

Bonner County Planning Department

"Protecting property rights and enhancing property value"

1500 Highway 2, Suite 208, Sandpoint, Idaho 83864

Phone (208) 265-1458 - Fax (866) 537-4935

Email: planning@bonnercountyid.gov - Web site: www.bonnercountyid.gov



Board of County Commissioners Staff Report for May 29, 2024

Project Name: Southside Water & Sewer District

File: CUP0008-24 Conditional Use Permit –
Public Utility Facility

Request: The applicant is requesting a conditional use permit for a public utility facility.

Legal Description: 3-56N-2W TAX 87

Location: 824 Brisboys Road, Sagle

Parcel Number: RP56N02W037205A

Parcel Size: 0.23-acres

Applicant and Property Owner: Southside Water & Sewer District
PO Box D
Sandpoint, ID 83864

Project Representatives: Jack Howard, Chairman
Southside Water & Sewer District
PO Box D
Sandpoint, ID 83864

Kyle Meschko
Keller Associates
601 Sherman Ave Suite 1
Coeur d'Alene, ID 83814

Application filed: May 13, 2024

Notice provided: Mail: May 7, 2024
Site Posting: May 16, 2024
Published in newspaper: May 7, 2024

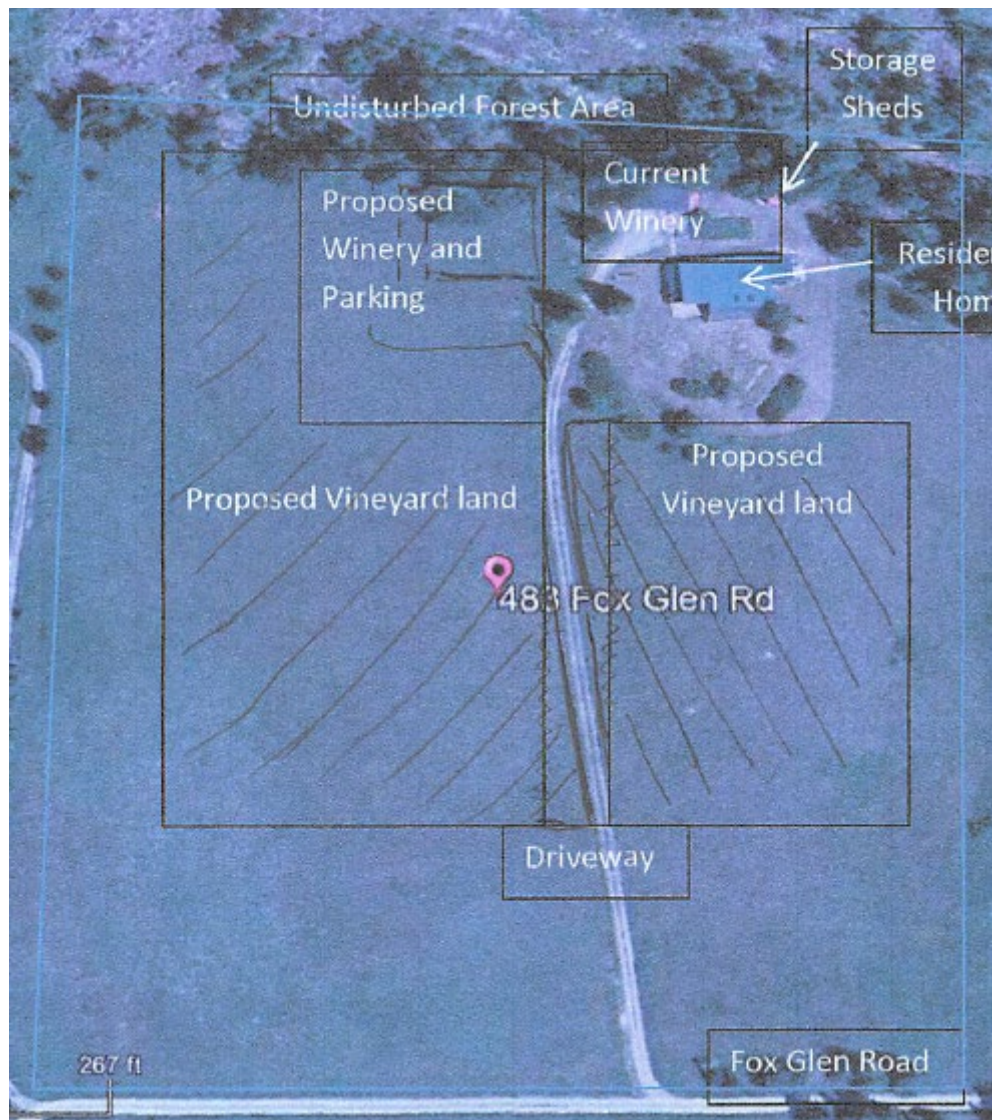


Figure 1 Site Plan



Project Summary:

The applicant is requesting a conditional use permit for a winery subordinate and accessory to farming. The 10-acre property is zoned Agricultural/Forestry 10 (A/F-10). The project is located off Fox Glen Road in Section 29, Township 59 North, Range 1 East, Boise-Meridian.

Applicable Standards:

The following sections of BCRC, Title 12 apply to this project:

- BCRC 12-220, et seq., Conditional use permit, application and standards
- BCRC 12-262: Appeals from Final Decision of Commission/Hearing Examiner
- BCRC 12-322, Agricultural/Forestry District
- BCRC 12-336, Resource Based Uses
- BCRC 12-4.2 et. seq., Performance standards for all uses
- BCRC 12-4.3, Parking standards
- BCRC 12-4.4, Sign standards
- BCRC 12-4.5, Design standards
- BCRC 12-4.6, Landscaping and screening standards
- BCRC 12-7.2, Grading, stormwater management and erosion control
- BCRC 12.7.6, Hillsides

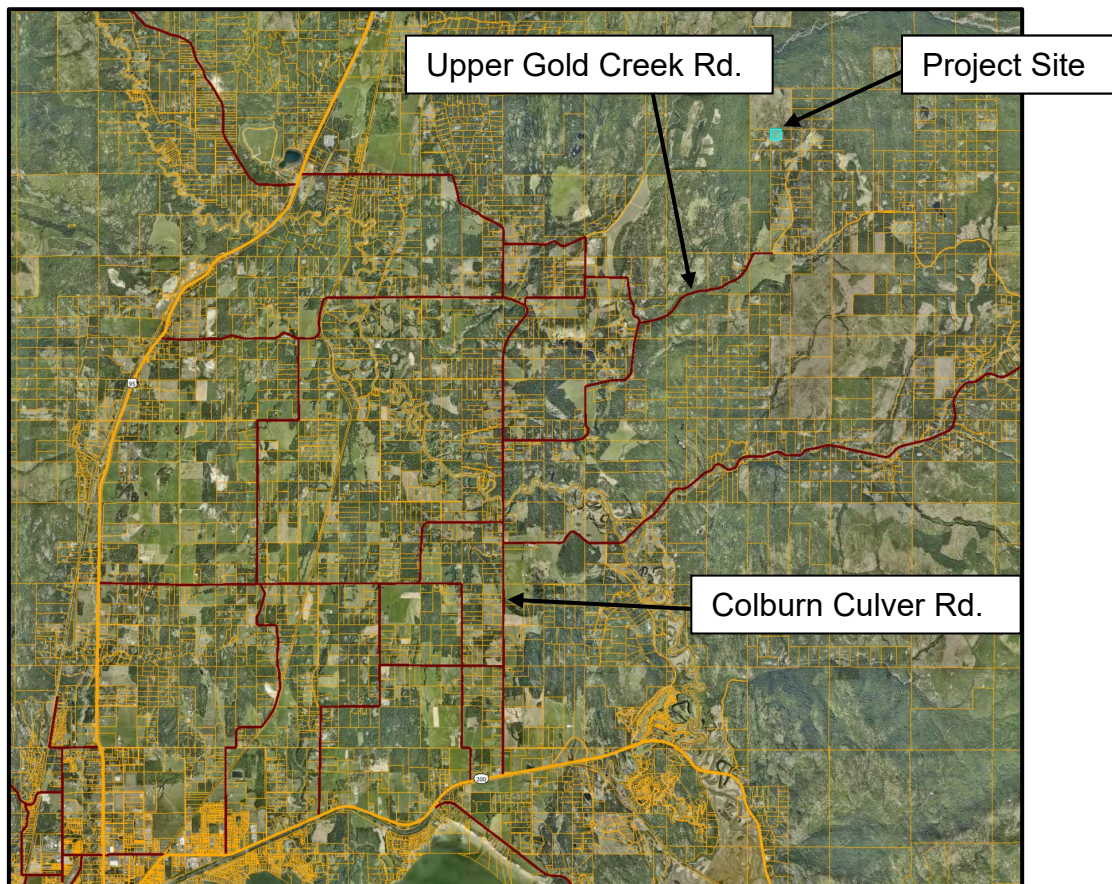
Background:

A. Site data:

- Platted: Lot 1 of Kathryn's Meadow as recorded in Bk. 10 of Plats, page 39
- Size: 10-acres
- Zone: Agricultural/Forestry 10
- Land Use: Ag/Forest Land

B. Access:

Fox Glen Road is a privately owned and maintained road. Fox Glen Road is accessed by Meadowood Road which is off of Upper Gold Creek Road. See Vicinity Map below.



Vicinity Map

C. Environmental factors:

- Site does contain mapped steep slopes of over 30% grade. (USGS)
- Site does not contain mapped wetlands. (USFWS)
- Site does not front on a lake or any other waterbodies.
- Parcel is within SFHA Zone X Panel Number 16017C0540E, Effective Date 11/18/2009. (FEMA)

D. Services:

- Water: Individual well

- Sewage: Individual septic system
- Fire: North Side Fire
- Power: Northern Lights, Inc.
- School District: Lake Pend Oreille School #84

E. Comprehensive Plan, Zoning and Current Land Use:

Compass	Comp Plan	Zoning	Current Land Use & Density
Site	Ag/Forest Land	A/F 10	Residential/Winery/ 10-acres
North	Ag/Forest Land	A/F 10	Vacant/160 acres
East	Ag/Forest Land	A/F 10	Residential/ 10 acres
South	Ag/Forest Land	A/F 10	Residential/ 20 acres
West	Ag/Forest Land	A/F 10	Residential/ 20 acres

Agency Review and Public Comments:

The application was routed to the required agencies; a full list of the agencies routed is included in Appendix A of this staff report. The following responses have been compiled from the Hearing Examiner hearing as well as the noticing for the hearing with the Board of County Commissioners.

The following agencies commented:

- Idaho Department of Environmental Quality
- Bonner County GIS
- Idaho Department of Water Resources
- Northside Fire District
- Panhandle Health District
- Bonner County Road and Bridge

(See agencies' letters for complete comments.)

The following agencies responded with "No Comment":

- Idaho Department of Fish & Game
- Independent Highway District
- Idaho Transportation Department

No other agencies, notified of the request, replied.

Public Notice & Comments

As of May 22, 2024, public comments were received for this proposal.

DECISION BY THE HEARING EXAMINER:

On March 27, 2023, Hearing Examiner Jacqueline Rucker **approved** this Conditional Use Permit.

On April 22, 2024, the Planning Department received an appeal request from Suzanne Glasoe, as an affected party.

Standards Review and Staff Analysis:

BCRC 12-220, et seq., conditional use permit, application and standards:

Staff: The application was considered complete on January 16, 2024.

BCRC 12-223 specifies that the Hearing Examiner shall review the particular facts and circumstances of each proposal. To grant a conditional use permit, the Hearing Examiner must find there is adequate evidence showing the proposal is in accord with the general and specific objectives of the comprehensive plan and Title 12 and the proposed use will neither create a hazard nor be dangerous to persons on or adjacent to the property.

BCRC 12-262: Appeals from Final Decision of Commission/Hearing Examiner

A. Presentation Of Appeal: Any "affected person", as defined by Idaho Code title 67, chapter 65, may appeal to the Board any final decision by the Zoning Commission/hearing examiner.

B. Filing Time Limit; Fee: Any affected person may file an appeal of the final decision of the Zoning Commission/hearing examiner with the Planning Director within twenty eight (28) days after the final written decision of the Zoning Commission/hearing examiner has been issued. The appellant shall pay the fee required by this title upon filing the appeal. An appeal shall not be considered to be filed until such fee has been paid. Failure to file the appeal within the time limits shall cause automatic dismissal of the appeal.

C. Notice Of Appeal Contents: The notice of appeal shall be detailed in writing and shall provide the grounds for the appeal. The grounds for appeal shall be that the decision of the commission or hearing examiner was at a minimum one of the following:

1. In violation of constitutional or statutory provisions;
2. In excess of the statutory authority of the commission or hearing examiner;
3. Made upon unlawful procedure;
4. Arbitrary, capricious or an abuse of discretion; or
5. Not supported by substantial evidence on the record as a whole.

D. Procedures For Consideration Of Appeal:

1. Within sixty (60) days of the receipt of the appeal, the Board shall conduct a public hearing. The hearing shall be conducted in the same manner using the same standards, as if the Board had original jurisdiction to hear the application.

2. Upon consideration, the Board may affirm, reverse, or modify the decision of the Zoning Commission/hearing examiner, after compliance with applicable procedural standards.

3. The decision of the Board shall be final, and any further recourse shall be as provided by law.

E. Applicability: The appeal process shall be coordinated with administration of land use ordinances. The procedures for appeal set forth herein shall be applied in a manner which is consistent with the zoning, subdivision and related land use ordinances of Bonner County. (Ord. 559, 1-4-2017; amd. Ord. 661, 3-18-2022; Ord. 681, 10-12-2022; Ord. 682, 10-12-2022)

Staff: The Hearing Examiner, Jacqueline Rucker, approved this file on March 20, 2024. The decision letter was sent on March 27, 2024, starting the appeal window of 28 days. The Bonner County Planning Department received an appeal of the Hearing Examiner’s decision on April 22, 2024, from Suzanne Glasoe, as an affected party. The appeal states that the decision of the Hearing Examiner was “In violation of constitutional or statutory provisions” and “Made upon unlawful procedure”. Ms. Glasoe paid the required appeal fee, as set forth in the Title 12 Fee Schedule. The appeal hearing with the Board of County Commissioners was scheduled within the required 60 days of the date of appeal. All criteria for an appeal of the Hearing Examiner’s decision, as stated in BCRC 12-262, have been met.

BCRC 12-336 Resource Based Use Table:

Resource Based Use Table 3-6

Use	Zoning District								
	F	A/F	R	S	C	I	RSC	REC	AV
WATER BOTTLING WORKS AT THE SOURCE; WINERIES, BREWERIES AND DISTILLERIES SUBORDINATE AND ACCESSORY TO FARMING (3), (4), (5), (7), (8), (20)	C	C	C						C

(3) Sufficient land area is required to accommodate the proposed use, and the use and any appurtenant structures shall be so arranged on the land as to minimize any adverse effects on surrounding properties. The use shall not create particular hazards to adjacent properties.

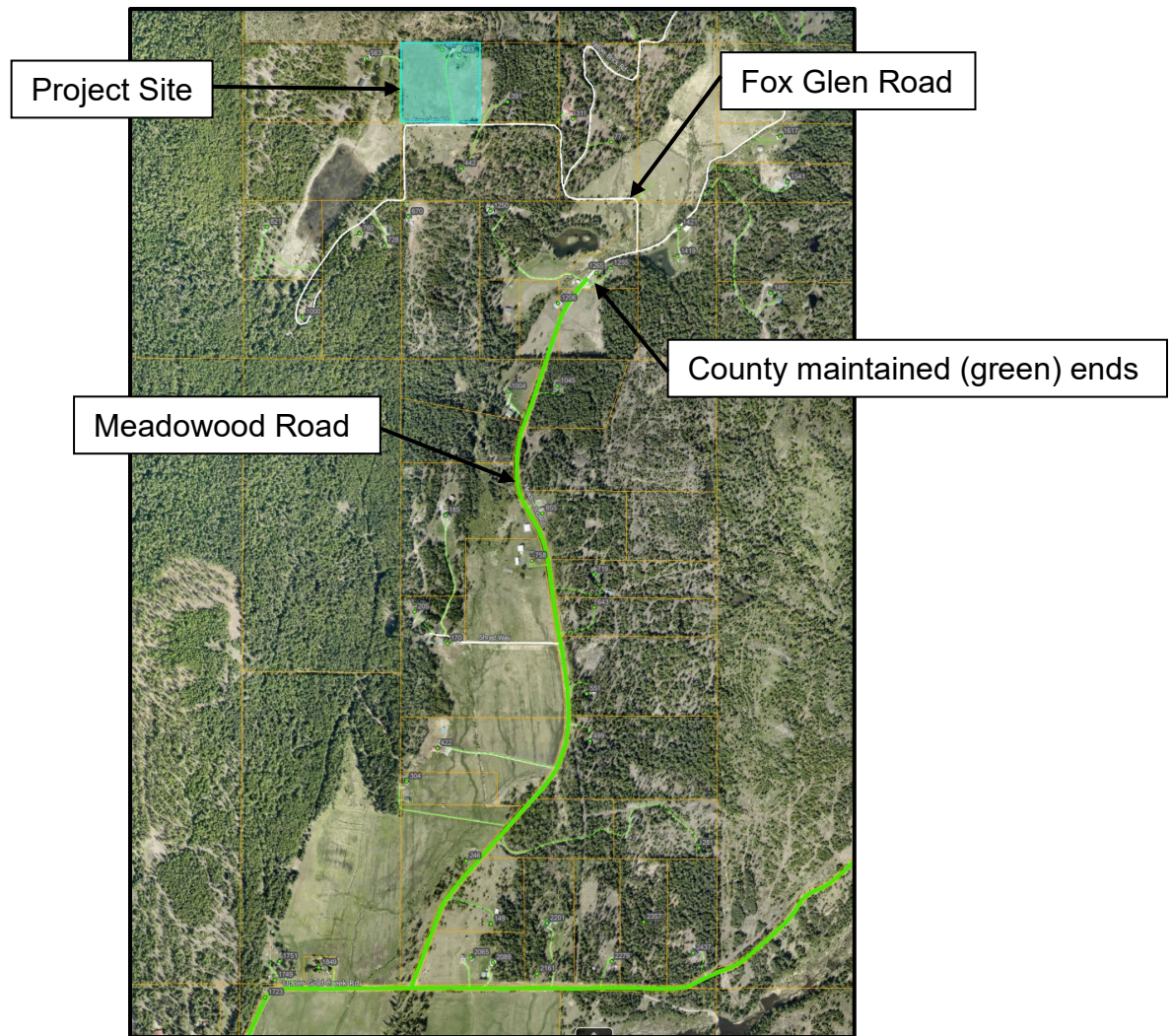
Staff: The parcel on which this use is proposed meets the minimum requirements for the Agricultural/Forestry 10 zoning district. The site plan shows the current and proposed structures on the property, including sufficient land for planting and harvesting grapes. The new proposed winery building will be approximately 500 feet away from the nearest residential building. The closest adjoining property to the proposed expansion is a vacant 160-acre parcel owned by Stimson Lumber Company for forestry purposes to the north.

(4) Specified conditions with respect to emissions of noise, light, glare, smoke, odor, dust, particulate matter, vibrations or hours of operation may be prescribed differently from those required in a given district, as to be compatible with other applicable State and Federal standards.

Staff: The applicant does not propose any additional emissions of noise, light, glare, smoke, odor, dust, particular matter, vibrations, or hours of operations than what is allowed in the Agricultural/Forestry district. **See Conditions of Approval**

(5) Where access to the site is by road, the road shall be located within a recorded easement or public right-of-way, and constructed to the appropriate standard set forth in title 2 of this Code or appendix A of this title, except where subject to the terms of an approved special use permit issued by a State or Federal agency.

Staff: The property is accessed by Fox Glen Road, a privately owned and maintained road. Per the Bonner County Road and Bridge comment, Fox Glen Road is accessed by Meadowood Road, a privately maintained public road which turns into a County maintained public road 500ft south of the intersection with Fox Glen Rd. Bonner County Road and Bridge has suggested that improvement to Meadowood Road may be warranted as a condition of approval.



Bonner County Road and Bridge further recommends and states:

- 1. The Applicant be required to improve Meadowood Rd from the end of County maintenance to the Fox Glen intersection, a distance of approximately 500ft. The improvements should meet the requirements for a local access road with less than 200 ADT and more than 50 ADT, as outlined in Section 7 of the Bonner County Road Standards Manual. This would include improvements to ditches, widening the road out to two lanes (22ft wide), meeting the proper thicknesses of road base and gravel layers, etc.*
- 2. The Fox Glen Rd approach onto Meadowood Rd within the public right of way has never been permitted previously with the Road & Bridge Department. I recommend as a condition of approval that The Applicant be required to apply for a road approach encroachment permit for the existing access and improve the intersection to meet County standards, which would include widening the intersection to 30ft plus radii, and likely replacing and upsizing the culvert in the creek which is adjacent to the road.*

3. There are illegal signs at the end of County maintenance (and again further out) which state that Meadowood Rd is a private road, and informs people not to trespass. These signs need to be removed as the road is public beyond the cul-de-sac per Humbird Lumber Company deed (instrument #063549) which reserved the existing roads as public roads. This is further reinforced on more current deeds for several parcels along the northern stretches of the road.

4. Fox Glen Rd, being a private road, is not within our jurisdiction and we have no comments regarding any improvements that may, or may not, be needed.

The applicant has requested a deviation from Appendix A, Private Road Standards, footnote (5). Per the applicant, "Fox Glen Road does not currently meet the width standards for a business access road. It is a single lane road that varies between 12-14 feet in width. However, it would be extremely difficult to have this road widened due to the cost of doing so and that it would overlap onto existing private property of many of my neighbors. There are numerous widened sections along the road for cars to pass each other. As the proposed winery operation will be by appointment only, there will be very little additional traffic on the road." **See Conditions of Approval.**

(7) 1 on premises sign, not in excess of 32 square feet, which may be lighted from the exterior, shall be permitted when included as part of the conditional use permit application.

Staff: The applicant is asking for a deviation from the standard to allow for two (2) total signs on the property, one to be located at the end of the driveway, and one to be located on the proposed building for the winery. Neither sign will be in excess of 32 square feet. **See Conditions of Approval.**

(8) A traffic plan is required describing, at minimum, the method of ingress and egress to the site, traffic circulation within the site and on premises parking and loading areas.

Staff: The applicant has submitted a traffic plan, showing the method of ingress and egress, traffic circulation, on premises parking and loading areas. This plan has been deemed adequate by the Bonner County Planning Department (see further parking standards review below). In their comment, North Side Fire District has requested that the site to include: driveway improvements, emergency vehicle turnarounds, year-round maintenance to the road and driveway, occupancy limits of the proposed building, and location of propane tanks to sources of ignition. Bonner County does not have any standards for driveways, location of propane tanks, or emergency vehicle access. Additionally, the International Fire Code has not been adopted by Bonner County.

(20) At least 0.5 acre of primary beverage ingredient used in distilling or brewing shall be grown on site. Winery, brewery or distillery shall be clearly subordinate to agricultural operation. All structures associated with the beverage operation shall be a minimum of 75 feet from property lines. Sales are limited to fermented or distilled beverages produced on site and limited food sales. Sales of bottle openers, glasses or other such promotional items identifying the site are permitted. Hours of operation and maximum occupancy may be limited by the conditional use permit.

Staff: The applicant has dedicated approximately 4-acres of the subject property to be used for the growth of grapes, the main ingredient in the wine produced on site. The property is primarily used for residential and agricultural purposes. The applicant currently has an issued Home Occupation permit, HO0003-19, to operate the winery; the applicant would like to expand the operation of the winery. The winery will be permitted to sell the beverages on site, merchandise promoting the operation, including, but not limited to, bottle openers and glasses. All buildings associated with the winery must be a minimum of 75 feet from all property lines. **See Conditions of Approval**

BCRC 12-420 General Standards

Staff:

- The project does not propose development of any structures on the property to accommodate or house greater number of families than permitted by the standards of Bonner County Revised Code. **See Conditions of Approval.**
- The project is not proposing any development to occupy a greater percentage of lot area than that required by the standards of the Bonner County Revised Code, Title 12.
- The project does not propose any deviations to open space, yard requirements or parking spaces being used for the winery. **See Conditions of Approval.**
- The property is accessed by Fox Glen Road, a privately owned and maintained road. Comments were received by North Side Fire, while they did not comment on the quality of the Fox Glen Road, they did request that the road and driveway of the property be maintained for them to properly respond to emergencies. **See Conditions of Approval.**
- Currently, the project does not propose a fence around the property.
- Currently, the project proposes no parking or storage of vehicles that are not in operating condition or that have not been used for a period of six months in conjunction with the requested uses.
- Temporary buildings, construction trailers, equipment and materials used in conjunction with construction work for the proposed project may be permitted during the period the construction work is in progress, but such temporary facilities shall be removed upon completion of the construction work. **See Conditions of Approval.**
- This project does not propose conversion of any existing residences to accommodate an increased number of dwelling units.
- The subject site is not a corner lot. The standards for visibility at intersections do not apply to this project.
- All architectural projections such as canopies, eaves, balconies, platforms, decks, carports, covered patios, and similar architectural projections shall be considered parts of the building to which attached and shall not project into any required setback. **See Conditions of Approval.**

BCRC 12-421 Performance Standards for All Uses:

Staff:

- The project proposes no activity involving the use or storage of flammable or explosive materials on or off site.

- The project proposes no activity involving emittance of harmful radioactivity or electrical disturbance.
- The application for the proposal states that the hours of operation will be limited from 8 AM to 6 PM. Operations are to include, but are not limited to, the production and sales of wine and promotional products, harvesting, crushing, pressing, and bottling. Working hours for the operators may be extended during the harvesting season (September 1st to November 15th). All customer visits will be limited to the traditional hours of operations of 8 AM to 6 PM and will be by appointment only.
- The project does not propose any activities that would seem to contribute to air or water pollution.

See Conditions of Approval.

BCRC 12-432 Table 4-3 Minimum Off-Street Parking Requirements:

BCRC 12-431 C: Unspecified Uses: Parking for unspecified uses shall be determined by the planning director. Requirements for such unspecified uses shall be based on the requirements for the most comparable use pursuant to the "Standard Industrial Classification Manual" or the North American industry classification system, as amended, modified or superseded.

The proposed use does not have a specified designation in BCRC 12-432. NAICS classified this use under "manufacturing", which would be classified, in the Bonner County Revised Code, under "Industrial or Institutional".

Resource Based Use: Winery – The parking standards have been determined as follows:

Industrial or institutional (3)	1 space/1,000 gross square feet floor area OR 1/2 space/employee, whichever is greater	Within 800 feet of the principal use
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(3) Industrial, institutional and commercial uses shall be provided with off street loading spaces, exclusive of access areas, of not less than 12 feet in width. Loading spaces shall not project into public rights of way or setback areas.

Staff: The applicant has proposed a winery subordinate and accessory to farming.

The winery is proposed to be operated on an area of ±2,256 square feet. The code requires 1 space/ 1,000 gross square feet of floor area, within 800 feet of the principal use. Per the parking requirements noted above, 3 parking spots are required to be located within 500 feet of the principal use to accommodate this use on the site.

The applicant has designated adequate parking and off-street loading areas within 800 feet of the proposed building. **See Conditions of Approval.**

BCRC 12-4.4, Sign Standards:

Staff: The project proposes locating two signs on the property, one affixed to the proposed building, and one at the entrance to the winery. The applicant is requesting a

deviation to 12-336 Note 7, to allow two (2) signs on the property, instead of one (1) sign. All signs will be no larger than 32 square feet. **See Conditions of Approval.**

BCRC 12-4.5, Design Standards:

BCRC 12-451: Applicability:

The standards in this chapter shall apply to all new development in the commercial, industrial where commercial uses and services are proposed, and rural service center districts and all other commercial, multi-family, public and industrial development in other zoning districts unless otherwise noted.

Staff: The standards of this subchapter are not applicable to this proposal for a Winery subordinate and accessory to farming is a resource based use and is located in the Agricultural/Forestry 10 zoning district.

BCRC 12-452: Site and Building Plans:

The applicant shall submit site and building plans through the applicable permit process detailed as necessary to demonstrate how the standards in section 12-453 of this chapter have been met.

Staff: Building Location Permits will be required for any new structures to be located on site in conjunction with this Conditional Use Permit. **See Conditions of Approval.**

BCRC 12-453 Standards:

Staff:

- This is a proposal for a resource based use on a property zoned Agricultural/Forestry 10. The sidewalk/pathway and pedestrian connection standards do not apply to the project.
- Per the submitted site plan, the proposed location of the parking shows that it covers less than 50% of the lot frontage. Therefore, the project qualifies for reductions of landscaping buffers, minimum front yard setback requirements and for setbacks of free-standing signs per BCRC 12-453.D.
- A lighting plan has been provided as part of the application. The applicant has proposed to use the existing lighting. All lighting on site is required to meet the standards of BCRC 12-453.F. **See Conditions of Approval.**
- Building plans have been provided as part of this application. Any development in conjunction with the proposed use is required to meet the standards of BCRC 12-453.G. **See Conditions of Approval.**
- Any outdoor storage of commercial and industrial materials on site is required to meet the standards of BCRC 12-453.J. **See Conditions of Approval.**
- Per the application, solid waste will be taken to a solid waste collection facility as needed.

BCRC 12-4.6, Landscaping and Screening Standards:

BCRC 12-461: This standard is only applicable for new development in the commercial, industrial and rural service center districts and all other commercial, multi-family, public and industrial development in other district unless otherwise noted.

Staff: The applicant is proposing resource use on a property zoned Agricultural/Forestry 10. The proposed use falls under the "Resource-Based Use" table in the Bonner County Revised Code, and therefore is not required to meet these screening standards. **See Conditions of Approval.**

BCRC 12-7.2, Grading, Stormwater Management and Erosion Control

BCRC 12-720.3 Activities to which this Subchapter is Not Applicable:

(K) Applications for conditional use permits, industrial and commercial site plan reviews, planned unit developments and variances that do not result in the creation of additional "impervious surface", as defined in section 12-809 of this title.

Staff: This project proposes new development that would result in the creation of additional impervious surface. The applicant may be required to submit a storm water management, grading and/or erosion control plan in accordance with the provisions of BCRC 12-7.2 prior to any development on site in conjunction with this Conditional Use Permit. **See Conditions of Approval.**

BCRC 12-7.6, Hillsides

Staff: Site contains mapped steep slope of over 30% grade. The applicant may be required to provide a geotechnical analysis prior to construction of any new development if any land disturbing activities are proposed in areas where the natural slope equals or exceeds slopes of over 30% grade. **See Conditions of Approval.**

COMPREHENSIVE PLAN ANALYSIS:

Review against the Comprehensive Plan Goals and Objectives:

Property Rights:

Goal:

1. Protect property rights and enhance property values through conscientious land use planning that complies with state law relevant to all county land use actions.

Objective:

1. Private property should not be taken for public uses without just compensation or due process of law.
2. Impacts to other properties should be taken into account when considering land use proposals, policies and codes.

Staff: The application was routed to neighbors 300' from the property line, informing neighbors of the proposed conditional use permit. As of March 11, 2024, Bonner County Planning received comments stating potential impacts to the neighbor's property rights.

This proposed use is conditionally allowed for all private property owners in the Agricultural/Forestry zoning districts under BCRC 12-336, Resource Base Use Table.

Population:

Goal:

1. Ensure that the impact of demographic changes including generational issues and economic diversity are identified and considered during planning activities and decisions.

Objective:

1. Maintain current and projected county population estimates and utilize this information when making land use decisions.

Staff: Bonner County has received the results of the 2020 census. The data indicates the demand for housing and jobs will continue to trend upward in both the unincorporated and incorporated areas of Bonner County.

The goal and objective of this component appear to be unaffected by the proposal.

School Facilities & Transportation

Goal:

1. Preserve the county's commitment to and ability to provide quality education to the current and future students of Bonner County.

Objective:

1. Ensure that the proposed developments and county land use decisions do not adversely impact the local school districts and their ability to provide adequate school facilities and transportation systems.
2. The county should encourage school districts to proactively review development applications to determine particular school needs and concerns.
3. Bonner County roads, trails and bicycle paths should be designed and maintained to allow safe passage of students to schools.
4. Long-term consequences of land use proposals should be considered, including the adequacy of existing facilities and the siting of future schools.

Staff: Lake Pend Oreille School District #84 did not comment as to how a winery accessory and subordinate to farming could affect the delivery of school services. Lake

Pend Oreille School Transportation that serves the property was notified of this proposal. No comments were received. This project does not propose any additional residential density.

Economic Development

Goal:

1. Support and encourage economic development.

Objective:

1. Support small businesses such as markets, restaurants, recreational activities, campgrounds, and marinas that provide services which support resort residents and visitors in their local communities.
2. Enable development of small-scale cottage industries and home-based occupations while protecting the surrounding areas from adverse impacts.
3. Policies regarding economic development activities should seek to mitigate the impacts of such factors as noise, light glare, odors, fumes and vibrations on the surrounding community.
4. Support local economic development by increasing support for outdoor recreation in Bonner County. Encourage and protect public access to public lands and water, campgrounds, and recreational areas.
5. Support local businesses by enabling development of workforce housing in proximity to commercial, industrial and agricultural uses.

Staff: Bonner County Revised Code allows for properties in the Ag/Forest Land designation to pursue agricultural activities that could add to the economic diversity of the county. This proposal could add economic diversity while having a minimal impact to the surrounding area.

This proposal appears to be supported by objectives 1, 2, and 3 by supporting small businesses, enabling development of small-scale cottage industries and home-based occupations, and supporting economic development activities that have little to no impacts of such factors as noise, light glare, odors, fumes and vibrations on the surrounding community.

Land Use

Goal:

1. Bonner County intends to balance and integrate its land use policies and proposed land use map with the components of the comprehensive plan to enable the community to grow while retaining its rural character and protecting its unique natural resources.

Objective:

1. Bonner County should develop and maintain a future land use map and land use codes that acknowledge and protect its agricultural, timber and mining lands, protects the water and wildlife resources, identifies and avoids hazard areas, provides areas for economic growth, encourages affordable housing and centers growth in areas where adequate public and private services can be provided.
2. Encourage clustered development for medium and large scale commercial and industrial uses.
3. Commercial and industrial uses should be located and operated in a manner to ensure the protection of our natural resources including clean air and water, dark skies, and overall environmental quality and rural character of Bonner County.

Staff: The proposed conditional use permit could add to the economic growth of Bonner County while still maintaining the rural character of the area. The goal of this component appears to support the proposal for conditionally allowed uses which allows the community to grow while protecting the natural resources.

Natural Resources**Goal:**

1. Protect, enhance and maintain the County's natural resources such as air, water, forest, minerals, plants and wildlife for long-term benefits to the public.
2. Acknowledge and consider agency comments regarding natural resources.

Objective:

1. Bonner County's system of lakes and waterways is one of its greatest assets, and Bonner County should strive to preserve both the quality and quantity of its water resources.
2. Bonner County values its productive agricultural lands and forests, mining lands, its fisheries, wildlife, wetlands and aquifer recharge areas and should provide measures to protect and maintain these natural features.
3. Bonner County should protect its water resources by requiring adequate sewer treatment systems based on soil, density, and intensity of use to reduce impacts to water resources.

Staff: Agency comment letters were received from Idaho Department of Water Resources and Department of Environmental Quality. Both made recommendation and/or suggestions. Conditions of Approval to facilitate this proposal in being supported by goals 1 and 2, and objectives 2 and 3, have been recommended by planning staff. Furthermore, the Bonner County Revised Code has requirements to ensure that natural resources are protected.

Hazardous Areas

Goal:

1. Protect Bonner County from loss of lives and property due to natural hazards.
2. Reduce public and private financial losses due to flood, fire, landslides, avalanches and excessive slopes by setting standards for development in high hazard areas.

Objective:

1. Bonner County intends to regulate the location and density of new development in floodplain to reduce the potential for the loss of lives and property within flood hazard areas.
2. Future development should be designed to reduce exposure to wildland fire and to provide for emergency and escape routes for residents.
3. Development within areas of excessive slopes, unstable areas and avalanche zones should be discouraged.

Staff: The property is not located in a flood plain hazard zone. The property is not characterized by, but does contain steep slopes of over slopes of 30% grade on approximately 10% of the subject site. The west half of the subject property appears to contain slopes below 15%. Slopes could present challenges when developing. Due to the steep slopes on the property, a geotechnical analysis could be required.

Public Services, Facilities & Utilities

Goal:

1. Future development approvals should require adequate services and should not adversely impact the services or utilities of the utility provider.
2. Require adequate public services, facilities, and utilities in future development approvals.

Objective:

1. New development should be adequately served by fire protection, roads, sewer, schools, law enforcement, ambulance, power and emergency services, water and other public or private services.
2. Require the developers to provide infrastructure, utilities or financial support to offset the capital costs of expansion of services, required by the proposed development.
3. Bonner County shall require adequate provisions for future utility services in areas of commercial, industrial, residential or other similar uses.

Staff: The property is afforded fire protection, roads, power, emergency services, water, and law enforcement for the current residential use on the property. The public services listed above may need to be expanded for the proposed uses requested through this Conditional Use Permit. Any expansions to these services the applicant will need to obtain the required permitting through the appropriate agencies that govern these services. Conditions of Approval B-1, B-2, and B-3 have been recommend to facilitate this proposal in being supported by goal 2, requiring adequate public services, facilities and utilities, and objective 1, being adequately served by private services.

Transportation:

Goal:

1. Provide a transportation system that is safe, uncongested, and well maintained.

Objective:

1. Future development should not adversely impact the existing transportation system by reducing the quality or level of service or creating hazards or congestion.
2. Roads within new development should be built to county standards and at the expense of the developer.
3. Roads within new development should provide adequate access for fire and emergency vehicles as well as routes of escape.
4. Future access roads should be designed and built to integrate with the state and county system of roads without overburdening the transportation system.
5. To reduce transportation costs, road building and environmental impacts, cluster development should be encouraged.
6. Bonner County intends for certain intense land use developments to provide paved roads.
7. Bike ways and pedestrian paths should be considered in development plans to provide an integrated community transportation system wherever possible.
8. To communicate and work cooperatively with other jurisdictions within the county to ensure the best possible flow of traffic county-wide.

Staff: The applicant has requested a deviation from the road standards, as found in BCRC 12-336 Note 5, as the proposal states that the proposed use will generate minimal additional traffic, as the use is operating in a different capacity on the subject property. The applicant has submitted a traffic plan, showing the method of ingress and egress, traffic circulation, on premises parking and loading areas. Per the applicant, the winery will only generate a maximum of three vehicle trips per day. This additional maximum vehicle trips appear to be allow for the safe and uncongested travel on Fox Glen Road.

This proposal is supported by objective 1, and should not adversely impact the existing transportation system or the quality or level of service or create hazards of congestion.

Recreation:

Goal:

1. Protect and encourage public and private recreational opportunities as an important asset that supports a key segment of the County's economy.

Objective:

1. Ensure public legal recreational accesses and amenities are not obstructed or adversely impacted by future development.

Staff: The goal and objective of this component do not conflict with this proposal.

Special Areas or Sites:

Goal:

1. To protect, preserve and maintain special areas and sites both natural and manmade in relation to land use.

Objective:

1. Future developments should not adversely affect or destroy culturally or ecologically sensitive sites.

Staff: The goal and objective of this component do not conflict with this proposal.

Housing:

Goal/ Objective:

1. Provide an environment that enables opportunities for diverse housing needs.

Staff: The goal/objective of this component do not conflict with this proposal.

Community Design:

Goal:

1. To enable a variety of lifestyles while maintaining the rural character in the future development of Bonner County.

Objective:

1. New development should be located in areas with similar densities and compatible uses.

2. The adverse impacts of new development on adjacent areas should be minimized.
3. Consider the protection of natural resources, rural features and surrounding uses of the community in the design and location of new development.

Staff: The applicant is proposing future new development. The subject parcel is currently meeting the zoning minimum for the Agricultural/Forestry 10 district, being 10-acres. One-hundred-sixty acres (160) of vacant land is adjacent to the north of the proposed site. The nearest adjacent neighbor's dwelling is approximately 600 feet away from the proposed future development and another adjacent neighbor's dwelling is approximately 700 feet away. The goal and objectives of this component appear to support the proposal as this proposal will enable a variety of lifestyles (home business), locate the future new development in similar densities in the area, minimize the adverse impacts on adjacent areas, and protect the natural resources and surrounding uses of the community design and the location of future new development by requiring the setback of structures in conjunction with the proposed use to 75 feet, where 25 feet.

Agriculture:

Goal/ Objective:

1. Protect the rural character and agricultural heritage of Bonner County by retaining large and small scale commercial agriculture and hobby farms as viable uses.
2. Support the local economy by encouraging production, distribution, and retail sales of locally grown food and other agricultural products.
3. Develop policies to discourage fragmentation of very large productive agricultural lands.

Staff: The proposed use will encourage agricultural pursuits in this area, as the proposed use is resource-based, involving the growing of crops and producing agricultural products for distribution and sale.

Staff Conclusion:

Staff concluded this project **is** consistent with Bonner County Revised Code based upon the information found in the 'Background' and 'Staff Analysis' portions of this staff report. Conditions of approval have been added to facilitate the project's conformance to Bonner County Revised Code.

Planner's Initials: AF Date: May 21, 2024

Note: The final decision rests with the governing body after the completion of the public hearing and consideration of all relevant oral and written testimony and evidence.

Motions by the Board of County Commissioners:

MOTION TO UPHOLD DECISION:

I move to uphold the Hearing Examiner's decision, and approve this project FILE CUP0001-24 for a winery subordinate and accessory to farming, finding that it is in accord with the general and specific objectives of the Bonner County Comprehensive Plan and Bonner County Revised Code as enumerated in the following **CONCLUSIONS OF LAW**:

1. The proposed conditional use permit **is** in accord with the Bonner County comprehensive plan.
2. This proposal **was** reviewed for compliance with the criteria and standards set forth at Title 12, BCRC Chapter 2 Subchapter 2.2, BCRC Chapter 3 Subchapter 3.3, BCRC Chapter 4 Subchapter 4.2-4.6, Chapter 7 Subchapter 7.2 and 7.6, Bonner County Revised Code.
3. The proposed use **will not** create a hazard or **will not** be dangerous to persons on or adjacent to the property.

This decision is based upon the evidence submitted up to the time the Staff Report was prepared and testimony received at this hearing. I further adopt the findings of fact and conclusions of law as set forth in the Staff Report (or as amended during this hearing) and direct planning staff to draft written findings and conclusions to reflect this decision, and transmit to all interested parties. The action that could be taken to obtain the conditional use permit is to complete the Conditions of Approval as adopted. This action does not result in a taking of private property.

MOTION TO REVERSE DECISION:

I move to reverse the Hearing Examiner's decision, and deny this project FILE CUP0001-24 for a winery subordinate and accessory to farming, based upon the following **CONCLUSIONS OF LAW**:

1. The proposed conditional use permit **is/ is not** in accord with the Bonner County Comprehensive Plan.
2. This proposal **was** reviewed for compliance with the criteria and standards set forth at Title 12, BCRC Chapter 2 Subchapter 2.2, BCRC Chapter 3 Subchapter 3.3, BCRC Chapter 4 Subchapter 4.2-4.6, Chapter 7 Subchapter 7.2 and 7.6, Bonner County Revised Code.
3. The proposed use **will not/ will** create a hazard or **will not/ will** be dangerous to persons on or adjacent to the property.

The decision is based upon the evidence submitted up to the time the Staff Report was prepared, and testimony received at this hearing. I further adopt the findings of fact and conclusions of law as set forth in the Staff Report as amended during this hearing and direct planning staff to draft written findings and conclusions to reflect this decision, and transmit to all interested parties. This action does not result in a taking of private property. The action that could be taken, if any, to obtain the conditional use permit is to:

- (1)File a new application with the Planning Department and meet the standards required by Bonner County Revised Code; or

(2) Pursue such remedies as may be applicable at Title 67, Chapter 65, Idaho Code.

Findings of Facts:

1. The site is zoned Agricultural/Forestry 10, where wineries subordinate and accessory to farming are conditionally allowed.
2. The site has an individual well and septic system for their current residential use.
3. The site is 10 acres in size.
4. The site is accessed off Fox Glen Road, a privately owned and maintained road. The applicant has requested a deviation from BCRC 12-336 Note 5, as the road does not currently meet Appendix A standards. "Fox Glen Road does not currently meet the width standards for a business access road. It is a single lane road that varies between 12-14 feet in width. However, it would be extremely difficult to have this road widened due to the cost of doing so and that it would overlap onto existing private property of many of my neighbors. There are numerous widened sections along the road for cars to pass each other. As the proposed winery operation will be by appointment only, there will be very little additional traffic on the road."
5. The site is served by Northern Lights Inc. for their current residential use.
6. The site is in the mapped service area of North Side Fire District.
7. The site contains steep slopes of over 30% grade (USGS).
8. The site is located within SFHA Zone X (FEMA).
9. The site does not contain mapped wetlands (NWI, USFWS).
10. The property is accessed by Fox Glen Road, a privately owned and maintained road. North Side Fire District has requested modifications to the site to allow for emergency vehicle turnarounds and to maintain the road and driveway year-round to allow for better access in case of emergencies.
11. The project does not propose development of any structures on the property to accommodate or house a greater number of families than permitted by the standards of Bonner County Revised Code.
12. The project is requesting a deviation to the sign requirements set forth in BCRC 12-336 Note 7, to allow the applicant to locate two (2) signs on the property in connection with the proposed use, instead of one sign. The signs will be located on the proposed building and at the entrance to the winery. All signs will be 32 square feet or smaller.
13. The project proposes no activity involving the use or storage of flammable or explosive materials on or off site.
14. The project proposes no activity involving emittance of harmful radioactivity or electrical disturbance.

15. The hours of operation will be limited from 8 AM to 6 PM. Operations are to include, but are not limited to, the production and sales of wine and promotional products, harvesting, crushing, pressing, and bottling. Working hours for the operators may be extended during the harvesting season (September 1st to November 15th). All customer visits will be limited to the traditional hours of operations of 8 AM to 6 PM and will be by appointment only.
16. The project does not propose any activities that would seem to contribute to air or water pollution.
17. The winery facility is proposed to be operated on an area of $\pm 2,256$ square feet.
18. The winery has designated approximately 4-acres of the property to the agricultural operation of the growing of grapes, to be used to produce wine on site.
19. All buildings in conjunction with the winery will be 75 feet from all property lines.
20. Per the application, there will be a maximum of three (3) vehicle trips per day in conjunction with this conditional use.

Conditions of Approval:

Standard continuing permit conditions. To be met for the life of the use:

- A-1** The use shall be developed and shall be operated in accordance with the approved site plan.
- A-2** The Conditional Use Permit shall not supersede deed restrictions.
- A-3** Per BCRC 12-226.C, the Conditional Use Permit shall expire if not issued within two (2) calendar years from the date of approval, or once issued, if the use has not commenced within two (2) calendar years from the date of issuance. At any time prior to the expiration date of the Conditional Use Permit, the applicant may make a written request to the Planning Director for an extension of the Conditional Use Permit for a period up to two (2) years. The Zoning Commission at any regular meeting, or board at any regular meeting, may consider the request for extension. The extension request must be approved or denied prior to the expiration date of the conditional use permit.
- A-4** Per 12-336, Resource Based Use Table, all buildings in conjunction with the winery must be 75 feet from all property lines.
- A-5** Per 12-336, Resource Based Use Table, a minimum of 0.5-acres must be designated for the growth of grapes or other crops used to produce wine.
- A-6** The hours of operation will be limited from 8 AM to 6 PM. Operations are to include, but are not limited to, the production and sales of wine and promotional products, harvesting, crushing, pressing, and bottling. Working hours for the operators may be extended during the harvesting season (September 1st to November 15th). All

customer visits will be limited to the traditional hours of operations of 8 AM to 6 PM and will be by appointment only.

- A-7** Per BCRC 12-420, all structures located on site in conjunction with this Conditional Use Permit will meet the required street and property line setback standards of BCRC Title 12.
- A-8** Per BCRC 12-420, all architectural projections such as canopies, eaves, balconies, platforms, decks, carports, covered patios, and similar architectural projections shall be considered parts of the building to which attached and shall not project into any required setback.
- A-9** Per BCRC 12-420, temporary buildings, construction trailers, equipment and materials used in conjunction with construction work for the proposed project may be permitted during the period the construction work is in progress, but such temporary facilities shall be removed upon completion of the construction work.
- A-10** Per 12-432, Parking Standards, the project is required to have space for 3 parking spaces.
- A-11** Per BCRC 12-4.4, only the two proposed signs shall be located at the winery entrance and on the proposed winery building. All signs shall be 32 square feet or smaller. Excluding the sign deviation outlined in the findings of fact, all signs shall meet the sign standards and requirements of Title 11 and Title 12 of the Bonner County Revised Code.
- A-12** Per BCRC 12-452, any structures or development on site permitted through this Conditional Use Permit is required to obtain appropriate Building Location Permits or other approvals from the Bonner County Planning Department prior to the development on site.
- A-13** Per BCRC 12-453.F, any lighting on site shall meet the standards of this section of the ordinance.
- A-14** Per BCRC 12-453.G, any development on site permitted through this Conditional Use Permit shall meet the standards of this section of the ordinance.
- A-15** Per BCRC 12-453.J, any outdoor storage of commercial and industrial materials on site is required to meet the standards of this section of the ordinance.
- A-16** Site contains mapped steep slope of over 30% grade. Any development on site located within or in proximity of the areas of steep slopes is required to meet the standards of BCRC 12-7.6 prior to the start of development on site.
- A-17** This project proposes new development that would result in the creation of impervious surface. The applicant may be required to submit a storm water management, grading and/or erosion control plan in accordance with the provisions of BCRC 12-7.2 prior to any development on site in conjunction with this Conditional Use Permit.

Conditions to be met prior to the issuance of this Conditional Use Permit:

- B-1** All permits must be obtained from Idaho Department of Environmental Quality for a public drinking water and wastewater system and/or documentation from Idaho Department of Environmental Quality that the existing systems are sufficient to serve the winery.
- B-2** All permits and licenses must be obtained by Panhandle Health District for a new septic system, a food establishment license, and proof that the water source meets standards as required by the Idaho Food Code and/or documentation from Panhandle Health District that all requirements have been fulfilled.
- B-3** All permits from Idaho Department of Water Resources must be obtained, and/or documentation from Idaho Department of Water Resources stating that all requirements have been fulfilled.
- B-4** The building to be used for the winery is currently under construction, with an issued Building Location Permit, BLP2023-0383. This building is permitted as a "shop". A change of use to the structure is required to be submitted to the Bonner County Planning Department.

The complete file is available for review in the Planning Department, 1500 Highway 2, Suite #208, Sandpoint, ID. Staff reports are available at www.bonnercountyid.gov prior to the scheduled hearing. Bonner County Revised Code (BCRC) is available at the Planning Department or online.