

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Planning and Building	(2) MEETING DATE 6/2/2015	(3) CONTACT/PHONE Holly Phipps. Planner III / (805) 781-1162	
(4) SUBJECT Hearing to consider an appeal by Wilton and Helen Webster, and Ron Jolliffe and Colleen Runyen of the Planning Department Hearing Officer's decision to approve Minor Use Permit (DRC2013-00028) to allow for the phased expansion of an existing agricultural processing facility (olive oil and wine), 20 temporary events with 200 guests, and modifications to ordinance standards to allow adjustments to the required setbacks, and an increase to the limits of retail sales area at 8530 Vineyard Drive, west of the community of Templeton, within the North County Planning Area, Adelaida Sub area. District 1.			
(5) RECOMMENDED ACTION It is recommended that the Board adopt and instruct the Chairperson to sign the resolution affirming the decision of the Planning Department Hearing Officer and approve the Willow Creek NewCo LLC Minor Use Permit (DRC2013-00028) to allow for the phased expansion of an existing agricultural processing facility (olive oil and wine) with temporary events and setback modifications at 8530 Vineyard Drive, west of the community of Templeton, based on the findings listed in Exhibit "A" of attachment 1, and the conditions listed in Exhibit "B" of attachment 1 (Board of Supervisors Resolution with Findings and Conditions).			
(6) FUNDING SOURCE(S) Appeal Fees	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? Yes
(10) AGENDA PLACEMENT <input type="checkbox"/> Consent <input type="checkbox"/> Presentation <input checked="" type="checkbox"/> Hearing (Time Est. <u>60 mins</u>) <input type="checkbox"/> Board Business (Time Est. <u> </u>)			
(11) EXECUTED DOCUMENTS <input checked="" type="checkbox"/> Resolutions <input type="checkbox"/> Contracts <input type="checkbox"/> Ordinances <input type="checkbox"/> N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR) NA		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: <input type="checkbox"/> 4/5 Vote Required <input checked="" type="checkbox"/> N/A	
(14) LOCATION MAP Attached	(15) BUSINESS IMPACT STATEMENT? No	(16) AGENDA ITEM HISTORY <input type="checkbox"/> N/A Date: <u>March 24, 2015</u>	
(17) ADMINISTRATIVE OFFICE REVIEW Lisa Howe			
(18) SUPERVISOR DISTRICT(S) District 1			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Planning and Building / Holly Phipps, Planner III

VIA: Bill Robeson, Deputy Director, Permitting

DATE: 6/2/2015

SUBJECT: Hearing to consider an appeal by Wilton and Helen Webster, and Ron Jolliffe and Colleen Runyen of the Planning Department Hearing Officer's decision to approve Minor Use Permit (DRC2013-00028) to allow for the phased expansion of an existing agricultural processing facility (olive oil and wine), 20 temporary events with 200 guests, and modifications to ordinance standards to allow adjustments to the required setbacks, and an increase to the limits of retail sales area at 8530 Vineyard Drive, west of the community of Templeton, within the North County Planning Area, Adelaida Sub area. District 1.

RECOMMENDATION

It is recommended that the Board adopt and instruct the Chairperson to sign the resolution affirming the decision of the Planning Department Hearing Officer and approve the Willow Creek NewCo LLC Minor Use Permit (DRC2013-00028) to allow for the phased expansion of an existing agricultural processing facility (olive oil and wine) with temporary events and setback modifications at 8530 Vineyard Drive, west of the community of Templeton, based on the findings listed in Exhibit "A" of attachment 1, and the conditions listed in Exhibit "B" of attachment 1 (Board of Supervisors Resolution with Findings and Conditions).

DISCUSSION

Background

On January 2, 2015, this project was approved on the Consent Agenda at the Planning Department Hearing. The project was appealed to the Board of Supervisors and noticed for a hearing on March 24, 2015. Due to a procedural error that occurred prior the original Planning Department Hearing, Staff recommended that the Board of Supervisors remand the project back to a Planning Department Hearing. On March 24, 2015, the Board of Supervisors remanded this project to the next available Planning Department Hearing.

At the Planning Department Hearing on April 17, 2015, the Hearing Officer approved a proposal by Willow Creek NewCo LLC for a Minor Use Permit to allow for the phased expansion of an existing agricultural processing facility (olive oil and wine). Construction is proposed to include demolition and replacement of an existing 6,946 square foot (sf) barn and two new buildings (2,600 sf and 3,000 sf) that will include processing areas, tasting room, retail sales, commercial kitchen, office, and storage. The project also includes a request for 20 temporary events annually with no more than 200 guests per event and to allow for the processing of off-site olives. The approval includes modifications to ordinance standards to allow adjustments to the required setbacks, and an increase to the limits of retail sales area. The Planning Department Hearing Officer considered the staff recommendation and the comments and correspondence received and adopted findings and conditions of approval for the project. These findings and conditions are set forth in Exhibits "A" and "B" of attachment 1 (Planning Department Hearing Staff Report; April 17, 2015). Based upon this decision, the Planning Department received two separate appeals of the Planning Department Hearing Officer's decision.

Appeal Issues

The following outlines each issue raised by the appellants, Wilton and Helen Webster:

Issue 1 – Noticing and Supporting Documents

The appellants state that the County failed to provide adequate notice and supporting documents to the public.

Staff Response: *On January 2, 2015, this project was approved on the Consent Agenda at the Planning Department Hearing. The January 2, 2015 Agenda and Staff Reports were made available to the public on December 12, 2014. The Agenda and Staff Report was posted in a location that is "freely accessible to members of the public" and was posted at the www.slocounty.ca.gov/planning_website.*

The Willow Creek Mitigated Negative Declaration was issued on November 26, 2014 and it was posted at the Planning Department and to our website:

<http://www.slocounty.ca.gov/planning/environmental/EnvironmentalNotices/negdecreports2014.htm> *Proposed Negative Declarations - Reports 2014, 11 November, 11-26-14 Willow Creek Negative Declaration. It was also posted on the Board of Supervisor's Agenda for December 2, 2014. Posting of the Mitigated Negative Declarations is a Courtesy Notice to the public of any Negative Declarations that are issued weekly. Attachments are not posted as part of the Mitigated Negative Declarations. The public may request copies of reports if they would like to see them. Reference materials are not attached to the Negative Declarations. They are available as part of the project file and the public may request to view the documents. Archaeological Reports are considered confidential under State law and are not available to the public for review.*

The project was appealed to the Board of Supervisors and noticed for a hearing on March 24, 2015. The notice for the hearing was mailed on February 27, 2015 and published in the Paso Robles Press on March 13, 2015. The March 24, 2015 Agenda and Staff Reports were made available to the public on March 17, 2015. The Agenda and Staff Report was posted in a location that is "freely accessible to members of the public" and was posted at the Board of Supervisors' website.

Due to a procedural noticing error that occurred prior to the original January 2, 2014 Planning Department Hearing, Staff recommended the Board remand the project back to a Planning Department Hearing.

On March 24, 2015, the Board of Supervisors remanded this project to the next available Planning Department Hearing. A Planning Department Hearing was scheduled for April 17, 2015 and re-noticed. The notice was mailed on March 25, 2015 and published in the Tribune on March 27, 2015. The Agenda and Staff Reports were made available to the public and were posted in a location that is "freely accessible to members of the public" and was posted at the www.slocounty.ca.gov/planning_website. Supporting documents were made available to the public on April 6, 2015. The project was approved at the Planning Department Hearing at April 17, 2015.

The project was appealed again to the Board of Supervisors and a hearing was scheduled for June 2, 2015. The notice for this hearing was mailed on May 7, 2015 and published in the Paso Robles Press on May 22, 2015. Supporting documents will be made available to the public prior the hearing.

In conclusion, the County provided adequate Public Notice and provided adequate time and opportunity for public review of supporting documents.

Issue 2. Neighborhood Compatibility

The appellants state that the approval of this permit changes the entire neighborhood. The appellants also state that the neighborhood does not have weddings and big events and that the 15 year duration of the permit is excessive.

Staff Response: *The site has an approved olive oil processing mill to process on-site olives and a tasting room.*

The project was approved for up to 20 temporary events annually with no more than 200 guests. Temporary events are an allowable use on Agriculture land subject to Minor Use Permit approval and the specific use standards in Section 22.30.610 of the Land Use Ordinance.

The subject site is located on Vineyard Drive in the Adelaida area of the North County. There are approximately 15 wineries in the immediate vicinity many of which include public tasting room and events. The following table provides recently approved projects which include larger events. All of which are located in close proximately to the Willow Creek site.

Project	Distance to Willow Creek Site	Events per/yr	Amplified Music/limit	Maximum Attendees	Approval Date
Halter Ranch	1.5 miles	25	Yes /5pm	200	02/5/2015
Adelaida Cellars	4.5 miles	25	Yes/5pm	200	11/6/2014
Opolo Winery	2.5 miles	25	Yes/10pm	250	02/5/2013

The approval of 20 annual temporary events is limited to a period of 15 years. The Willow Creek project description included the following examples of events as: farming symposiums, culinary and art shows, wine and food symposiums, weddings, corporate dinners, and olive oil making seminars.

On October 6, 2009, the Board of Supervisors adopted a resolution interpreting the Temporary Events Ordinance (Section 22.30.610 of the Land Use Ordinance). The Board of Supervisors concluded that, while a Minor Use Permit can authorize multiple events, the life of the Minor Use Permit shall be defined as part of the approval. This means that temporary events may not be authorized in perpetuity through the granting of a single Minor Use Permit.

The Board of Supervisors did not establish criteria for how long the Minor Use Permit should be in effect. Instead, this decision has been made on a case-by-case basis by the Review Authority. Previous projects have received approval for a period of between 5 and 20 years.

In this specific case, staff recommended a 15-year time limit based on the following specific project-site characteristics:

- History – The site has been successfully operating as an olive processing facility since 2000 and a tasting room since 2007, with no code enforcement violations.
- Access – The site is located on a collector road approximately 7 miles from the community of Templeton.
- Zoning – The site is located within the Agriculture land use category. The majority of temporary event requests are submitted for land designated Agriculture and subject to Agriculture Element policies designed to protect agricultural production.

In conclusion, the approval of this project does not change the character of the area because the surrounding area is dominated by winery facilities with events and amplified music, vineyards, agricultural accessory uses, and single-family residences. The 15 year time limit for temporary events is appropriate and not excessive.

Issue 3. Minor Use Permit Violates the Williamson Act and Zoning Laws

The appellants state that the Minor Use Permit violates the Williamson Act and Zoning Laws. The appellants brought into question Building Permit PMT2013-02460 which was submitted on April 4, 2014 for a remodel of a single-family residence. The appellants state that the Minor Use Permit was not modified to include the remodel of this structure and remains silent on the remodel which they assert will be used as a bed and breakfast.

Staff Response: The remodel permit includes 7 bedrooms and 6.5 bathrooms in a single family residence. During the plan check review process, Building Department staff questioned whether the residence would be used commercially as a motel or bed and breakfast (B&B). After review by the Chief Building Official, the structure was classified as a single family residence and not a motel or B&B. Therefore, no modification was required modified the Minor Use Permit.

In the future, if the applicant would like to request a B&B on this property, it is an allowed use per Title 22 and is also a compatible use in Table 2 - Agricultural and Compatible Uses For Lands Subject To Land Conservation Contracts.

The primary use of the site is the processing of olives grown on-site. The subject property is approximately 120 acres and contains a 45 acre olive orchard. This property is currently under a Land Conservation contract. The proposed project uses are compatible uses that are listed in the Rules of Procedure to Implement the California Land Conservation Act of 1965 (Rules of Procedure) – Table 2: Agricultural and Compatible Uses For Lands Subject To Land Conservation Contracts. The project was reviewed for consistency with the Agriculture and Open Space Element and found to be consistent with the policies in that Element. Similar proposals have been approved that were in the Williamson Act. In conclusion, the County did not violate any Rules of Procedure.

Traffic and Safety

Issue 4. The Mitigated Negative Declaration Fails to Sufficiently Address Traffic and Safety Issues including bike

safety.

The appellants state that the Mitigated Negative Declaration does not sufficiently address traffic issues and avoids requirements established under Resolution 2008-152. The appellants also state that the Mitigated Negative Declaration does not analyze how the Minor Use Permit would comply with the Bike Plan.

Staff Response: *Public Works reviewed the proposed project and determined that the project did not trigger either a road safety analysis (RSA) or any road improvements per Resolution 2008-152 (See attachment 10 - Resolution 2008-52) because of the relatively low average collision rate within ½ mile of the project entrance and the relatively low number of guests and associated traffic, respectively.*

Planning Staff mistakenly attached the original Public Works Referral Response dated November 8, 2014 to the Mitigated Negative Declaration that stated the project “may trigger road improvements” ... and not the revised Referral Response (March 24, 2014) that did not require road improvements. The Revised Referral Response was available in the project file and was included in the record at the Planning Department Hearing.

Public Works trip counts on Vineyard Drive in the approximate vicinity of the project showed a peak daily volume of 863. The Highway Capacity Manual, Transportation Research Board (2000) stated for a 2-lane Collector road the maximum daily volume for LOS “C” is 6,000 trips. The proposed project does not change the current level of service of “C” or better. Per Resolution 2008-152 the project did not require a Roadway Safety Analysis.

Weekday average daily trips related to the production facility are expected to be 7 peak hour trips (pht). Traffic associated with the tasting room is expected to occur mostly between 11:00 am to 4:00 pm, which are considered “non-peak” hours. The tasting room is expected to generate approximately 4 pht.

Special Events typically occur during the weekends and are not considered “peak” hour trips. The 200 person events would be limited to 20 times a year during the weekends, and is estimated to generate 80 trips (2.5 people per trip/car).

Based on the information above, the Mitigated Negative Declaration concluded that the small amount of additional traffic will not result in a significant change to the existing road service or traffic safety levels. Therefore, no significant traffic impacts were identified, and no mitigation measures above what are already required by ordinance are necessary.

Public Works also reviewed the project for consistency with the County of San Luis Bikeways Plan. Vineyard Drive, North of Highway 46, has not been identified for a Class II Bikeway. No significant concerns were identified.

The appellants specifically reference Section 15.92.149 of the Traffic Code. Section 15.92.149 is not applicable to this project as it references a segment of Vineyard Drive approximately 8 miles to the south. See below:

15.92.149 Vineyard Drive, Templeton. Bicycle lanes are established on Vineyard Elementary School (approximately 3680’ west of Bethel Road) to Bethel Road (County Road No. 5170) and said lanes shall be indicated by signs and pavement markings.

In conclusion, based on the existing and projected traffic estimates, the resulting acceptable level of service, consultation with Public Works, and consideration of the County Bike Plan, no significant traffic or safety impacts have been identified and the Mitigated Negative Declaration for the proposed project is adequate.

Noise

Issue 5. The Noise Study Relied Upon in the Negative Declaration Fails to Properly Evaluate Noise Impacts.

a. The appellants state the Noise Study did not properly evaluate the noise impacts and included a critique of the report by an acoustical expert (Edward L. Pack Associates). The critique raised questions on the methodology and other considerations in the preparation of the Noise Study.

Staff Response: *An Acoustical Analysis (David Dubbink Associates; July 5, 201) for the Pasolivo Events) was submitted with the original application materials. The analysis evaluated the existing acoustical setting and potential change that could occur as a result of the project. It also, identified noise thresholds (from the County’s Noise Element and Land Use Ordinance), identified potential impacts, and identified mitigation measures where appropriate. The primary project feature that could result in noise impacts is the proposed events.*

The central focal point for events is a new barn that will replace the existing barn. Events may also be held near the proposed new tasting room. Temporary Events are governed by Section 22.10.610 of the County’s Land Use Ordinance.

County of San Luis Daytime Noise Levels allowed per Section 22.10.120 (Daytime 7 am to 10 pm):

- *Maximum level (Lmax): 65 dB*
- *Hourly Equivalent (Leq): 45 Db*

The Acoustical Analysis (David Dubbink Associates; July 5, 2013): estimated sound levels at the proposed event sites

Source Location	Distance to property line	Day/Night Lmax Standard	Day/Night Leq Standard	Predicted Lmax	Predicted Leq
A. Barn interior, doors closed	160	65/60	45/40	68-25=43	64-25=39
A. Barn interior: doors open	160	65/60	45/40	68-15=53	64-15=49
B. South Terrace	135	65/60	45/40	69	65
C. North Terrace	205	65/60	45/40	66-14=52	62-14=48
D. Tasting Room Area	340	65/60	45/40	61	57

The areas tinted in green are locations where sound levels meet the County’s standards with no special mitigations. Other locations can meet the standards with mitigations described below.

As questions arose regarding potential noise impacts, the acoustical analysis was supplemented with additional information from the noise consultant (David Dubbink Associates; March 25, 2015 & April 16, 2015). The additional memos address the appellants’ critique of the Noise Study including responses to the methodology and other considerations. This technical information and the discussion in the Negative Declaration adequately address the potential for noise impacts and identify appropriate mitigation that has been included in the conditions of approval.

b. The appellants state the noise study did not conduct an analysis of the northern or eastern property lines.

Staff Response: The acoustical analysis and supplemental memos (David Dubbink Associates; July 5, 2013, March 25, 2015 & April 16, 2015) address the potential for noise impacts including impacts that may be experienced at the northern and eastern property lines. The Noise Study performed on July 5, 2013, (David Dubbink Associates) concluded:

Because of the distance from the events area to the northern and eastern property lines, there is no likelihood that noise limits will be exceeded. The most significant noise management concerns are at the southern property boundary.

The April 16, 2015 memo (David Dubbink Associates) further explains:

...if standards are met at the closest property line they are likely to be met at property edges that are far more distant.

The March 25, 2015 (David Dubbink Associates) memo provided additional clarification of proposed sound levels at the north and east property lines. See chart below.

	Distance	Lmax	Leq
Northern property line	2,225 ft.	47	43
Eastern property line	1,750 ft.	49	45

In conclusion, the technical information and the discussion in the Negative Declaration adequately address the potential for noise impacts and identify appropriate mitigation that has been included in the conditions of approval.

Agricultural Barn

Issue 6. The Negative Declaration Fails to Property Identify the Significance of the Agricultural Barn.

The appellants have questioned the Historical Assessment and concluded that the barn proposed for demolition is culturally significant and that an Environmental Impact Report is required.

Staff Response: The barn referenced in the appeal is not designated as “Historic” by the County through the application of an “H” combining designation. The barn was evaluated the a Phase I Archeological Survey and Historical Assessment conducted by LSA Associates September, 2013. The study identified four structures 50 years old and older in the project area: a single family residence circa 1900; a livestock barn, circa 1925; the remains of a former granary, circa 1925; and a water system feature consisting of a small well system (now filled), circa 1950. These were further evaluated to determine if they met the criteria as a Historic resource.

Section 5024.1 of the Public Resources Code establishes the California Register of Historical resources. A resource is

considered to be “historically significant” if it meets the criteria for listing in the California register. None of the structures evaluated were determined to meet the California Register criteria. The following is the criteria discussion from the Phase I Archeological Survey and Historical Assessment for the Pasolivo Project for the barn structure identified in the appeal:

Criterion 1: Is it associated with events that have made a significant contribution to the broad patterns of California's history and cultural heritage?

Research indicates that although the barn is associated with a pattern of events that has been significant in local history' (agricultural development in the Adelaida area), the barn does not have an important specific association with that pattern of events.

Criterion 2: Is it associated with the lives of persons important in our past?

Research did indicate that the barn is located on a portion of the larger ranch that was once owned by King Vidor, an early Hollywood producer, director, and screenwriter. Vidor's ranch, at the height of its geographic extent, comprised approximately 1,500 acres, of which the project area was a small part (7 acres). Research did not indicate that Vidor built the barn, or that it served as part of an administrative or operational headquarters for his ranch. The barn appears to be part of a satellite complex associated with the day-to-day operation of the Willow Creek Ranch, and it is not associated with his productive life as a prominent Hollywood director, producer, and writer.

Criterion 3: Does it embody the distinctive characteristics of a type, period, region, or method of construction, or represent the work of an important creative individual, or possess high artistic values?

The barn possesses the general characteristics of a utilitarian design, a style well represented in the existing building stock of northwest San Luis Obispo County and the Central Coast. Research and field observations indicate that it reflects a design and use of materials that is indicative of a carpenter and not an architect. The utilitarian approach the design and configuration indicates that this barn was used as a multi-purpose building to house or contain a variety of typical agricultural operations; as such, the barn does not represent the work of an important creative individual or possesses high artistic value.

Criterion 4: Has it yielded, or may it be likely to yield, information important in prehistory or history?

The utilitarian design has been well documented in agricultural literature, which has been extensively published and is widely available. For this reason, additional study of the barn would not be likely to yield information important to history.

Based on the background research and field observation, LSA concluded that the barn and other buildings and features on the property were not eligible for inclusion in the California Register, either collectively or individually.

The appellants submitted information from a number of individuals addressing the age of the barn, the importance of King Vidor, and some unusual construction elements of the barn. While this contributes to the record of information for the barn, it does not change any of the conclusions as to the application of California Register criteria.

The conclusion in the Mitigated Negative Declaration that the barn does not meet the criteria as a Historic resource is based on substantial evidence, and the demolition of which would not constitute a significant impact is appropriate.

Water

Issue 7: The Negative Declaration Fails to Properly Evaluate Water Impacts of Proposed Projects.

The appellants state the County failed to address the water consumption for the Minor Use Permit as well as the bed and breakfast/motel uses.

Staff Response: *The water usage of the proposed project was evaluated during the preparation of the Initial Study. The project is not located within the Paso Robles Ground Water Basin. The project is an expansion of existing operations and uses on the site and is served by an on-site well. There is no bed and breakfast/motel component to the project. The existing well on-site produces 104 gallons per minute in 4 hours (See attachment 11. Pump Test Report, by Miller Drilling Co. 12/10/2014, submitted on 03/02/2015).*

The following provides a breakdown of the proposed uses.

Estimated Increased Water Use		
Development Component	Basis of Demand Estimate	Estimated Increased Annual Water Use
<i>Existing Production (100 tons)</i>	109 gallons per day	(0.12 acre-ft) not included as part of new project
Increase in Production (100 tons)	109 gallons per day	(0.12 acre-ft / year)
Expanded Tasting Room	250 gallons per day	(0.28 acre-ft / year)
Events (MND evaluated 25 events)	200 people x 9.24 gal/person x 25 events	(0.14 acre-ft / year)
Total Increased Demand		(0.54 acre-ft / year) 481 gallons per day

Single-family home average indoor and outdoor water use on a rural lot for 2.62 people is estimated at 285 gallons per day (0.32 afy). The applicant is required to comply with the Basin Plan regarding wastewater treatment and discharge.

Sources used for this estimate include one or more of the following references: County's Land Use Ordinance, 2000 Census data, Pacific Institute studies (2003), City of Santa Barbara Water Demand Factor & Conservation Study 'User Guide' (1989).

Based on the figures presented above, it was determined that the additional water demand as a result of the project would be approximately 0.54 acre-ft/year, or an additional 481 gallons per day. The onsite well has provided adequately for the existing agricultural and processing uses and there is no indication that adequate supply does not exist to support the proposed uses.

In addition, verification of the water supply is subject to Title 19.07.041, that states:

19.07.041 - Verification of Water Supply Required. No grading, building or plumbing permit application or plans for a project which will require new service with potable water shall be issued unless:

c. An on-site well is installed, tested, and is certified to satisfy the requirements of Section 19.07.040b, or the building official is provided evidence showing that potable water adequate to satisfy the standards of Section 19.07.040b is available on site. Evidence provided to prove availability of potable water shall include:

1. Existing county data; or
2. A report submitted by a registered hydrologist, geologist; or
3. Satisfactory evidence from a test well drilled on the parcel.

In conclusion, there is evidence indicating that water resources are adequate to support the proposed project and the Mitigated Negative Declaration is appropriate

Modification / Setbacks

Issue 8: The Minor Use Permit requests and the Mitigated Negative Declaration authorized ordinance modifications regarding agricultural retail sales space and winery tasting room setback.

The appellants state that the requested modification to ordinance standards and setback modifications are an attempt to alter zoning which is in violation of the San Luis Obispo County Land Use Ordinance.

Staff Response: The project includes several modifications to limitations on use and site design standards including:

1. *Agricultural Retail Sales.* The applicant is requesting a modification to the ordinance to allow 1,900 sf of retail sales area instead of 500 sf as allowed by Section 22.30.075.B.1. Section 22.30.075.B.1 allows for modifications to the amount of floor area devoted to retail sales. A Minor Use Permit may be used to modify limitation on site design standards.
2. *Agricultural Retail Sales Setbacks.* The applicant is requesting a modification to the ordinance to allow a setback of 307 feet to the nearest residence outside of the ownership of the applicant (Phase II). Section 22.30.075.B.4. states Agricultural Retail Sales shall be located no closer than 400 feet to an existing residence outside the ownership of the applicant. If not possible to maintain 400 feet from a residence outside the ownership of the applicant, the setback can be modified through a Minor Use Permit.

3. *Winery Setbacks. The applicant requests a setback modification (Section 22.30.070.D.2.d.1) of the minimum 200 foot setback for winery tasting room to property line requirement to allow 159 feet (side setback) for Phase II.*

The applicant is requesting a setback modification that requires a winery tasting room to be located no closer than 400 feet to an existing residence outside the ownership of the applicant to allow 300 feet during Phase II. A modification is not required upon completion of Phase III (the detached tasting room would be located 486 feet from the nearest residence).

These setbacks can be modified through Minor Use Permit approval when a Conditional Use Permit is not otherwise required. Approval may be granted only after the Review Authority first determines that the request satisfies any of the following findings: (1) there is no feasible way to meet the required setbacks without creating environmental impacts or impacting prime agricultural land (SCS Class I, II and III); (2) the property fronts an arterial or collector street; (3) the setbacks are not practical or feasible due to existing topographic conditions or existing on-site vegetation or (4) is a legally constructed existing structure that was built prior to 1980 and it can be clearly demonstrated that the structure was intended for a legitimate agricultural or residential use.

The proposed project meets number (2) because the project fronts a collector road, Vineyard Drive. Therefore, it appears that the project would qualify for an adjustment to the setback requirement and that granting the adjustment would not result in significant land use conflicts.

In conclusion, the setbacks and floor area adjustments are allowed under the Land Use Ordinance detailed above and not an attempt to alter zoning. No violations to the Land Use Ordinance have occurred.

Other Concerns

Issue 9: The appellants also identified three issue areas under the heading as “Other Concerns”. These include :

Issue 9a. What is the full impact of the Minor Use Permit (and the bed and breakfast/motel) on the septic system, which is known to have septic constraints, MND at p.6.

Staff Response: *As previously discussed, the project does not include a bed and breakfast or motel. For project sites that don't meet the minimum percolation requirements or exceed slopes of 20 percent, the systems shall to be designed and installed by a certified registered engineer. Our position is that given the size of the property, and the fact that existing septic systems were designed and implemented on the property, there is no information that indicated that a system that meets Basin Plan requirements cannot be installed appropriately.*

Additionally, the proposed project has been conditioned through the Minor Use Permit to provide a waste discharge permit or an exemption for liquid waste disposal (the agricultural process waste). The Regional Water Quality Control Board will conduct final review and approval of the wastewater disposal system.

In conclusion, no significant impacts were identified and the project is in compliance with existing regulations and requirements therefore potential wastewater impacts would be less than significant.

Issue 9b. What is the full impact of the projects (the Minor Use Permit and bed and breakfast/motel) on biological resources?

Staff Response: *As previously discussed, the project does not include a bed and breakfast or motel. A biological assessment was submitted with the project application; Pasolivo Biological Resource Assessment, Kevin Merk Associates, LLC, November 2013. No special status species were noted identified on the site. This project is expected to result in the removal of 13 oak trees and disturbance in the root zone of an additional 25 oak trees.*

The large oak trees and adjacent annual grassland habitat, and any shrubs present on site could provide nesting opportunities for various bird and bat species, including special status species and species protected by the Migratory Bird Treaty Act. In addition, removal of structures such as the barn could potentially affect roosting bats.

The applicant has agreed to replacement, in kind, all removed oaks at a 4:1 ratio (13 removed: 52 replaced) with 1 gallon saplings and all impacted oaks at a 2:1 ratio (25 impacted: 50 planted) with 1 gallon saplings. To avoid conflicts with nesting raptors, construction activities shall not be allowed during to the nesting season (March to July), unless a county-approved, qualified biologist has surveyed the impact zone and determined that no nesting activities will be adversely impacted. All trees and structures will be surveyed by a qualified biologist at least one week prior to branch trimming, tree removal, demolition or maintenance to a structure. This is consistent with the measures prescribed for nesting birds. If a bat is discovered, it will be allowed to leave the area or structure on its own without further disturbance. If a day roost is discovered, exclusion methods may be employed September 1 through March 1.

In conclusion, the full impacts of the proposed project on biological resources have been evaluated. There is no bed and breakfast/motel component of the project.

Issue 9c. What is the environmental impact of the importing of olives from off-site to onsite?

Staff Response: The project was referred to the Agricultural Department and concerns regarding invasive species were minimal. The Department of Agriculture’s Pest Exclusion and Pest Detection programs enforce state and federal laws and regulations to prevent the introduction and spread of pests in San Luis Obispo County. This business and its facilities would be subject to any applicable laws and regulations regarding pest species and the movement of certain agricultural commodities. Our position, no significant agricultural impacts were identified, and no mitigation measures are necessary.

The project is estimated to harvest 100 tons of olives from onsite olives. It is estimated, upon completion of Phase I (construction of a 3,000 sf commercial ag storage processing building, off-site fruit could double production. Off-site trips would be made in the fall during harvest which lasts up to 10 weeks. They could average an additional 1- 2 trips a day during this timeframe.

In conclusion, this small amount of additional traffic will not result in a significant change to the existing road service or traffic safety levels. No significant traffic impacts were identified, and no mitigation measures were required.

The Project Violates CEQA

Issue 10: For all the reasons stated above, the project violates CEQA

The appellants state that the County is chopping the project up into smaller projects in a “piecemeal” fashion that violates CEQA and an EIR is required.

Staff Response: The Minor Use Permit looked at the project as a whole and that “piecemealing” has not occurred. The land use permit allowed for the phased expansion of an existing agricultural processing facility that included several buildings and grading. The project also included a request for 20 temporary events annually with no more than 200 guests per event and to allow for the processing of off-site olives.

In conclusion, there is no B&B/motel component of the project. The remodel of an existing residence is a ministerial project and is not subject to a land use permit.

The following outlines each issue raised by the second appellants (Ron Jolliffe and Colleen Runyen).

Agriculture Zoning

Issue 11. The proposed commercial activities are not in keeping with the Agriculture zoning.

The appellants state that the proposed project uses are not in conformance with the Agriculture land use zoning.

Staff Response: The proposed project includes the following uses which are all allowed uses in the Agriculture land use category per Title 22 Land Use Ordinance (LUO):

Agricultural Processing (olive and wine)	Section 22.30.070
Public Tasting Room	Section 22.30.070
Agricultural Retail Sales	Section 22.30.075
Temporary Events	Section 22.30.610

Per the LUO the proposed uses are subject to a discretionary Minor Use Permit approval. Staff concludes that the project’s proposed uses are in conformance with the Agricultural land use zoning.

Noise

Issue 12. Multiple events will diminish quality of life.

The appellants state that the events will diminish the quality of life for neighbors in regards to noise.

Staff Comments: The Noise Study relied upon in the Mitigated Negative Declaration did properly address noise impacts. Therefore, with the incorporation of the required mitigation measures, the project complies with the County Noise Ordinance Standards.

Setbacks

Issue 13. Setback variances should not be granted

The appellants state that a variance for setbacks to the nearest neighbor should not be granted.

Staff Comments: The applicant is requesting a modification for the Agricultural Retail sales to allow a setback of 307 feet to the nearest residence outside of the ownership of the applicant (Phase II). Section 22.30.075.B.4. states Agricultural

Retail Sales shall be located no closer than 400 feet to an existing residence outside the ownership of the applicant. If not possible to maintain 400 feet from a residence outside the ownership of the applicant, the setback can be modified through a Minor Use Permit.

The applicant is also requesting a setback modification for the winery tasting room to be located no closer than 400 feet to an existing residence outside the ownership of the applicant to allow 300 feet during Phase II. A modification is not required upon completion of Phase III (the detached tasting room would be located 486 feet from the nearest residence).

The wine tasting room setbacks can be modified through Minor Use Permit approval when a Conditional Use Permit is not otherwise required. Approval may be granted only after the Review Authority first determines that the request satisfies any of the following findings: (1) there is no feasible way to meet the required setbacks without creating environmental impacts or impacting prime agricultural land (SCS Class I, II and III); (2) the property fronts an arterial or collector street; (3) the setbacks are not practical or feasible due to existing topographic conditions or existing on-site vegetation or (4) is a legally constructed existing structure that was built prior to 1980 and it can be clearly demonstrated that the structure was intended for a legitimate agricultural or residential use. The proposed project meets number (2) because the project fronts a collector road, Vineyard Drive.

Therefore, it appears that the project would qualify for an adjustment to the setback requirement and that granting the adjustment would not result in significant land use conflicts.

Events

Issue 14. Number of events should be reduced to 6 per year.

The appellants state that the number of events should be reduced to 6 annual events per precedent in the area.

Staff Comments: *The project approved 20 temporary events per year with up to 200 attendees. The approval of 20 annual temporary events is limited to a period of 15 years. The Willow Creek project description included the following examples of events as: farming symposiums, culinary and art shows, wine and food symposiums, weddings, corporate dinners, and olive oil making seminars.*

The site is located in an area with approximately 15 wineries 3 of which also have approval to hold 25 events with up to 200 people. It is our opinion that the approval of this project does not change the character of the area because the surrounding area is dominated by winery facilities with events and amplified music, vineyards, agricultural accessory uses, and single-family residences. The 20 events per year are appropriate.

OTHER AGENCY INVOLVEMENT/IMPACT

The project was referred to: Public Works, Environmental Health, Agricultural Commissioner, CAL FIRE, Regional Water Quality Control Board, Building Department, and Templeton Area Advisory Council.

FINANCIAL CONSIDERATIONS

This appeal was processed using appeal fees collected.

RESULTS

Affirming the Planning Department's decision by denying the appeal will mean the Mitigated Negative Declaration and the Minor Use Permit (DRC2013-00028) are approved. Upholding the appeal would mean the Planning Department's approval of the Mitigated Negative Declaration and the Minor Use Permit (DRC2013-00028) are denied. This is consistent with the County goal of providing safe, healthy and well governed community.

ATTACHMENTS

- 01-BOS RESO-Findings and Conditions
- 02-Appeal Form 1-Webster
- 03-Appeal 2 - Jolliffe-Runyen
- 04-Graphics
- 05-Minutes-NOFA-PDH-04 17 15
- 06-BOS Remand to PDH-Supporting Docs
- 07-PDH-04 17 15-STF RPT-Supporting Docs
- 08-Minutes-NOFA-PDH-01 02 15

09-PDH-STF RPT-Supporting Docs-01 02 15
10-BOS Reso No2008-152
11-Well Pump Test
12-Emails-Neighbors