



MEMORANDUM

TO: Deschutes County Board of County Commissioners

FROM: Nathaniel Miller, AICP, Associate Planner

DATE: February 25, 2026

RE: Public Hearing: A Commercial Activity in Conjunction with Farm Use (Winery) in the Multiple Use Agricultural Zone – Modification of Application.

The Board of County Commissioners (Board) is conducting a Public Hearing on February 25, 2026, to consider a Modification of Application (247-25-000734-MA) for a commercial activity in conjunction with farm use to establish a Winery in the Multiple Use Agricultural Zone (MUA10). The Applicants applied for a conditional use permit and site plan review for the proposed use. A Hearings Officer approved the applications; an appeal to the Board was thereafter filed and remains pending. In response to issues raised in the appeal, the Applicants now seek to modify the original applications. The applications and appeal are identified as file nos. 247-22-000464-CU, 466-SP, 24-018-A. The property is addressed at 20520 Bowery Lane, Bend, and is further identified on County Assessor's Map 17-12-09B as Tax Lot 1000. A location map is included as **Attachment A**.

I. BACKGROUND

The Applicants, Duane and Dina Barker, have requested a Conditional Use Permit and Site Plan review for a Commercial Activity in Conjunction with Farm Use to establish a Winery with associated uses in the Multiple Use Agricultural Zone (MUA10). The property owners propose to convert a portion of an existing accessory building into a tasting room and office space. The proposal also includes the conversion of an existing barn for small-scale wine production and wine storage. The proposal includes the production of up to 1,500 cases of wine annually as well as hosting wine related events on the property such as wine tastings, wine dinners, and other wine marketing events directly related to the sale and promotion of wine produced from the vineyard.

The applications were initially referred to a Public Hearing on August 4, 2023, with a continued hearing conducted on August 24, 2023. On September 15, 2023, the applicants waived the 150-day clock for the Conditional Use Permit and Site Plan Review applications.

II. HEARING OFFICER DECISION

The Deschutes County Hearings Officer rendered a decision approving the Applicant's request for a Conditional Use Permit and Site Plan Review for the Winery on January 2, 2024.

Staff notes the following salient elements of the Hearings Officer Decision:

- The Hearings Officer addressed issues raised in the Staff Report specific to Title 22 and the Deschutes County Procedures Ordinance. These include:
 - The open Code Enforcement Case on the property; and
 - The noticing requirements for the application.
- The Hearings Officer determined the proposal meets the requirements of DCC 18.32.030(C) and qualifies as a Commercial Activity in Conjunction with Farm Use.
- The Hearings Officer determined the proposal likely conforms to the Site Plan Review standards of DCC 18.116 and DCC 18.124, however the Decision states that additional details are required. The Hearing Officer included 33 conditions of approval in the decision.

III. APPEAL

The Appellant (Toby Bayard) submitted a timely appeal to the Hearings Officer's Decision on January 9, 2024. The Appellant requested the Board to initiate a review and conduct a hearing to evaluate the following issues:

- Whether wineries can only be cited on property in the Exclusive Farm Use Zone pursuant to ORS 215.452, and not in any other zone.
- Whether the Hearings Officer erred in finding that a winery can be approved on MUA10-zoned property as a Commercial Activity in Conjunction with Farm Use.
- Whether the Hearings Officer's Decision is inconsistent with the previous approval under Deschutes County File nos. 247-22-000024-CU, 22-025-SP, 22-757-A, 22-914-A (Commercial Activity in Conjunction with Farm Use for a Meadery in the EFU Zone).
- Whether the Hearings Officer erred in the incorporation of testimony placed into the public record.

IV. BOARD PUBLIC HEARING TIMELINE

- April 10, 2024: Board public hearing;
- May 21, 2024: Prior to Board deliberations, applicant requested the record be reopened;
- May 24, 2024: Board Order 2024-019 reopened the record;
- February 26, 2025: Prior to Board deliberations, applicant requested the record be reopened to allow submittal of the Modification of Application;
- March 5, 2025: Board Order 2025-006 reopened the record;
- December 11, 2025: Applicant submitted the Modification of Application;
- February 25, 2026: Continued Board public hearing date.

V. MODIFICATION OF APPLICATION (247-25-000734-MA)

The Modification of Application was submitted in response to issues raised in staff's draft Deliberation Matrix. The Modification provides both additional information and new requests. The following is a brief summary of the new content submitted with the modification:

- Changes to the application to address various issues areas previously raised. These include:
 - Revised site plan to address clear vision areas, drive aisle, and parking.
 - Proposed alteration to the Winery Building for compliance and re-permitting.
 - New information from the Oregon Department of Environmental Quality (DEQ) and onsite wastewater treatment.
 - New information from Bend Fire and Rescue approving the site plan and confirming access to the site.
 - A reduction in annual wine output from 2,000 cases to 1,500 cases.
 - Permitting for the Tasting Room.

- Changes proposed as part of the Modification of Application.
 - A reduction in the parking space requirement from 21 spaces to 14 spaces.
 - A reduction in required landscaping in response to the reduction in parking.
 - Adjustment of Condition of Approval EE. A delay in the time requirement to remove private property, including fences, posts, walls, crops, landscaping, and other features, from the public right of way for Bowery Lane.

Further details are within the submitted application materials for the modification (ref. file no. 247-25-000734-MA). The materials are located on the proposal website and official record here: <https://www.deschutes.org/cd/page/247-22-000464-cu-247-22-000466-sp-24-018-25-734-ma-lava-terrace-cellar-winery-vinyard>. Staff included the revised site plan as **Attachment B**.

VI. NEW PUBLIC AND AGENCY COMMENTS

Notice of the Modification of Application was mailed on December 17, 2025, in accordance with Deschutes County Procedure Ordinance, Title 22. New agency and public comments were uploaded to the digital record and can be accessed through the links provided above. No new comments of support were received.

Comments were received from nine individuals in opposition. A summary of the letters are as follows:

- Not a good use of space and wine making could have toxic byproducts.
- Winery activity could damage the local aquifer.
- Incompatibility with neighborhood due to impacts.
- Wineries should be sited on Exclusive Farm Use-zoned properties.
- Artificial Intelligence (AI) analysis of the MUA10 Zone and function.

- The volume of wastewater anticipated to be produced by the proposed winery cannot be considered *de minimus*.
- Suggestions to limit neighborhood impacts.
- An analysis as to why wineries cannot be sited on properties in the MUA10 Zone.
- A winery proposed at this location violates state law and the intent of the Oregon statewide planning program.
- Additional traffic impacts on the north side of Hunnell Road.
- Insufficient space on the property for a winery.
- Unpermitted activity.
- Traffic impacts on Bowery Lane.
- Noise Impacts.

The applicant submitted a response to some of the objections raised in the above comments on February 6, 2026.

Three individuals submitted letters in support of the proposal. A summary of the letters are as follows:

- Good location.
- Supports tourism and economy.
- Represents local agritourism.

VII. 150-DAY LAND USE CLOCK

On September 15, 2023, the applicants waived the 150-day clock for applications 247-22-464-CU, 466-SP. The 150-day clock restarted when the applicant submitted the Modification of Application on December 11, 2025. The 150th day on which the County must take final action on these applications is May 11, 2026.

VIII. RECOMMENDED MOTION CONCLUDING THE PUBLIC HEARING

The Board will consider whether an Open Record Period after the public hearing is merited to receive more information on the proposal. Alternatively, the record could be closed, and staff can prepare for Deliberations to be scheduled at a date and time certain.

IX. RECORD

The record for file nos. 247-22-000464-CU, 466-SP, 24-018-A, 25-734-MA is as presented at the following Deschutes County Community Development Department website:

<https://www.deschutes.org/cd/page/247-22-000464-cu-247-22-000466-sp-24-018-25-734-ma-lava-terrace-cellars-winery-vinyard>

X. OUTSTANDING RECORD ISSUES

Staff notes that three public comments were received after the allotted phase in the First Reopened Record Period. These comments are identified as:

2024-08-22 D. Gant - (Outside Record Phase) Email and Public Comment 22-464-CU, 466-SP, 018-A

2024-08-27 R. Freed - (Outside Record Phase) Email and Public Comment 22-464-CU, 466-SP, 018-A

2024-08-28 D. Voiles - (Outside Record Phase) Email and Public Comment 22-464-CU, 466-SP, 018-A

The Board should address whether it will accept these three public comments as part of the record.

XI. ATTACHMENTS

Attachment A: Location Map

Attachment B: Revised Site Plan