



## COUNTY OF SONOMA

575 ADMINISTRATION  
DRIVE, ROOM 102A  
SANTA ROSA, CA 95403

### SUMMARY REPORT

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**Agenda Date:** 12/6/2022

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**To:** Board of Supervisors

**Department or Agency Name(s):** Permit Sonoma

**Staff Name and Phone Number:** Hannah Spencer, Supervising Planner (707) 565-1928

**Vote Requirement:** Majority

**Supervisorial District(s):** Fourth

**Title:**

**1:40 PM** - File No. MNS18-0004 Chalk Vista Vineyards, LLC Minor Subdivision

**Recommended Action:**

Hold a public hearing and adopt a Mitigated Negative Declaration, Resolution, and Conditions of Approval for a Minor Subdivision of 38 +/- acres into 3 parcels, 11.92 acres, 10.78 acres, and 15.34 acres in size, subject to a Land Conservation Act Contract for property located at 1276 Jensen Lane, Windsor; APN 162-020-007. (Fourth District)

**Executive Summary:**

This is a request for a Minor Subdivision of 38 +/- acres into 3 parcels, 11.92 +/- acres (Parcel 1), 10.78 +/- acres (Parcel 2), and 15.34 +/- acres (Parcel 3). The subject property is currently under a Prime (Type I) Land Conservation Act contract for vineyard land. This Minor Subdivision requires Board of Supervisors approval because of the existing Land Conservation Act contract. A Mitigated Negative Declaration (MND) is proposed which finds that potential environmental impacts have been fully mitigated to less-than-significant levels. On April 7, 2022, the Project Review and Advisory Committee, who normally approve Minor Subdivision requests for lands not under Land Conservation Act contracts, recommended the Board of Supervisors consider their findings and conditions of approval for the project. The Minor Subdivision is consistent with all of the Land Conservation Act findings required by the County's Uniform Rules for Agricultural Preserves and under state law. Condition No. 6, in the Conditions of Approval, requires each of the 3 newly created parcels to be placed under new, individual Land Conservation Act agricultural contracts. The new agricultural contracts would continue to preserve vineyard land.

**Discussion:**

Cort Munselle, on behalf of the property owner, Chalk Vista Vineyards, LLC, proposes to subdivide 38 +/- acres into 3 parcels, 11.92 +/- acres (Parcel 1), 10.78 +/- acres (Parcel 2), and 15.34 +/- acres (Parcel 3). The subject property is subject to a Prime (Type I) Land Conservation Act contract for vineyard land. Minor Subdivisions are normally approved by the Project Review and Advisory Committee; however, this Minor Subdivision requires Board of Supervisors approval because of the existing Land Conservation Act contract. Following approval of the minor subdivision, the applicant will be required, as a condition of approval, to submit complete applications and fees to rescind the existing Prime Land Conservation (Williamson) Act contract encumbering the property and replace it with three new separate Prime Williamson Act contracts for each resulting parcel pursuant to Sonoma County's Uniform Rules for Agricultural Preserves.

A Mitigated Negative Declaration (MND) is proposed which finds that potential environmental impacts have been fully mitigated to less-than-significant levels. All mitigation measures have been incorporated into the project conditions of approval. The MND was circulated through the State Clearinghouse and noticed for public review and comment from February 7, 2022 through March 8, 2022. In response to agency comments, staff revised the MND to enhance protection of special-status plants and riparian and wetland habitat; and include additional habitat analysis and protection measures for burrowing owl and American badger (Mitigation Measures BIO-1 through BIO-2c). The revised MND also addresses comments made by the Project Review and Advisory Committee (PRAC). On April 7, 2022, PRAC held a public meeting and recommended staff revise the project conditions of approval and MND to remove parcel map notes that do not apply to the project, including notes for greenhouse gas emission reduction plans and references to SRA fire protection. PRAC also requested staff clarify final design review is required on all future structures prior to building permit issuance (Mitigation Measure VIS-2). PRAC's recommended findings and conditions for the project are provided under Attachment 2.

**Site Characteristics:**

The property is part of a Community Separator located east of the Town of Windsor. The 38-acre site is devoted to agriculture with 29 acres planted in vineyard. In the unplanted areas of the property there are two seasonal drainages, non-native grassland, coast live oak woodland, and three seasonal wetlands. Access to the new parcels will be provided via an existing easement through a neighboring parcel and a new 650-foot paved private road 18-feet in width with shoulders and turnouts. The private road will connect the three new parcels to Jensen Lane, a county-maintained road. Surrounding land uses are predominantly vineyards, agricultural and residential uses. Topography consists of level to moderately steep terrain with elevations ranging from 200 feet to 340 feet above mean sea level. The eastern portion of the property is zoned for Geologic Hazards and is within the Earthquake Fault Zone for the Rodgers Creek Fault.

The property is predominantly located in Groundwater Availability Class 1, within the Santa Rosa Valley - Santa Rosa Plain priority groundwater basin. An adequate water supply for each parcel will be provided via new water supply easements and water lines connected to an existing water well on proposed Parcel 3. Sanitary waste disposal for all three parcels will be provided by new onsite septic systems for homes ranging 3 to 7 bedrooms in size. Fire services are provided by Sonoma County Fire Department, as the entire property is in a Local Responsibility Fire Protection Area (LRA). Although the property is outside of the fire hazard severity zones, 14-acres of the site are designated as an "Influence Zone" of the Wildland Urban Interface. A portion of this Influence Zone is within the 2019 Kincadee Fire perimeter.

Zoning for the property is Diverse Agriculture with a 10-acre density (10-acres per dwelling unit), Accessory Unit Exclusion, Geologic Hazard Area, Scenic Resource, and Valley Oak Habitat.

**Subdivision Map Act:**

A subdivision must comply with the Subdivision Map Act (Government Code Sections 66410 through 66499.58). Specifically, the Tentative Map complies with Section 66474 of the Subdivision Map Act in that the project as it is conditioned and its design are consistent with the General Plan, the site is physically suitable for the development, the subdivision will not cause substantial environmental damage or injure fish or wildlife or their habitat, the subdivision is not likely to cause serious public health problems, and the design of the subdivision will not conflict with public easements.

**Staff Analysis:**

Project elements include three building envelopes (one for each parcel), and construction of two septic lines and a 650-ft private roadway to provide access to each of the three parcels. The two septic lines would be jack-and-bore underneath the drainages they cross and thereby avoid direct impacts to the streams and riparian habitats. The proposed 650-ft private paved road will be 18-feet wide with 1-ft wide shoulders on each side. A roadside drainage swale will be installed to convey stormwater to an appropriate discharge location. Stormwater treatment will be provided via vegetated swales and/or bioretention areas to mitigate for the increased runoff from the new private road.

The project does not propose any structures however, it is anticipated that each new Parcel will eventually be developed with permitted residential uses allowed by the Diverse Agricultural Zoning District, such as a primary residence. All future structures are required to be located within the building envelopes identified on the Tentative Map (Attachment 4). The proposed building envelopes, septic areas and driveways are all located within the existing vineyard and vineyard avenues - areas of the property that avoid impacts to special-status species and plants and sensitive habitats. The building envelopes also meet the required setbacks from fault lines and landslide features. Future construction within the building envelopes would be minimally visible from public view and design review is required for future structures as per the PRAC recommendation.

*Cultural Resources*

An archaeological evaluation of the site was conducted by Tom Origer and Associates in April 2018. Field survey findings indicated that there are no historic, cultural, or tribal cultural resources onsite, however construction related to the project could uncover such materials. Mitigation Measure CUL-1 requires a note be placed on the recorded Parcel Map requiring that if archaeological materials are discovered during construction activities, all work shall cease and Permit Sonoma staff shall be notified so that the find can be evaluated by a qualified archaeologist.

*Biological Resources*

A Biological Resources Assessment was prepared by WRA, Inc. in May 2018. WRA also conducted site visits to the property on April 13, 2018 and March 8, 2022 to search for suitable habitats for special-status species. WRA found that the subdivision project has the potential to affect 12 special-status plant species; however, none of these plants were observed during the site visits. The areas proposed for construction activities are in the existing vineyard and along vineyard avenues, which do not support any special-status plant species or wetland habitats. To ensure there are no potential impacts to special-status plant species, Mitigation Measure BIO-1 requires a rare plant survey be completed prior to future construction activities.

WRA finds that future construction onsite has the potential to affect the following special-status bird species: Oak titmouse (USFWS Bird of Conservation Concern); White-tailed kite (CDFW Fully Protected Species); and Nuttall's woodpecker (USFWS Bird of Conservation Concern). Additionally, WRA recommends that future development conduct burrow and den surveys to determine if potential habitat for burrowing owl and American badger has developed onsite in the intervening years since the 2022 field assessment. To reduce the potential impact to special-status wildlife species to a less than significant level, Mitigation Measures BIO-2a through BIO-2c requires pre-construction biological surveys prior to future construction activities. Prior to construction and through completion of initial site disturbance, Permit Sonoma staff will verify that all required surveys have been conducted according to applicable protocols to avoid sensitive habitat or species and ensure compliance.

*Geologic and Slope Stability:*

The applicant provided the following studies for the project: a Fault Rupture Hazard Evaluation prepared by PJC & Associates, Inc. (September 5, 2019); Preliminary Geotechnical Study Report prepared by RGH Consultants, Inc., (May 7, 2018); and a Slope Stability Study prepared by PJC & Associates, Inc. (September 19, 2019). The Fault Study did not identify any surface fault traces of an active or inactive fault within 50 feet of the proposed building envelopes. The Geotechnical Report recommended design-level geotechnical studies for future building sites/residences. Mitigation Measure GEO-1 requires a note be placed on the recorded Parcel Map requiring design-level geotechnical studies addressing the potential for surface fault rupture prior to building permit issuance on each proposed parcel. The Slope Stability Study found that a number of active landslide features were identified in the nearby area, but none were interpreted as posing a risk to future development within the building envelope identified for each new parcel.

Standard conditions of approval for the project require all future ground disturbing activities comply with County Codes for building and seismic safety, grading, and erosion control.

*Groundwater Availability:*

A hydrogeologic study was prepared for the project by O'Connor Environmental Inc. dated May 15, 2019 (OEI Report). The OEI Report estimated the project would result in up to 2.25 acre feet per year of increased groundwater pumping. The OEI Report concluded there is little potential to negatively impact groundwater supply, groundwater levels in neighboring wells, and surface waters. Permit Sonoma's Professional Geologist determined the analysis in the hydrogeologic study was well documented and of appropriate detail and effort to support the findings. No project specific conditions of approval related to groundwater supply or monitoring were recommended for the project by Permit Sonoma's Professional Geologist.

*Wildland Fire:*

Permit Sonoma's Fire Prevention Division reviewed the proposed Tentative Map and provided standard conditions of approval for the project. Prior to recording the parcel map, the Fire Marshal requires the landowner demonstrate that each proposed parcel meets Sonoma County Fire Safe Standards by providing evidence pertaining to the following:

- Fire apparatus access roads, including bridges and gate access
- Addressing, signing and building numbering
- Emergency water supplies
- Setbacks for buildings
- Fuel modification and defensible space clearances for buildings
- A recorded maintenance agreement for the preservation, maintenance or repairs for all access roads

All future construction onsite must comply with County Fire Safe Standards. Meeting the County's Fire Safe Standards reduces the project's potential to expose people or structures risk of loss, injury or death involving wildland fires to a less than significant level.

*Visual Impacts*

The project site can be characterized as having high visual sensitivity because it is located in the Scenic Resources Combining District and classified as a "Community Separator." Mitigation Measures VIS-1 and VIS

-2 recommended by PRAC ensure that future residential development would be minimally visible from public views by requiring all future structures be located in the building envelopes and final design review is completed prior to building permit issuance.

*General Plan Consistency:*

The subdivision of 38+/- acres into 3 parcels, each over 10 acres, is consistent with the General Plan land use designation of Diverse Agriculture 10 acres per dwelling unit density and is consistent with the Zoning Code designation of the Diverse Agriculture district's 10-acre minimum parcel size.

The proposed subdivision must continue to demonstrate it's in conformance with General Plan Policy AR-8c of the Agricultural Resource Element and meet the findings set forth in Section 66474.4 (a) of the Map Act, and Government Code Sections pursuant to the Land Conservation Act, as explained below:

General Plan Policy AR- 8c states, *"Subdivision of any Williamson Act contracted lands shall not result in any new parcel less than 10 acres in size for Type 1 preserves or 40 acres in size for Type 2 preserves, or the established minimum lot size, whichever is more restrictive."*

The project site is under a Prime Land Conservation Act contract. The policy can be met since each newly created parcel will be over 10 acres in size, thereby, meeting the parcel size requirement for new Prime (Type 1) replacement contracts. The subdivision proposes 3 parcels, 11.92+/- acres, 10.78+/- acres, and 15.34+/- acres in size. In addition, the proposed subdivision does not create a conflict with the General Plan Policy for the Diverse Agriculture land use designation, as the proposed parcels will continue to be devoted to permitted agricultural and residential uses.

**Land Conservation Act:**

The project site is currently under a Prime (Type I) Land Conservation Act contract. A subdivision of land under a Land Conservation Act Contract can be approved provided the subdivided land conforms to the County Uniform Rules and meets the findings set forth in the State Subdivision Map Act, Section 66474.4.

Under the County Uniform Rules for Agricultural Preserves, Rule 10 requires a subdivision of land under a Land Conservation Contract meet the following criteria:

**Rule 10.1 Subdivision of Contracted Land.**

*A. "No land subject to a land conservation contract shall be subdivided unless the Board of Supervisors finds that":*

- 1. The subdivision is consistent with the General Plan and Zoning Code.*

**Staff analysis:**

The subdivision creates three parcels (11.92 +/- acres (Parcel 1), 10.78 +/- acres (Parcel 2), and 15.34 +/- acres (Parcel 3) which is consistent with the Diverse Agriculture density allowance of 10 acres per dwelling unit and the zoning districts' minimum parcel size requirement of 10 acres. In addition, the newly created parcels exceed the 10-acre minimum parcel size requirement for the Prime replacement contracts required as a condition of approval for the minor subdivision.

- 2. Each resulting parcel will separately qualify for a land conservation contract and be consistent with the*

*requirements of the Land Conservation Act and these uniform rules.*

Staff analysis:

Currently the project site is under a Prime Land Conservation Act contract which requires a 10-acre minimum parcel size. The three newly created parcels will individually qualify for a Prime contract as each parcel is devoted to a qualifying prime agricultural operation. A minimum of 50 percent of the land must be continuously used or maintained for agricultural uses. For less than 12 acres of prime agricultural land, a minimum of 6 acres must be planted in a permanent crop. Proposed Parcel 1 and Parcel 2 are between 10-12 acres in size and each parcel contains a minimum of 6 acres planted in vineyard. Proposed Parcel 3 is 15 acres in size and contains 13 acres (81%) planted in vineyard. Additionally, the vineyard currently exceeds the minimum annual gross income requirement of \$1,000.00 per planted acre and compatible uses for each proposed parcel do not occupy more than 15 percent of the total proposed parcel size.

3. *The subdivision and each resulting parcel will conform with the requirements of the Subdivision Map Act, including Government Code section 66474.4.*

Staff analysis:

A subdivision of land under a Land Conservation contract(s) must demonstrate it meets the findings set forth in Section 66474.4 (a) of the Map Act with the Board of Supervisors required by law to make the final decision. Section 66474.4 (a) states the following:

*§ 66474.4. (a) "The legislative body of a city or county shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it finds that either the resulting parcels following a subdivision of that land would be too small to sustain their agricultural use or the subdivision will result in residential development not incidental to the commercial agricultural use of the land, and if the legislative body finds that the land is subject to any of the following:*

- (1) A contract entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5), including an easement entered into pursuant to Section 51256.*
- (2) An open-space easement entered into pursuant to the Open-Space Easement Act of 1974 (Chapter 6.6 (commencing with Section 51070) of Part 1 of Division 1 of Title 5).*
- (3) An agricultural conservation easement entered into pursuant to Chapter 4 (commencing with Section 10260) of Division 10.2 of the Public Resources Code.*
- (4) A conservation easement entered into pursuant to Chapter 4 (commencing with Section 815) of Part 2 of Division 2 of the Civil Code.*

Subsection (b) of said Section 66474.4 establishes the following presumptions for making these findings:

- (1) For purposes of this section, land shall be conclusively presumed to be in parcels too small to sustain their agricultural use if the land is (A) less than 10 acres in size in the case of prime agricultural land, or (B) less than 40 acres in size in the case of land that is not prime agricultural land.*
- (2) For purposes of this section, agricultural land shall be presumed to be in parcels large enough to sustain their agricultural use if the land is (A) at least 10 acres in size in the case of prime agricultural land, or (B) at least 40 acres in size in the case of land that is not prime agricultural land."*

Staff analysis:

For a subdivision of land under a Land Conservation Act contract, the local government must have a substantive basis for approving the application and map. It must do so on the basis of a specific and affirmative determination that each of the resulting parcels is large enough to sustain the agricultural uses to which it is restricted and must make a finding that the subdivision will not result in residential development of the resulting parcels, except where residential use will be incidental to the agricultural use of the land.

Under state law and the County's Uniform Rules adopted by the Board of Supervisors in 2011, a parcel is presumed to be large enough to sustain its prime agricultural use if the land is at least 10 acres in size.

Consistent with the qualifications for prime contracts, all three parcels will exceed 10 acres in size with 6 acres planted in vineyard on proposed Parcels 1 and 2, and over 50% of proposed Parcel 3 planted in vineyard - a prime agricultural use. In addition, the future residential use of each parcel will be incidental to the agricultural use of the land. The Uniform Rules limit future development to compatible uses, including residential development, to a maximum of 15% of the total parcel size and not to exceed 5 acres.

Agricultural

whichever is more restrictive. For this project, the 15% threshold applies. The present property is restricted by a prime agricultural contract. Anticipated future compatible uses and vineyard acreage for each new parcel are described below.

- Parcel 1 (11.92 acres in size) proposes a building envelope 0.33 acres in size with a driveway 0.16 acres in size (totaling 4.1% of Parcel). Approximately 0.49 acres of vineyard would be removed to develop the parcel's driveway and building envelope, reducing the 9.22-acre vineyard to 8.73 acres, or 73% of the parcel. Parcel 1 proposes a 0.2-acre standard septic area which will remain in vineyard production.
- Parcel 2 (10.78 acres in size) proposes a building envelope 0.31 acres in size and a driveway 0.13 acres in size (totaling 4.1% of Parcel). Approximately 0.44 acres of vineyard would be removed to develop the parcel's driveway and building envelope, reducing the 6.44-acre vineyard to 6 acres, or 55% of the parcel. Parcel 2 proposes a 0.37-acre standard septic area which will remain in vineyard production.
- Parcel 3 (15.34 acres in size) proposes a building envelope 0.42 acres in size, a driveway 0.24 acres in size and a non-standard septic area 0.2 acres in size (totaling 7.4% of Parcel). Approximately 0.86 acres of vineyard would be removed to develop the parcel's driveway, septic area and building envelope, reducing the 13.36-acre vineyard to 12.5 acres, or 81% of the parcel.

Rule 10.1 Subdivision of Contracted Land continued:

B. *"The County shall require an owner of contracted land that has been or will be subdivided to apply, pursuant to Uniform Rule 9.0 of these uniform rules, for rescission of the existing contract and simultaneous replacement of that contract with a separate new contract for each qualifying parcel resulting from the subdivision. This requirement may be waived by the County if a notice of nonrenewal has been recorded for the contract restricting the land that has been or will be subdivided, and the phase out period has begun."*

Staff analysis:

Condition of Approval No. 6 requires that prior to recording the Parcel Map, the applicant shall submit three

complete applications for each of the resultant parcels to rescind and replace the two original Land Conservation Contracts with a separate Prime contract for each resulting parcel.

**Staff Recommendation:**

Staff recommends the Board adopt the Mitigated Negative Declaration, approve the project, and find that:

- all Government Code Section 66474 findings are satisfied in connection with the proposed minor subdivision,
- the minor subdivision is consistent with the County's Uniform Rules,
- the minor subdivision will not result in any significant environmental effect,
- the proposed lots as depicted on the tentative map will continue to be devoted to qualifying agricultural uses.

The Conditions of Approval require that prior to recording the Parcel Map the property owner shall submit the appropriate applications and filing fees to rescind and replace the existing contract with three new Prime Land Conservation Act contracts on the three new parcels. Once the Parcel Map has recorded, then the County can proceed with preparation of the new contracts, and include the new legal descriptions for the three new parcels.

**Strategic Plan:**

N/A

**Prior Board Actions:**

- 12/13/2011: Board approves the Sonoma County Uniform Rules for Agricultural Preserves and Farmland Security Zones (Resolution No. 11-0678)
- 07/31/2012: Board amends the Sonoma County Uniform Rules for Agricultural Preserves and Farmland Security Zones (Resolution No. 12-0379)
- 05/07/2013: Board amends the Sonoma County Uniform Rules for Agricultural Preserves and Farmland Security Zones (Resolution No. 13-0186)
- 12/20/2016: Board amends the Sonoma County Uniform Rules for Agricultural Preserves and Farmland Security Zones (Resolution No. 16-0485)
- 10/31/2017: Board amends the Sonoma County Uniform Rules for Agricultural Preserves and Farmland Security Zones (Resolution No. 17-0426)
- 11/07/2017: Board amends the Sonoma County Uniform Rules for Agricultural Preserves and Farmland Security Zones (Resolution No. 17-0438)

**FISCAL SUMMARY**

N/A

**Narrative Explanation of Fiscal Impacts:**

Approval of the Land Conservation Act Contract means that the owner will pay reduced property taxes based upon the value of the agricultural uses rather than the land value under Proposition 13. This reduces the County's share of property tax revenue for the subject parcel. Because the property is currently under a Land Conservation Act contract and is therefore already subject to reduced property tax assessment, the County of Sonoma Assessor estimates there will be no change in property assessment value, and therefore no fiscal



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**Agenda Date:** 12/6/2022

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impact associated with the application.

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

ATT 1: Board of Supervisors Resolution and Attachment A: Conditions of Approval

ATT 2: Project Review Advisory Committee Record of Action, April 7, 2022

ATT 3: Proposal Statement

ATT 4: Tentative Map

ATT 5: Assessor Parcel Map

ATT 6: MNS18-0004 Revised Mitigated Negative Declaration and attachments

ATT 7: Staff PowerPoint

**Related Items “On File” with the Clerk of the Board:**

N/A