

BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF NAPA

In the matter of:

The Appeal by Robert and Sarah Pursell)
from the Decision by the Conservation)
Development, And Planning Commission)
Approving Use Permit Modification Request)
No. P11-00424, the Cedar Knolls Vineyards /)
Palmaz Winery, APN 049-270-019-000)

1. On September 22, 1999, and as revised on November 16, 2000, Palmaz Vineyards, Amalia Plamaz as Trustee ("the Permittee"), applied to the Napa County Conservation, Development and Planning Department ("the Department") for a winery use permit, Use Permit #00243-UP ("the Winery Permit"), to establish a new winery at 4029 Hagen Road in the City of Napa, Assessor Parcel Number 049-270-019-000 ("the Project Site") which is adjacent to the property owned by Salon Blue Trust, Robert Pursell and Sarah Pursell as Trustees ("the Appellant") at 2424 North Third Avenue in the City of Napa, Assessor Parcel Number 052-130-047-000.
2. On November 13, 2001, in consideration for the additional conditions of approval introduced to the Board of Supervisors after the continuance authorized at 2:30 p.m. on November 13, 2001 ("the Settlement Agreement", Exhibit A attached hereto), Citizens for Protection of Coombsville Environment ("the Neighbors") agreed to not undertake any legal challenge to the County of Napa's approval of a use permit for the Palmaz Vineyards Winery (#00243-UP). This agreement was signed by the Permittee, Thomas Lippe Attorney for the Neighbors, and Tim Darrin, Coordinator for the Neighbors.
3. The Settlement Agreement added certain restrictions on the Winery Permit to protect the quiet use and enjoyment of the Appellant's and the Neighbor's properties. Restriction #1 in the Settlement states "No signage for the winery shall be visible from Hagen Road or North Third Avenue".

The signage prohibition was added to prevent consumers, some intoxicated, from driving the residential neighborhood surrounding Hagen Road and North Third Avenue looking for wineries. The Permittee understood the business ramifications of having "By Appointment Only" tastings when the Permittee signed the Settlement Agreement and built the Winery.

4. On August 31, 2010, the Department issued the Permittee Sign Permit P10-00298 ("the Sign Permit") for two directional signs located on Hagen Road and North Third Avenue. The signs were subsequently installed in January 2011.

On January 20, 2011, the Appellant filed Code Enforcement Complaint CE11-00010 in response to the installation of the signs claiming the Sign Permit violated the Settlement Agreement.

On June 28, 2011, the Department revoked the Sign Permit with their apologies to the Appellant for not consulting the Settlement Agreement before issuing the permit.

5. On September 1, 2011, the Permittee filed Use Determination Request P11-00178 ("the Determination Request") to settle the issue of whether or not directional signage was permissible under the Settlement Agreement.

On September 27, 2011, the Department issued a letter (Exhibit B, attached hereto) with their findings to the Determination Request. The letter states:

"The County finds that any form of advertisement that meets the Zoning Code definition of a Sign, and is subject to Zoning Code Section 18.116, is prohibited if such signage is visible from Hagen Road or North Third Avenue. In order to allow any winery-related signage visible from Hagen Road or North Third Avenue, a modification to the use permit will be necessary.

The Determination Request findings were not appealed by the Permittee.

6. On October 20, 2011, the Permittee filed Use Permit Modification Request P11-00424 ("the Action Being Appealed") to install directional signage visible from Hagen Road and North Third Avenue.

On December 3, 2011, the Appellant requested a hearing on the Action Being Appealed. The Appellant provided evidence for the hearing supporting the opposition of the Action Being Appealed.

On April 3, 2012, a hearing was held regarding the Action Being Appealed. The Action Being Appealed was approved during the hearing.

On April 6, 2012, the Department issued a letter (the "Findings Letter", Exhibit C, attached hereto) with their findings to the Action Being Appealed.

7. The Appellant believes items #1, #2, and #3 in the Findings Letter regarding the Action Being Appealed violates the Settlement Agreement to which the Permittee previously agreed and should be declined.

Settlement agreements are a basic tool by which parties resolve disputes to avoid litigation.

Generally speaking, in the case of winery use permits, settlement agreements typically involve a permittee agreeing to winery use permit restrictions not normally found in county code in exchange for expedited approval of said winery permit and the avoidance of costly litigation with its neighbors.

In the Action Being Appealed, the Permittee avoided both a lengthy environmental impact report process and litigation by agreeing to the winery use permit restrictions found in the Settlement Agreement.

The Department and the Napa County Board of Supervisors must uphold and enforce settlement agreements into perpetuity until such time as all parties mutually agree to modify settlement agreements.

In the Action Being Appealed, the Permittee is attempting to unilaterally void the settlement agreement against the interests of the Appellant and the Neighbors.

The Appellant has made numerous attempts to discuss mutually satisfactory modifications to the settlement agreement. The Permittee has refused to discuss any aspect of the Settlement Agreement with the Appellant.

Exhibit A

PALMAZ
USE PERMIT # 00243

ADDENDUM

from the project
property used in the
project subject to use
permit # 00243
and on
JAN T. H.
D

1. No signage for the winery shall be visible from Hagen Road or North Third Avenue.
2. The applicant shall not oppose the formation by the Napa Sanitation District or any other public agency of an assessment district or other financing mechanism intended to bring new surface water to the Coombsville area.
3. The applicant shall not seek approval for expansion of the winery prior to completion of the ongoing United States Geological Survey/ County of Napa study of groundwater into the Miliken-Sarco-Tulocay Basin or until a new water source other than groundwater from the Coombsville area is available.

4. The amount of groundwater ~~used by the project~~ from the project property for use on the 34 acres of vineyard approved in 1997 shall not exceed a two year average of 17 acre feet per year.

5. Comply with the following Marketing Plan:

Private promotional tasting with meals.

Frequency: 2 times per year

Number of persons: maximum 40

Time of Day: 11:00 a.m. to 10:00 p.m. (± four hour events depending on a.m. or p.m. schedule) (All activity including cleanup to end at 10:00 p.m.)

And

Frequency: 1 times per year

Number of persons: maximum 50

Time of Day: 11:00 a.m. to 10:00 p.m. (± four hour events depending on a.m. or p.m. schedule) (All activity including cleanup to end at 10:00 p.m.)

6. The mine tailing remaining on site as of 11/13/01 shall not be removed unless taken to a location approved by the County. All tailings remaining on site shall be stabilized using standard erosion control measures.
7. Retail sales shall be by appointment only.
8. One year following the issuance of the Final Certificate of Occupancy, the applicant shall submit to the County an updated traffic analysis addressing conditions at the intersections of Hagen Lane, Hagen Road, Olive Hill (east) and Third Avenue.

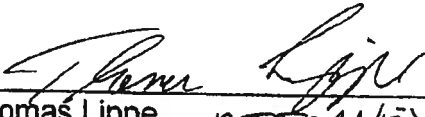
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11/13/01
12/15/01
Tom Keppie 1/13/01

34 acre feet
in any
two year
period
JAN
T. H. D

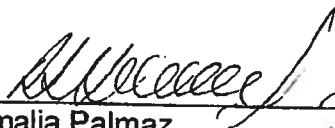
**Agreement between Palmaz Vineyards and Citizens for Protection of
Coombsville Environment:**

In consideration for the additional conditions of approval introduced to the Board of Supervisors after the continuance authorized at 2:30 p.m. on November 13, 2001 (Exhibit A attached hereto), Citizens for Protection of Coombsville Environment agrees not to undertake any legal challenge to the County of Napa's approval of a use permit for the Palmaz Vineyards Winery (#00243-UP).




Thomas Lippe ATTORNEY FOR
Citizens for Protection of Coombsville Environment

11/13/01
Date



Amalia Palmaz
Palmaz Vineyards

11.13.01
Date



Timothy Darrin
Coordinator,
Citizens for Protection of
Coombsville Environment

11/13/01
Date



A Tradition of Stewardship
A Commitment to Service

April 6, 2012

Christian Palmaz
Cedar Knolls Winery
4029 Hagen Rd
Napa, CA 94558

Re: Cedar Knolls Winery, APN: 049-270-019-000, Very Minor Modification Permit Application: #P11-00424 VMM

Dear Mr. Palmaz:

Your application for a Very Minor Modification Application, #P11-00424 to the previous use permits, has been considered by the Conservation, Development and Planning Director on April 2, 2012. The request includes: allowing two (2) winery blue directional signs and one winery monument sign. No other changes are approved as a part of this permit. The modification is consistent with Napa County Code.

Please be advised that your request has been **APPROVED** by the Director subject to the conditions of approval attached as Exhibit A, and as follows:

1. Allow two (2) Blue Directional signs, located in the public right-of-way, as proposed in the application dated October 17, 2011;
2. one (1) Winery Monument sign;
3. Allow for one (1) onsite directional sign outside of the right-of-way; and,
4. Change direction of the existing loop road.

Any additional signage, to include a vineyard identification sign, shall be processed in accordance with Napa County Zoning Section 18.116.030.

The proposed project is Categorically Exempt from the provisions of the California Environmental Quality Act (CEQA), which exempts minor expansions to existing facilities. Pursuant to CEQA Section 15301, Class 1, Existing Facilities, and Appendix B, Class 1, Existing Facilities, of the Napa County's Local Procedures for Implementing the California Environmental Quality Act, on a parcel located in the Agricultural Watershed (AW) District.

This permit becomes effective immediately unless an appeal is filed with the Napa County Board of Supervisors pursuant to Chapter 2.88 of the Napa County Code, including payment of applicable fees. You have the right to appeal the conditions of approval and you will be notified should an appeal be filed by another.

Pursuant to Section 18.124.080 of the Napa County Code, this use permit must be activated within two (2) years from the approval date, or it shall automatically expire and become void. This letter serves as the only notice you will receive regarding the expiration date of your minor modification permit.

EXPIRATION DATE: April 6, 2013

You are hereby further notified, pursuant to Government Code Sec.66020 (d)(1), that the 90-day period, in which you would have to protest imposition of any fees, dedications, reservations, or other exactions that may have been attached as conditions of approval, has begun.

Conservation Development and Planning

1195 Third Street, Suite 210
Napa, CA 94559
www.co.napa.ca.us

Main: (707) 253-4417
Fax: (707) 253-4336

Hillary Gitelman
Director

Exh. 6 / C

Should you have any questions, please contact Linda St. Claire, Project Planner at: (707) 299-1348 or e-mail at: Linda.StClaire@countyofnapa.org.

Sincerely,



John McDowell, Zoning Administrator
Napa County Conservation, Development and Planning Department

cc: Application File, Chron File, John Ward

EXHIBIT A
CONDITIONS OF APPROVAL
Oak Knoll Winery
#P11-00424-Very Minor Modification

1. **SCOPE:**

This permit shall be limited to:

- Install two (2) offsite blue directional signs as proposed in the application dated October 17, 2011, and one (1) onsite directional sign;
- Maintain one (1) winery monument sign, and;
- Change the direction of the loop road.

NO other changes are approved as part of this permit.

The site improvements shall be designed in substantial conformance with the submitted plan, except as modified by these conditions of approval. It is the responsibility of the applicant to communicate the requirements of these conditions to all designers, contractors and employees to ensure compliance is achieved. Any expansion or change in use, or project changes, which are necessitated by the requirement of other departments or agencies, are subject to further County approval.

2. All signs must comply with Section 18.116.055 & 18.116.060 of the Napa County Zoning Ordinance.
3. The Sign shall be placed in substantially the same location as shown on the plans submitted with this application or a designated location approved by the Department of Public Works.
4. The permittee must secure all required building permits and shall comply with all applicable building codes, zoning standards, and requirements of County Departments and agencies including but not limited to Public Works for an encroachment permit.
5. **DIRECTIONAL SIGNS:**

Directional signs shall employ white reflectorized copy on a solid blue background

The total sign height of a directional sign, including the post or standard upon which a directional sign is placed, shall lie below the normal vehicular line of sight to the horizon, and may not exceed six feet above the centerline of any adjacent vehicular right of way.

Lettering may employ any font, upper or lower case, and shall not exceed four inches in height for any letter. One arrow is permitted per sign face. One logo or other symbol per sign face, not exceeding four inches in diameter, may be permitted.

No direct or internal illumination is permitted.

Applicant must contact the Conservation, Development and Planning Department for a final inspection.

6. **WINERY SIGNS:**

All winery signs, including, but not limited to any sign containing "open," "closed," hours of operation, or identifying sales of wine, shall be governed by use permit or a comprehensive sign plan, and shall be compatible with the design and scale of the winery, its site, structures, and surrounding area.

Unless the winery was permitted to conduct public tours or tastings prior to February 22, 1990, a winery that is required to or elects to have a sign identifying the winery at the entrance to or from a public roadway, including a sign attached to or part of an entry structure, must at the same location prominently and legibly post the words "Tours and Tastings by Prior Appointment Only." Any such sign must further conform to any applicable standards adopted by comprehensive sign plan, use permit or commission resolution as to size, placement, materials, legibility and maintenance.

Winery sign design and location shall be consistent with the following standards, unless prior to February 24, 2000, such sign has been approved as part of a use permit, or at any time more restrictive provisions are specified by the applicable use permit or comprehensive sign plan.

One or more freestanding sign faces limited to a combined total of thirty square feet;

A freestanding sign shall have no feature exceeding a height of six feet above the natural grade or four feet above the centerline of an adjoining roadway, whichever is the greater.

7. **PREVIOUS CONDITIONS/MITIGATION MEASURES:**

The permittee shall comply with all applicable conditions of approval and mitigation measures which were included in the previously approved use permits and use permit modifications. To the extent there is a conflict between this modification and any prior use permit or modification, this modification and these conditions of approval shall control.

8. **MONITORING COSTS:**

All staff costs associated with monitoring compliance with these conditions, previous conditions and project revisions shall be borne by the permittee and/or property owners. Costs associated with conditions and mitigation measures that require monitoring, including investigation of complaints, other than those costs related to investigation of complaints of non-compliance that are determined to be unfounded, shall be charged. Costs shall be as established by Board Resolution in accordance with the hourly consulting rate established at the time of the monitoring. Violations of conditions of

approval or mitigation measures caused by the permittee's contractors, employees, and guests are the responsibility of the permittee.

The Planning Commission may implement an audit program if compliance deficiencies are noted. If evidence of compliance deficiencies is found to exist by the Planning Commission at some time in the future, the Planning Commission may institute the program at the applicant's expense (including requiring a deposit of funds in an amount determined by the Commission) as needed until compliance assurance is achieved. The Planning Commission may also use the data, if it is so warranted, to commence revocation hearings in accordance with Section 18.124.120 of County Code.