for people attending a wedding or other event to be prohibited from visiting the tasting room and purchasing wine. The conditions were modified to reflect this approach.

**1.14.3 Removal of Binder?** The Applicants wished to know if the binder could be removed. DCD stated that it could and there is a process in place to effectively accomplish same. The condition is clarified to reflect that statement.

**1.14.4 Critical Area Buffers and Setbacks.** The proposed grass parking surfaces are pervious and are planned to remain so, so all stream and wetland buffer and setback requirements are met. Even if they were not, the deviations could still be addressed through permitting, consistent with DCD's analysis.

**1.14.5 Permit Revocation.** The Applicants were concerned about a condition providing for permit revocation. The word "initiate" does mean that while revocation could occur, it is not automatic. But, to the extent clarification would reassure the Applicants as to how such a process could unfold, a sentence noting the Applicants' opportunity to cure was added. This is a reasonable opportunity to cure (not an open-ended opportunity), which would presumably be provided regardless of this clarification.

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<sup>13</sup> See e.g., current version of KCC 12.08.245.

## 2. CONCLUSIONS OF LAW

**2.1 Hearing Examiner Review Authority.** The Hearing Examiner has review authority for this Conditional Use Permit application.<sup>14</sup> The Hearing Examiner may approve, approve with conditions, or deny a Conditional Use Permit.<sup>15</sup> The Hearing Examiner may also continue the hearing to allow for additional information necessary to make the proper decision.

### 2.2 Code Requirements Specific to the Proposed CUP in the RP Zone.

**2.2.1 Land Use, Planning and Zoning.** The Applicants' request is to legally establish the existing Olalla Valley Winery tasting room and to establish a venue for outdoor weddings, public and private events, musical and arts and crafts functions, and charity functions.

The vineyards and winery are agricultural uses, which are permitted in the RP zone. The winery-associated tasting room, weddings, events and functions are not specifically enumerated in KCC Ch. 17.410, but are most similar to and have impacts similar to a private recreational facility and/or club, civic or social use outlined in the code, which require a CUP.<sup>16</sup>

**2.2.2 Setbacks.** "All buildings and activities shall be set back a minimum of fifty feet in ... RP ... zones ... from a side or rear lot line."<sup>17</sup> The Applicants have no objection to complying with the setback, and state that the site plan complies. DCD stated that one parking spot encroached. The Examiner has reviewed the revised site plan (Exhibit 37), and there is one parking spot which **may** be just barely clipped by the setback. To the extent a minor adjustment or correction is needed so that spot no longer appears as being "clipped," this should be easily achievable. The CUP is conditioned to require a revised site plan reflecting same.

**2.2.3 Critical Areas.** A fish-bearing stream (Type F) runs near the north property line and a wetland (Category IV) is at the site's southwest corner. A 150-foot buffer is required for the stream; a 40-foot buffer for the wetland. Both require an additional 15-foot building or impervious surface setback from the buffer line.

There are two parking spaces located in what would be the stream's impervious surface setback, IF the grass parking area were characterized as impervious. However, there is already an existing driveway impacting the stream buffer and impervious surface setback. Due to this truncation of biological functions, DCD recommended that a critical area buffer reduction not be required for the stream. The Hearing Examiner concurs with this analysis, and concludes critical areas requirements with respect to the stream are met.

Wetland buffers are complied with, but if the grass parking area were treated as new impervious surface, four parking spaces would be located within the 15-foot setback. However, as the grassy area is pervious, there is no incursion. If the situation were to change, DCD still

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<sup>14</sup> KCC Sections 17.410.010(C) and 21.04.100.

<sup>15</sup> KCC 17.550.030(A).

<sup>16</sup> Alternatively, the proposal could be authorized through an administrative review process, but a CUP application is before the Examiner, which the KCC also authorizes.

<sup>17</sup> KCC 17.410.050, FN 12.

viewed the intrusion as minor, and one which would be addressed through a critical area buffer reduction application.<sup>18</sup> As conditioned, all critical areas requirements are met.

**2.2.4 Water Supply.** Public water will be required to accommodate certain visitor levels. Same has not yet been approved,<sup>19</sup> but wine tasting activities may continue subject to the 35 occupancy limit established by the single bathroom limitation and the IBC. When an additional bathroom is added, the occupancy limit would be expanded. Due to water supply constraints, conditions are included addressing food service preparation and cleaning. The existing winery building falls below the threshold requiring fire flow, but a fire code permit is required for a tent over 400 square feet.

**2.2.5 Sewage Treatment.** The Health District approved a commercial building clearance,<sup>20</sup> and based on a 2008 drainfield addition, the tasting room has sewage capacity for 50 people. Events held on the property in excess of 50 people require portable toilets. A condition is imposed limiting the use of portable toilets for wedding venues for six months, with a six month break between use periods.

**2.2.6 Stormwater.** The project is vested to the 2010 version of Title 12 Stormwater Code and Design Manual. Grassy areas will be used during the summer months as temporary parking for events. This includes 37 new parking spaces (12,000 square feet). The grass parking area's pervious nature is expected to continue with the proposed use. As such, the use does not create new impervious surface, as defined in Titles 12 and 17, and as the findings above address. However, mitigation language is included in the conditions below to ensure that the parking area remains pervious.

**2.2.7 Solid Waste.** The application materials state that the property is not currently served by Waste Management. As a result, the owners are responsible for the removal of solid waste and recyclables from the site and for transport of solid waste and recyclables to a facility established to receive them.

**2.2.8 Access and Roads.** Access to the project is via Olalla Valley Road SE, a paved county road classified as a rural major collector. Driveway access exists for the site; however, the approach may need to be improved to meet current standards. The project will be conditioned to comply with sight distance standards required in the Kitsap County Road Standards.

**2.2.9 Traffic.** The project is anticipated to have a minor traffic impact for most planned events and general operation of the tasting room, which would be for a maximum of 35 people; and less than a moderate traffic impact for weddings and other events for a maximum of 100 people.

**2.2.10 Parking.** DCD determined 45 parking spaces are required to accommodate the maximum number of 100 people at an event (2.2 people per vehicle), and the

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<sup>18</sup> KCC 19.200.220, FN F; Staff Report and DCD testimony.

<sup>19</sup> Exhibits 22 and 27.

<sup>20</sup> Exhibit 27.

Applicants are providing same. The grass parking has been reconfigured into two areas with 10 spaces in the northerly area and 27 spaces in the southerly area. The graveled driveway and entry area can accommodate additional vehicles. The final site plan will show this parking configuration. Also, as vehicle configuration could impact fire access, the project has been conditioned to maintain adequate fire apparatus access during any events.

**2.2.11 Landscaping.** A minimum of 15% of the site is required to be landscaped<sup>21</sup> and more than 75% of the property is landscaped. The property is attractively landscaped and the proposed outdoor event area is functionally screened from adjacent properties through a combination of vegetation and buildings.

**2.2.12 Signage.** Signage for the site was approved under Sign Permit 09 73855, which was for a 4-foot by 6-foot (24 square foot) monument sign located on the east side of the site entrance to the property. There is also a six foot high arm sign located on the west side of the site entrance, approximately 2-foot by 3-foot (6 square feet), which does not require a permit.<sup>22</sup>

**2.3 Conditional Use Permit Requirements.** A CUP must comply with the following:

1. The proposal is consistent with the Comprehensive Plan;
2. The proposal complies with applicable requirements of this title [Title 17];
3. The proposal will not be materially detrimental to existing or future uses or property in the immediate vicinity; and
4. The proposal is compatible with and incorporates specific features, conditions, or revisions that ensure it responds appropriately to the existing character, appearance, quality or development, and physical characteristics of the subject property and the immediate vicinity.<sup>23</sup>

These criteria are met. The Staff Report identified a series of comprehensive plan policies, which in general provide for protecting agricultural uses, increasing economic diversification, and protecting the site's natural hydrology. Specifically relevant to this use, plan policies emphasize the importance of supporting the local farm economy and agri-tourism. These policies are pulled from the 2012 Comprehensive Plan, and the proposal is consistent with them. The use is fully mitigated, with stormwater infiltration on-site, and the wetland area protected with extensive buffering. And, the use directly supports agricultural use preservation, consistent with the 2012 Comprehensive Plan.

The recently updated 2016 Comprehensive Plan includes a picture which implicitly reflects these policies. An old barn rests in a pasture, against a backdrop of trees and blue sky.

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<sup>21</sup> KCC 17.500.025.

<sup>22</sup> Exhibit 39.

<sup>23</sup> KCC 17.550.030(A).

The picture is reflective of this site, with its barn structures, pasture areas, and tree lined borders. In reviewing the Staff Report and County Code, the County's vision is for such farming uses to remain economically viable. For example, Land Use Goal 9 provides:

Promote food security, food systems, local food production, and public health by encouraging locally based food production, distribution, and choice through urban agriculture, community gardens, farmers markets, and food access initiatives.

Emphasizing the importance of these local objectives, the County recently codified these objectives in its recently adopted Agricultural Code, Ch. 17.455, which identifies various local objectives applicable within the RP zone the property is subject to:

- Encourage agricultural uses and activities in rural Kitsap County;
- Provide guidance for rural land owners to engage in the local food system through agricultural uses and activities, accessory agricultural and agritourism uses;
- Protect and promote the local food system and agriculture in the Kitsap County economy;
- Empower farmers and other rural land owners to continue or start new businesses that support local agriculture and the local food system;
- Provide for agritourism in Kitsap County that permits visitors to experience local agricultural lands;
- Encourage the conservation of lands which have the growing capacity, productivity, soil composition, and surrounding land use to have long-term commercial significance for agriculture and associated resource production;
- Enable implementation of the Kitsap County Comprehensive Plan Goals and the Kitsap County Agricultural Strategic Plan;
- Provide local right to farm provisions consistent with Chapter 7.48 RCW; and
- Provide a framework of standards that will allow agriculture to thrive while protecting water, land, and air resources and public health in Kitsap County.<sup>24</sup>

The proposal is consistent with these objectives. It supports local farming uses and the farm economy, while including significant buffering and mitigation to protect environmental resources. Along with environmental mitigation, with the planned increase in vineyard area, and economic production of wine and attendant community activities, the proposal serves multiple objectives consistent with the County's comprehensive plan policies.

The proposal is conditioned to ensure compliance with Title 17 and other applicable code requirements. While DCD and the Applicants disputed the approach to achieve compliance, as addressed above, the approach taken to buffering, setbacks, and other issues complies with Title 17. For example, with respect to impervious surface, in this instance the Examiner concludes that as conditioned, the proposed temporary parking during summer months should be considered pervious. Should the situation change due to unexpected heavy usage or other conditions, that eventuality is addressed in the modified condition. As addressed above, this interpretation means further critical areas permitting is not required. With mitigation addressing

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<sup>24</sup> KCC 17.455.010(A-I).

fire, health, and building code requirements, all impacts identified have been addressed and mitigated with appropriate mitigation and through the KCC.

This proposal will not be materially detrimental to existing or future uses or property in the immediate vicinity. To the contrary, testimony at the hearing indicated that community members felt the use was an attribute for the local community. Given that the use has been in operation and has been open to the public since 2008, presumably if there were compatibility issues, they would have been raised at the hearing by neighboring property owners. They were not.

As addressed above, the proposal is compatible with surrounding existing and planned uses. Conditions are imposed to ensure all code requirements are met, and impacts are adequately addressed. As a result, the use is consistent with the existing character, appearance, quality of development, and physical characteristics of the property and immediate vicinity. As conditioned and proposed, the proposal meets all CUP criteria.

## **DECISION**

The Hearing Examiner, pursuant to the above Findings of Fact and Conclusions of Law, approves the requested CUP, provided the following 29 conditions are adhered to.

### **Development Services and Engineering.**

#### **Solid Waste.**

1. The owners shall be responsible for removal of all solid waste and recyclables from the site and for transport of all solid waste and recyclables to a facility established to receive them. "All solid waste and recyclables" includes that produced by the wine-making process, that produced by the events, and household solid waste.

#### **Stormwater.**

2. The grassy areas which will be used for temporary parking for events occurring June through September shall be depicted on the final site plan. The Applicants will take measures (*i.e.*, staggering parking locations or events) if such measures become necessary, so that these areas do not become so compacted that new impervious surface is created. Should new impervious surface area be created, a minor engineered Site Development Activity Permit may be required. If this permitting requirement is triggered, the Site Development Activity Permit shall provide design for water quality feature(s) to capture and treat all runoff from the parking areas in compliance with the 2010 version of Title 12 Stormwater Code and Design Manual, which the application is subject to.

3. If the actual new impervious surface area exceeds the threshold of 5% of the total parcel area, a Major Site Development Activity Permit (SDAP) shall be required.

4. A final site plan shall be submitted which is generally consistent with the final

revised March 20, 2017 site plan, excepting any corrections or changes required or appropriate to bring the site plan into conformity with this decision. The project shall be operated consistently with that site plan. If the project proposal is modified from that shown on the final approved site plan, Development Services and Engineering may require additional review and potentially new conditions.

### **Traffic and Roads.**

5. Unless already submitted, the Applicants shall submit an Application for Concurrency Test (KCPW Form 1601) as required by Chapter 20.04.030, Transportation Concurrency, of the KCC. The KCPW 1601 form reserves road capacity for the project.<sup>25</sup>

6. Access shall be designed to Kitsap County Road Standards, Figure 4-1. The updated site plan referenced in Condition 4 above, or an attachment to same, shall include the access design and sight distance calculations at the intersection of the driveway with Olalla Valley Road SE. Existing approaches may need to be improved to meet current standards.

### **Environmental Review.**

7. A 40-foot native vegetation buffer shall be maintained along the delineated wetland boundary as depicted on the revised site plan.

8. Permit approval is subject to Chapter 19.300.315 of KCC, which states that buffers or setbacks shall remain undisturbed natural vegetation areas except where the buffer can be enhanced to improve its functional attributes. Refuse shall not be placed in buffers.

9. The updated site plan shall be submitted within 90 days of this decision. The approved site plan shall become the official site plan of record.

### **Planning/Zoning.**

10. All required permits shall be obtained prior to commencement of land clearing, construction and/or occupancy.

11. This permit shall comply with all Kitsap Public Health District regulations.

12. Winery/tasting room activities shall be limited to: May through October, Thursday through Saturday, noon to 6:00 p.m., and Sunday, 1:00 p.m. to 5:00 p.m.; November through April, by appointment only.

13. Events may occur seven days per week and shall be limited between the hours of 9:00 a.m. to 9:00 p.m. Indoor events may occur year round. Outdoor events, including weddings, shall be limited to June, July, August and September.<sup>26</sup>

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<sup>25</sup> It appears this form has been submitted. See Exhibit 7.

<sup>26</sup> On interpreting conditions 12 and 13, see section 1.14.2 above.

14. The updated site plan shall show the planned parking configuration, which shall comply with applicable code requirements, including setback and fire access requirements.

15. The grass parking areas shall be striped prior to each scheduled event. Temporary striping shall be acceptable.

16. All events shall comply with the noise regulations at KCC Title 10, specifically Chapter 10.28 Noise.

17. Artificial outdoor lighting shall be arranged so that the lighting is fully recessed or fully shielded from side view and directed downward and away from surrounding properties. No more than one foot-candle of illumination shall leave the property boundary. Lighting shall be the minimum necessary for safety purposes and be compatible with the rural character of the area. Light standards (poles) shall not exceed 20 feet in height.

18. The recipient of any conditional use permit shall file a Notice of Land Use Binder with the county auditor prior to any of the following: initiation of any further site work, issuance of any development/construction permits by the county, or occupancy/use of the subject property or buildings thereon for the use or activity authorized. The Notice of Land Use Binder shall serve both as an acknowledgment of and agreement to abide by the terms and conditions of the conditional use permit and as a notice to prospective purchasers of the existence of the permit. The Binder shall be prepared and recorded by the Department at the Applicants' expense. Should the use cease to operate, the Applicants may elect to follow applicable procedures to revoke or rescind the binder.

19. The uses of the subject property are limited to the uses proposed by the Applicants and any other uses will be subject to further review pursuant to the requirements of the KCC. Unless in conflict with the conditions stated and/or any regulations, all terms and specifications of the application shall be binding conditions of approval. Approval of this project shall not be, and is not to be, construed as approval for more extensive or other utilization of the subject property.

20. The authorization granted herein is subject to all applicable federal, state, and local laws, regulations, and ordinances. Compliance with such laws, regulations, and ordinances is a condition to the approvals granted and is a continuing requirement of such approvals. By accepting this/these approvals, the Applicants represent that the development and activities allowed will comply with such laws, regulations, and ordinances. If, during the term of the approval granted, the development and activities permitted do not comply with such laws, regulations, or ordinances, the Applicants agree to promptly bring such development or activities into compliance.

21. The decision set forth herein is based upon representations made and exhibits contained in the project application (16 01455). Any change(s) or deviation(s) in such plans, proposals, or conditions of approval imposed shall be subject to further review and approval of the County and potentially the Hearing Examiner.

22. A violation of the conditions of approval shall be grounds to initiate revocation of this CUP. Before revocation occurs, the Applicants shall be afforded a reasonable opportunity to cure the violation.

**Fire Marshal.**

23. The use of portable toilets for wedding venues and events shall not exceed six months without at least a six month break between use periods.

24. Building occupancies shall comply with applicable building, fire and health code requirements.

25. Fire apparatus access for the winery/tasting buildings shall be maintained during wedding venues and other events.

26. Tents having an area of more than 400 square feet shall require a separate fire code permit.

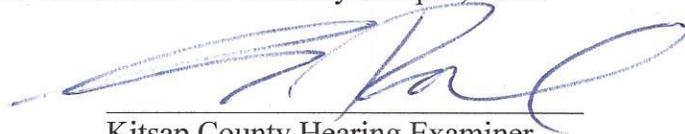
**Health District.**

27. Events held on the property in excess of 50 people shall require the use of portable toilets.

28. Additional land use requirements that impact the septic or water use shall require additional Health District applications and review.

29. No food service preparation or cleaning shall occur on the property for events, unless additional permitting and applicable requirements can be met. Unless same occurs, off-site caterers only are allowed for events other than wine tasting, and the wine tasting room shall be allowed to serve ready-to-eat food items that have been produced in a licensed facility, such as pre-cut hard cheeses, fruit (except melons), and vegetables. Single serve glasses shall be used for wine tasting until Public Water is approved.

THIS DECISION is entered this 17th day of April, 2017.



Kitsap County Hearing Examiner  
Susan Elizabeth Drummond