

Community Development Department

Prosser Office: 620 Market Street, 1st Floor
Kennewick Office: 102206 East Wiser Parkway
www.co.benton.wa.us



Planning Division

(509) 786-5612
P.O. Box 910, Prosser, WA 99350
planning.department@co.benton.wa.us

**STAFF MEMO TO THE
BENTON COUNTY HEARINGS EXAMINER
Martinez - Wine Production and Tasting Room**

FILE NO: CUP 2022-002 (Request for Extension)

HEARING DATE: March 17, 2023

APPLICANT/OWNER: Jamie Martinez, 518 Aaby Dr, Auburn, WA 98001

LOCATION: General Location: The property is located approximately 900 feet east of the intersection of Limestone Road and Schumacher PR NE in Benton City, Washington.
Address: 35327 N Schumacher PR NE, Benton City, WA 99320
Legal: Lot 2 of Short Plat 3446, Section 16, Township 9, Range 27, Quarter SE, W.M.
Parcel Number: 1-1697-401-3446-002

PROPERTY SIZE: Approximately 5.01 acres

AREA TO BE USED: The wine production and tasting room will total approximately 6,800 sq. ft. with approximately 6 associated parking stalls, with agricultural activities taking place on the remainder of the 5 acres.

LAND USE: Vacant/ Agricultural

ZONING: Rural Land Five (5) Acre District

COMPREHENSIVE PLAN DESIGNATION: Rural Remote

APPLICATION DESCRIPTION:

The applicant is requesting an extension of six (6) months to meet the conditions of approval for CUP 2022-002, as they are awaiting verification from the Department of Ecology to confirm whether a Winery General Permit will be required for this project. The extension will allow time to obtain a permit if required by the Dept. of Ecology.

The above referenced verification is the final condition of approval needed for this project. The Building Division has indicated that the building permit has been issued and the project is in compliance with the required building inspections up to date.

The applicant has provided a written request for the extension, requesting additional time to obtain verification from the Department of Ecology.

The applicant has requested an additional six (6) months to complete paperwork required for approval. The Planning Division supports an extension of time to complete remaining conditions of approval for CUP 2022-002.

Donna Hutchinson

From: Jamie Martinez <Jamie@jacksondean.com>
Sent: Tuesday, February 28, 2023 2:13 PM
To: Elizabeth Koerner
Cc: Jamie Martinez
Subject: [EXTERNAL] RE: Follow- Up CUP 2022-002

Follow Up Flag: Follow up
Flag Status: Flagged

EXTERNAL EMAIL WARNING!!!: This email originated from outside of Benton County. **DO NOT** click links or open attachments unless you recognize the sender and know the content is safe.

Liz:

I have satisfied all the requirements with the exception of the Department of Ecology and would like to request a 6 month extension on providing this final piece.

Thank you,

Jamie

From: Elizabeth Koerner [mailto:Liz.Koerner@co.benton.wa.us]
Sent: Friday, February 24, 2023 9:12 AM
To: Jamie Martinez
Subject: Follow- Up CUP 2022-002

Hi Jamie,

I just wanted to follow up with you on your Winery CUP 2022-002, it looks like we do need something in writing from the Department of Ecology stating that a Winery General Permit is not required for your business. If you can get something to us from them, then we should be good to go on issuing your CUP Permit.

Thank You,



Liz Koerner

Associate Planner

Benton County Community Development Department - Planning Division

102206 E. Wiser Parkway

Kennewick, WA 99338

Liz.Koerner@co.benton.wa.us

(509) 786-5612

**BENTON COUNTY HEARINGS EXAMINER
FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION**

**CUP 2022-002
(Zeron Vineyards)**

April 13, 2022

1. FINDINGS OF FACT

1.1 Proposal. Proposal to operate a winery in excess of 3,000 square feet.

Applicants/Property Owners: Jamie Martinez and Ellie Zeron, Zeron Vineyards, 518 Aaby Drive, Auburn, WA 98001.

Location: 35327 N Schumacher PR NE, Benton City, WA 99320. The site is about 900 feet east of the Limestone Road and Schumacher PR NE intersection. Parcel #1-1697-401-3446-002.

1.2 Administrative Record. The Hearings Examiner admitted these exhibits:

Exhibit Number	Description	Date
Hearings Examiner Memo Exhibits		
HEM 1.1	Staff Memo (Updated)	4/4/22
HEM 1.2	Vicinity Map	
HEM 1.3	Application Materials	2/23/22
HEM 1.4	BFHD/Planning E-Mail Correspondence	2/23/22
HEM 1.5	Determination of Completeness	2/24/22
HEM 1.6	Agency Review Request	2/25/22
HEM 1.7	Comment, Benton PUD	2/25/22
HEM 1.8	Comment, Kennewick Irrigation District	3/8/22
HEM 1.9	Comment, Dept. of Ecology	3/9/22
HEM 1.10	Comment, Benton County Public Works	3/14/22
HEM 1.11	Comment Follow-Up, Benton Franklin Health District	3/28/22
HEM 1.12	Applicant Comment Follow-Up (winery season)	3/28/22
HEM 1.13	Notice of Open Record Hearing	3/21/22
Hearings Examiner Hearing Exhibits (Comments Submitted During Hearing or Following)		
HEH 1.1	Short Plat 3446	

1.3 Public Notice. The notice for the Benton County Hearings Examiner Open Record Hearing was published in the Prosser Record Bulletin and mailed to property owners of record within 300 feet.¹ No concerns on notice were raised. Public notice met code requirements.

1.4 Site/Project Description. The 5.01 acre site is zoned RL-5, with a Rural Remote Comprehensive Plan designation.² It is in agricultural use with no structures now present. Two structures totaling 6,800 square feet are proposed, with about six associated parking stalls, a covered patio associated with the tasting room, and one 4' by 6' sign. Agricultural activities will continue to take place on the remainder of the parcel. The first floor of the production and wine barrel storage facility will be 2,900 square feet and includes a 500 square foot tasting room. A 1,500 square foot second story will be utilized as a storage area and single-family dwelling. Also included is a future 2,400 square foot storage building. No commercial kitchen or restaurant is proposed. Tasting room hours are expected to be about 11 AM to 5 PM daily from February through October and by appointment November through January. Employee number will vary, with an expected range of about 1-3. Personal vehicles, farm equipment, and a forklift will be used. The site is surrounded by agricultural lands and residential uses.

1.5 Use Details. The objective is to build a boutique winery focused more on online sales and wine club members. The tasting room is small so as to limit visitors and maintain a small family owned feel to the business.

1.6 Hearing. The Hearings Examiner considered the Applicant's request at an open record public hearing on April 8, 2022. Due to COVID-19 considerations, the hearing was conducted remotely and in-person. Access information was available to the public to allow citizens to join via video link or telephone call-in. At the hearing, the Planning Department, through Ms. Watts, summarized the proposal. The Applicant, through Mr. Martinez, provided additional information, raising no concerns with the Staff Report's proposed conditions. One member of the public commented on site ingress/egress (*see* Finding 1.7). To allow time for the Applicant to coordinate on the access question and in case any citizens who wished to comment had difficulty calling in, the record was kept open through April 11, 2022.

1.7 Public Comment. Neighbor Mr. Degrado (34809 N Schumacher) raised a question on ingress/egress challenges. The Department provided a copy of Plat 3446 (HEH 1.1) showing legal access. Mr. Martinez stated he understood the concern and would coordinate with Mr. Degrado on the issue. Ms. Cooke from the Planning Department provided information on access and submitted the plat showing the access easement. No follow-up comment was provided.

1.8 Agency Comment. The proposal was circulated within the County, and as long as requirements are met, there were no objections to approval.³ Several government agencies submitted written comment identifying relevant regulatory requirements, which have been incorporated as conditions of approval. The Applicants raised no concerns as to their ability to comply with requirements.

¹ HEM 1.1 (Staff Report), pp. 2 and 4; HEM 1.13; BCC 11.50.050.

² HEM 1.1 (Staff Report), pp. 1-2.

³ HEM 1.4, 1.6-1.11.

Benton County Planning. Signage requirements are at Ch. 3.06 BCC. The sale of products that have not been processed on site is not permitted. The application is for a winery in excess of 3,000 square feet. Other uses, such as event venue, require Conditional Use Permit approval. No critical areas have been identified on site.

Benton Franklin Health District. The use will require an engineered septic system to meet District requirements for a winery/tasting room and dwelling. The Applicant is working with an engineer to address this. The District does not foresee any issues with designing a compliant septic system and securing an approved public water supply (consistent with WAC 246-291 and Benton-Franklin Board of Health Rules and Regulations No. 7).⁴

Benton Public Utility District. An easement will need to be secured from the property owner to the east before power can be extended to the parcel.⁵

Kennewick Irrigation District. The District noted the parcel is within its boundaries and considered irrigable, so is assessed. Permanent structures are not allowed in irrigation easements and all existing irrigation facilities are to be protected. A service connection is available, and the Applicant will need to continue working with the District.⁶

Washington Dept. of Ecology. The Applicant may be required to obtain Winery General Permit coverage if wine, juice and/or wastewater production volumes surpass those quantified in Permit Special Condition S1, Table 3. Ecology may also require coverage if a facility is determined to be a “Significant Contributor of Pollutants or a Significant Industrial User” (Permit, Appendix B). Ecology noted the 5,000 gallon per day water use exemption for certain uses and the legal framework on same.⁷

1.9 Transportation Impacts. The proposed use would not cause pedestrian and vehicular traffic associated with the use to conflict with existing and anticipated traffic in the neighborhood to an extent greater than that associated with any other permitted uses in the RL-5 zoning district. Visiting hours are limited and the facility’s small size limits visitor number. The site is accessed to N Schumacher PR NE is via 40 foot access easement recorded under Auditor File #2014-017958. The Applicant has a current road approach permit (Permit 2022-066).⁸ Parking is adequate to serve the use.

1.10 Health, Safety and Welfare. As long as code requirements and permit conditions are met, the winery would not materially endanger the health, safety, and welfare of the surrounding community to an extent greater than that associated with any other permitted uses in the zoning district.

⁴ HEM 1.4, 1.11.

⁵ HEM 1.7.

⁶ HEM 1.8.

⁷ HEM 1.9.

⁸ HEM 1.10.

1.11 Staff Report and Proposed Conditions. The Staff Report details CUP proposal consistency with County requirements and the Comprehensive Plan, and except as modified, is incorporated. The Applicant did not object to the Staff Report’s proposed conditions, which ensure code compliance and are necessary to support Decision findings. They should be imposed without substantive revision.

2. CONCLUSIONS OF LAW

2.1 The use requires a CUP.⁹ Procedures and criteria for reviewing a CUP, and requiring Hearings Examiner approval, are at BCC 11.50.040 and .050. A CUP is only granted if the evidence allows the Examiner to find that the use:

- (1) Is compatible with other uses in the surrounding area or is no more incompatible than are any other outright permitted uses in the applicable zoning district;
- (2) Will not materially endanger the health, safety, and welfare of the surrounding community to an extent greater than that associated with any other permitted uses in the applicable zoning district;
- (3) Would not cause the pedestrian and vehicular traffic associated with the use to conflict with existing and anticipated traffic in the neighborhood to an extent greater than that associated with any other permitted uses in the applicable zoning district;
- (4) Will be supported by adequate service facilities and would not adversely affect public services to the surrounding area; and,
- (5) Would not hinder or discourage the development of permitted uses on neighboring properties in the applicable zoning district as a result of the location, size or height of the buildings, structures, walls, or required fences or screening vegetation to a greater extent than other permitted uses in the applicable zoning district.¹⁰

“It is the applicant’s burden to present sufficient evidence to allow the above conclusions to be made.”¹¹ The RL-5 zone is designed to preserve the County’s “rural character.”¹² Allowed uses include single family dwellings and agricultural uses (but not large-scale operations such as commercial dairies and feedlots), and on less than five-acres, “one animal unit equivalent” is allowed per each half-acre, exclusive of suckling animals. Also permitted outright are adult family homes, crises residential centers, nursery/greenhouses, utility substations, fire department/law enforcement/medical facilities, wineries/brewers of less than 3,000 square feet, and churches less than 3,500 square feet.¹³

⁹ BCC 11.11.060(j).

¹⁰ BCC 11.50.040(d).

¹¹ *Id.*

¹² BCC 11.11.010.

¹³ BCC 11.11.030.

2.2 As conditioned, the Examiner concludes the proposed use is consistent with these criteria. If operated as described, the CUP proposal does not create incompatibilities with other uses in the surrounding area, and the evidence did not support a finding that any outright permitted use would be as incompatible with existing uses in the surrounding area as the proposed use. The proposed use is consistent with the surrounding rural nature of the area, which includes residential and agricultural uses.

2.3 As long as all code requirements are met, and as conditioned, the requested CUP would not materially endanger the health, safety, and welfare of the surrounding community to an extent greater than that associated with any other permitted uses in the applicable zoning district.

2.4 As mitigated and described in the application and at the hearing, granting the CUP would not cause the pedestrian and vehicular traffic associated with the use to conflict with existing and anticipated traffic in the neighborhood to an extent greater than that associated with any other permitted uses. Impacts are consistent with the nature of surrounding uses.

2.5 The CUP would be supported by adequate service facilities and would not adversely affect public services to the surrounding area. Compliance with all Benton-Franklin Health District requirements is a required condition to ensure applicable health code requirements are adequately addressed. The Applicant will comply with all Building Department and Fire Code requirements.

2.6 With the required mitigation and code compliance, granting the CUP would not hinder or discourage the development of permitted uses on neighboring properties in the applicable zoning district to an extent greater than other permitted uses in the zoning district.

2.7 The Applicant has demonstrated CUP criteria compliance. As conditioned, the use is compatible with the principal uses and purpose of the RL-5 zoning district and surrounding land uses and should be approved.

DECISION

The Hearings Examiner, pursuant to the above Findings of Fact and Conclusions of Law, approves the requested CUP, provided the following conditions are met:

1. The ongoing activities on the site shall comply with the submitted site plan and materials submitted for this application.
2. All required development permits/approvals shall be obtained prior to issuance of the Conditional Use Permit. This includes approval of permits required by the following agencies, as applicable:
 - a. Benton County Building Division
 - b. Benton County Public Works
 - c. Benton County Planning Division
 - d. Benton Franklin Health District
 - e. The Washington State Department of Ecology

3. The applicant will meet and comply with Benton County Code 3.06 Sign Code. Off-site signage will not be permitted and only one sign, no more than 4' x 6', will be allowed.
4. Vehicle parking associated with the activities on the property shall be accommodated on the site. No vehicle parking is allowed in the County right of way or within the Access Easement.
5. The business shall comply with Benton County Code Title 11 for the life of the conditional use.
6. Future construction or activities associated with this winery operation require review under the Benton County Zoning Ordinance. Applicants shall contact the Planning Division prior to any construction or changes in activities on site.

Time to Complete Conditions of Approval. The applicant shall have one year to meet all of the Conditions of Approval. If the conditions of approval have not been met and the Planning Division does not issue the Conditional Use Permit within one (1) year from the date of the decision, the Hearings Examiner may declare it null and void. Prior to doing so, the applicant shall be notified in writing at the applicant's last known address at least twelve (12) days in advance of the upcoming Hearings Examiner meeting.

Transferability. This Conditional Use Permit is transferrable by a holder. If a new property owner wishes to have a winery in excess of 3,000 square feet, the new owner must update the Conditional Use Permit application, accept the Conditions of Approval, and be approved by the Planning Manager prior to transfer of the permit being allowed.

Violations of Conditions of Approval. The Applicant shall continue to meet all conditions of this Conditional Use Permit while CUP 2022-002 is in effect. Any violation of the conditions of approval may be processed in accordance with BCC Title 11, Chapter 11.43 Administration and Disposition of Infractions. If the Conditional Use Permit has been issued and violations exist, the Hearings Examiner may revoke the permit after an open record hearing with notice as set forth in BCC 11.50.050(b), as amended. This condition does not foreclose the County's use of other enforcement mechanisms.

Unless a motion for reconsideration is made within ten calendar days, or the Decision is timely appealed, the Decision is final.¹⁴

DECISION entered April 13, 2022.



Benton County Hearings Examiner
Susan Elizabeth Drummond

¹⁴ BCC 17.20.110 (allowing for reconsideration, if request is filed within ten calendar days); Ch. 36.70C RCW (providing for 21-day appeal period to superior court).



**STAFF REPORT TO THE BENTON COUNTY HEARINGS EXAMINER
Jamie Martinez & Ellie Zeron - Wine Production and Tasting Room**

FILE NO: CUP 2022-002

HEARING DATE: April 8, 2022

APPLICANTS: Jamie Martinez & Ellie Zeron, Zeron Vineyards
518 Aaby Drive, Auburn, WA 98001

OWNER: Jamie Martinez and Ellie Zeron

LOCATION: General Location: The property is located approximately 900 feet east of the intersection of Limestone Road and Schumacher PR NE in Benton City, Washington.
Situs Address: 35327 N Schumacher PR NE Benton City, WA 99320
Legal: Lot 2 of Short Plat 3446, Section 16, Township 9, Range 27, Quarter SE, W.M.
Parcel Number: 1-1697-401-3446-002

PROPERTY SIZE: Approximately 5.01 acres

AREA TO BE USED: Two future structures will total approximately 6,800 sq. ft. with approximately 6 associated parking stalls, and agricultural activities taking place on the remainder of the 5 acres.

LAND USE: Vacant/Agricultural

ZONING: Rural Lands Five (5) Acre District

COMPREHENSIVE PLAN DESIGNATION: Rural Remote

RECOMMENDATION:

The Planning Division recommends approval of the application request, subject to the suggested thirteen (13) Findings of Fact and six (6) Conditions of Approval as outlined in this staff report.

APPLICATION DESCRIPTION:

The applicants are requesting a Conditional Use Permit to operate a winery in excess of 3,000 square feet. The first floor of the production and wine barrel storage facility is proposed to be 2,900 sq. ft. and includes a 500 sq. ft. tasting room. Additionally, a 1,500 sq. ft. second story is proposed within the facility to be utilized as a storage area and single-family dwelling. A future storage building is being proposed that will also be approximately 2,400 sq. ft.

The property is approximately 5.01 acres in size and located in the Rural Lands Five (5) Acre District (RL-5) zoning district approximately 900 feet east of the intersection of Limestone Road and N Schumacher PR NE in Benton City, Washington. Access to N Schumacher PR NE will be via a 40 ft. access easement recorded under Auditor File Number 2014-017958.

There are no structures currently on the parcel and the majority of the property is being utilized for agricultural purposes. The proposal includes improvements typically associated with winery- related activities including a parking area, covered patio associated with the tasting room, and one sign that is proposed to be 4' x 6'.

There is no commercial kitchen or restaurant being proposed. The tasting room hours will be 11 am to 5 pm daily from February through October and by appointment only November through January.

The application for CUP 2022-002 was submitted to the Benton County Planning Division on February 23, 2022.

The application for CUP 2022-002 was declared complete for processing on February 24, 2022.

The application documents for CUP 2022-002 were distributed to reviewing agencies on February 25, 2022.

The Benton County Hearings Examiner Notice of Open Record Hearing was published on March 23, 2022 in the Prosser Record Bulletin.

The Notice of Hearing was mailed to property owners of record within 300 feet of the outer boundaries of the parcel on March 23, 2022.

The Open Record Hearing is scheduled for April 8, 2022.

APPLICABLE STANDARDS/ORDINANCES:

1. *Benton County Comprehensive Plan*
3.3.2.3 Rural Land Use Designations

Rural Remote is the predominant rural land use in the County. This land is located mostly between the agricultural lands (GMA Agriculture), Rural Transition, and the UGAs. Rural Remote land use is intended to enhance and preserve the County's rural character, which includes rural open space, low densities, wildlife habitat, public open space for outdoor recreational activities, and rural home sites on which a limited range of agricultural activities may be conducted. Allowable density in Rural Remote land use is 1Du/5acres.

2. *Benton County Code (BCC)*
Title 11 Zoning
Chapter 11.03 Definitions

Section 11.03.010 (194) "Wineries/Breweries/Distilleries" means facilities where fruit or other products are processed into wine or spirits and related storage, bottling, shipping, sampling, tasting and sale of such.

3. *Benton County Code (BCC)*
Title 11 Zoning
Chapter 11.11 Rural Lands Five Acre District (RL-5)
Section 11.11.060 Uses Requiring a Conditional Use Permit

(j) Wineries/Breweries/Distilleries not otherwise allowed under BCC 11.11.030.

4. *Benton County Code (BCC)*

Title 11 Zoning

Chapter 11.50 Variance and Conditional Use

Section 11.50.040 Conditional Use - General Standards

The conditional use permit application process allows the Hearings Examiner to review the location and design of certain proposed uses, the configuration of improvements, and the potential impacts on the surrounding area. The application process also allows the Hearings Examiner to ensure that development in each zoning district protects the integrity of that district. The notice, hearing, decision, and enforcement procedures are as set forth herein and in BCC 11.50.050.

Certain uses are classified as conditional uses because of their unusual nature, infrequent occurrence, special requirements, or potentially significant impacts to the environment, public infrastructure, or adjacent properties, and/or possible safety hazards and other similar reasons.

Once granted, a conditional use permit may be transferred by a holder thereof after written notice to the Hearings Examiner; provided the use and location must remain the same and the transferee must continue to comply with the conditions of the permit and, if applicable, the requirements set forth in Chapter 11.51 BCC.

Section 11.50.040 (d) Conditional Use – Permit Granted or Denied

A conditional use permit shall be granted only if the Hearings Examiner can make findings of fact based on the evidence presented sufficient to allow the Hearings Examiner to conclude that, as conditioned, the proposed use:

- (1) Is compatible with other uses in the surrounding area or is no more incompatible than are any other outright permitted uses in the applicable zoning district;
- (2) Will not materially endanger the health, safety, and welfare of the surrounding community to an extent greater than that associated with any other permitted uses in the applicable zoning district;
- (3) Would not cause the pedestrian and vehicular traffic associated with the use to conflict with existing and anticipated traffic in the neighborhood to an extent greater than that associated with any other permitted uses in the applicable zoning district;
- (4) Will be supported by adequate service facilities and would not adversely affect public services to the surrounding area; and
- (5) Would not hinder or discourage the development of permitted uses on neighboring properties in the applicable zoning district as a result of the location, size or height of the buildings, structures, walls, or required fences or screening vegetation to a greater extent than other permitted uses in the applicable zoning district.

It is the applicant's burden to present sufficient evidence to allow the above conclusions to be made. If such evidence is not presented or all necessary reasonable conditions are not identified by the applicant to allow the Hearings Examiner to make the conclusions required above, the conditional use application shall be denied.

In addition to considering the impacts of the proposed use, the Hearings Examiner must also consider any evidence presented regarding any similar impacts of uses allowed outright in this zone, and if such evidence is received, compare those impacts to those of the proposed use.

If negative impacts are identified, the Hearings Examiner must try to identify reasonable conditions that would mitigate those impacts sufficiently to allow the Hearings Examiner to make the findings necessary to grant the permit. The applicants may be asked to identify reasonable conditions, but the Hearings Examiner may independently identify conditions. Further, an applicants' disagreement with a particular condition should not dissuade the Hearings Examiner from granting the permit with such condition(s), as opposed to outright denial, if the Hearings Examiner is able to conclude that the condition(s) is/are reasonable in their judgment.

PUBLIC NOTICE:

The public notice requirements for this application as per BCC 11.50.050(b) are as follows:

1. The Planning Division shall provide written notification for an open record hearing, subject to the rules and regulations set forth in RCW 36.70. Written notice shall be mailed at least twelve (12) days in advance of the open record hearing to the applicant and the owner of the parcel(s) to which the proposed variance or conditional use permit would apply, and to all owners of real property, as shown in the records of the Benton County Assessor, located within a distance of three hundred (300) feet of any portion of the applicable parcel, provided that if the owner of the parcel for which the proposed variance or conditional use permit is requested owns another parcel or parcels adjacent the parcel at issue, notification shall be mailed to owners of real property located within three hundred (300) feet of any portion of such adjacent parcels as well. Failure to receive the notice shall not invalidate any proceedings or decision in connection with the proposed variance or conditional use permit. Notices addressed to the last known owner of record as shown on the County Assessor's records shall be deemed proper notice to the owner of such property; and,
2. By publication of a legal notice in a newspaper of general circulation in the County at least ten (10) days prior to the open record hearing date.

AGENCY COMMENTS:

1. The application documents were distributed to the following reviewing agencies on February 25, 2022:
 - a. Benton County Building Division
 - b. Benton County Code Enforcement
 - c. Benton County Fire District #1
 - d. Benton County Fire Marshal
 - e. Benton County Public Works Department
 - f. Benton-Franklin Health District
 - g. Benton PUD
 - h. Kennewick Irrigation District
 - i. Columbia Irrigation District
 - j. WA Department of Ecology
2. The following information was received from the Benton-Franklin Health District with the applicant's initial submission:
 - a. JoDee Peyton with the Benton-Franklin Health District has had an opportunity to review the site/proposal and has informed Mr. Martinez that he will need an engineered septic system to meet BFHD's requirements for a winery/tasting room and dwelling on the property. Mr. Martinez is currently working with an engineer for that purpose. The Health District does not foresee any issues with designing a septic system to meet their needs and requirements.

- b. The winery will need to have an approved public water supply in accordance with WAC 246-291 and Benton-Franklin District Board of Health Rules and Regulations No. 7.
 - c. Applicants will need to continue working with JoDee Peyton at the Benton-Franklin Health District.
3. The following comment was received from the Benton Public Utility District:
- a. A utility easement will need to be secured from the property owner to the east before power can be extended.
 - b. Applicant will need to continue working with Tina Glines, Benton PUD Distribution Design Technician, who can be reached at (509) 582-1241 or glinest@bentonpud.org.
4. The following comments were received from the Kennewick Irrigation District:
- a. The parcel is within the Kennewick Irrigation District (KID) boundaries and is considered irrigable lands; therefore, the Kennewick Irrigation District assesses them.
"A KID service connection is available. Contact KID for more information."
 - b. "Please note that permanent structures are not allowed within irrigation easements."
 - c. "Please protect all existing irrigation facilities."
 - d. Applicant will need to continue working with Chris Sittman who can be reached at 509-873-1123 or csittman@kid.org.
5. The following comments were received from the Washington State Department of Ecology:
- "The applicant may be required to obtain Winery General Permit (Permit) coverage from Ecology if wine, juice and/or wastewater production volumes surpass those quantified in Special Condition S1, Table 3 of the Permit. Ecology may also require Permit coverage if a facility is determined to be a "Significant Contributor of Pollutants or a Significant Industrial User" as defined in Appendix B of the Permit. For technical assistance, contact **Stephanie Giesin**, Winery General Permit Manager at Stephanie.giesin@ecy.wa.gov or by phone at (509) 454-7869."
- "In Washington State, prospective water users must obtain authorization from the Department of Ecology before diverting surface water or withdrawing ground water, with one exception. Ground water withdrawals of up to 5,000 gallons per day used for single or group domestic supply, up to 5,000 gallons per day used for industrial purposes, stock watering, and for the irrigation of up to one-half acre of non-commercial lawn and garden are exempt from the permitting process.
- Water use under the RCW 90.44.050 exemption establishes a water right that is subject to the same privileges, restrictions, laws and regulations as a water right permit or certificate obtained directly from Ecology. If you have any questions or would like to respond to these Water Resources comments, please contact **Christopher Kossik** at (509) 454-7872 or email at christopher.kossik@ecy.wa.gov."
6. Benton County Planning Division:
The following are general comments and discussion points from the Benton County Planning Division:
- a. Requirements for signage are detailed within *Benton County Code (BCC) Chapter 3.06 Uniform Sign Code*.
 - b. The sale of products that have not been processed on-site are not permitted.
 - c. The application for CUP 2022-002 proposes use as a winery in excess of 3,000 square feet. Other uses, such as event venue, require the approval of an applicable Conditional Use Permit.
 - d. Upon completion of a review of BCC Title 15 and the Benton County Critical Area Maps, no designated critical areas have been identified. A critical area report is not necessary for the use or proposed buildings.

FINDINGS OF FACT AND CONDITIONS OF APPROVAL:

The following suggested Findings of Fact and Conditions of Approval are based on comments received up to the date of this staff memo. Any comments received after the completion of this staff memo or submitted during the public hearing for this application will need to be considered by the Hearings Examiner and may be added to the Findings of Fact and Conditions of Approval. The Hearings Examiner may decide to adopt these as their own or amend/add to these Findings of Fact and Conditions of Approval after holding the open public hearing.

Based on the information received to date, the Planning Staff recommends approval with the following Findings of Fact and Conditions of Approval:

SUGGESTED FINDINGS OF FACT:

1. The applicants are Jamie Martinez and Ellie Zeron, 518 Aaby Drive, Auburn, WA 98001.
2. The applicants are requesting a Conditional Use Permit to operate a winery in excess of 3,000 square feet and construct a production and wine barrel storage facility with a tasting room on approximately 5.01 acres in the Rural Lands Five Acre District (RL-5).
3. The property is located in unincorporated Benton County, approximately 900 feet east of the intersection of Limestone Road and N Schumacher PR NE in Benton City, Washington.
4. The property is zoned Rural Lands Five Acre District (RL-5).
5. The property is currently an agricultural use.
6. The application for CUP 2022-002 meets the intent and standards of the Benton County Comprehensive Plan.
7. The application for CUP 2022-002 meets the definition, requirements and standards of the Benton County Code, Title 11.
8. Surrounding land uses are similar in nature to the applicant's proposed use of the property: Rural Remote uses found directly adjacent, with residential uses and winery operations in nearby proximity.
9. No designated critical areas have been identified on the parcel. A critical area report is not necessary for the use or proposed buildings.
10. Public notice requirements have been met for CUP 2022-002.
11. Agency comments were received from:
 - a. Benton-Franklin Health District
 - b. Benton Public Utility District.
 - c. Kennewick Irrigation District
 - d. Washington State Department of Ecology
12. There were no comments received from the public.
13. The Benton Franklin Health District has completed a cursory review of the proposal and has no

objections provided:

- a. The winery must be served by an approved public water supply in accordance with WAC 246-291 and Benton-Franklin District Board of Health Rules and Regulations No. 7.

SUGGESTED CONDITIONS OF APPROVAL:

1. The ongoing activities on the site shall comply with the submitted site plan and materials submitted for this application.
2. All required development permits/approvals shall be obtained prior to issuance of the Conditional Use Permit. This includes approval of permits required by the following agencies, as applicable:
 - a. Benton County Building Division
 - b. Benton County Public Works
 - c. Benton County Planning Division
 - d. Benton Franklin Health District
 - e. The Washington State Department of Ecology
3. The applicant will meet and comply with *Benton County Code 3.06 Sign Code*. Off-site signage will not be permitted and only one sign, no more than 4' x 6', will be allowed.
4. Vehicle parking associated with the activities on the property shall be accommodated on the site. No vehicle parking is allowed in the County right of way or within the Access Easement.
5. The business shall comply with *Benton County Code Title 11* for the life of the conditional use.
6. Future construction or activities associated with this winery operation require review under the Benton County Zoning Ordinance. Applicants shall contact the Planning Division prior to any construction or changes in activities on site.

Time to Complete Conditions of Approval:

The applicant shall have one year to meet all of the Conditions of Approval.

If the conditions of approval have not been met and the Planning Division does not issue the Conditional Use Permit within one (1) year from the date of their decision, the Hearings Examiner may declare it null and void. Prior to doing so, the applicant shall be notified in writing at the applicant's last known address at least twelve (12) days in advance of the upcoming Hearings Examiner meeting.

Transferability

This Conditional Use Permit is transferrable by a holder. If a new property owner wishes to have a winery in excess of 3,000 square feet, the new owner must update the Conditional Use Permit application, accept the Conditions of Approval, and be approved by the Planning Manager prior to transfer of the permit being allowed.

Violations of Conditions of Approval:

The Applicant shall continue to meet all conditions of this Conditional Use Permit while CUP 2022-002 is in effect.

Any violation of the conditions of approval will be processed in accordance with BCC Title 11, Chapter 11.43 Administration and Disposition of Infractions. If the Conditional Use Permit has been issued and violations exist, the Hearings Examiner may revoke the permit after an open record hearing with notice as set forth in BCC 11.50.050(b), as amended. This condition does not foreclose the County's use of other enforcement mechanisms.