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Agenda Date: 9/16/2015

Agenda Placement: 9A

## Napa County Planning Commission Board Agenda Letter

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**TO:** Napa County Planning Commission

**FROM:** Charlene Gallina for David Morrison - Director  
Planning, Building and Environmental Services

**REPORT BY:** Dana Ayers, Planner III - (707) 253-4388

**SUBJECT:** Materra, Cunat Premium Vineyards - Use Permit Major Modification #P15-00071-MOD

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### **RECOMMENDATION**

#### **MATERRA, CUNAT PREMIUM VINEYARDS – USE PERMIT MAJOR MODIFICATION # P15-00071-MOD**

**CEQA Status:** Consideration and possible adoption of a Subsequent Negative Declaration in accordance with CEQA Guidelines Section 15162(b). According to the previously-adopted Mitigated Negative Declaration (2009), the then-proposed winery would have, if mitigation measures were not included, potentially significant environmental impacts in the area of Traffic and Transportation. The mitigation measure, which required re-alignment of the access driveway to the winery from Big Ranch Road, was implemented with the recently-built site improvements. Analysis of the current modification proposal to increase annual wine production identified no new significant impacts of the current project proposal. This project site is not on any of the lists of hazardous waste sites enumerated under Government code section 65962.5.

**Request:** Approval of a Use Permit Major Modification (P15-00071 – MOD) to: 1) Increase in the winery's permitted annual production from 50,000 gallons of wine to 85,000 gallons of wine; and 2) Modify the existing septic system on-site to include a new, 2,000-gallon, below-ground septic tank alongside the 5,000-gallons of underground tank storage area behind (east of) the new winery production building, in order to accommodate the additional process waste water from the proposed increase in production. The winery buildings and outdoor processing areas on-site would not and do not need to be expanded for sake of the production increase, and the project applicant is not requesting any increases be made to the winery's approved parking, employment, or visitation and marketing programs. The 50-acre parcel on which the winery sits is located on the east side of Big Ranch Road near Oak Knoll Avenue, north of the City of Napa. The parcel is zoned AP (Agricultural Preserve) District; Assessor's Parcel No. 036-160-003.

**Staff Recommendation:** Adopt the Subsequent Negative Declaration and approve the requested Major Modification to the previously approved use permit, as conditioned.

**Staff Contact:** Dana Ayers, Planner III, phone 707-253-4388 or email [dana.ayers@countyofnapa.org](mailto:dana.ayers@countyofnapa.org)

**Applicant:** Cunat Premium Vineyards, LLC, phone 815-385-3871 or email bgcunat@gmail.com

**Applicant's Representative:** Beth Painter, Balanced Planning, phone 707-287-9089 or email beth@bnpapa.com

## **EXECUTIVE SUMMARY**

### **Proposed Actions:**

That the Planning Commission:

1. Adopt the Subsequent Negative Declaration prepared for the proposed project amendment, as set forth in Findings 1 through 7 of Exhibit A; and
2. Approve Major Modification Application No. P15-00071, based on Findings 8 through 12 of Exhibit A, and subject to the recommended Conditions of Approval (Exhibit B).

### **Discussion:**

The applicant proposes a modification to a previously-approved use permit (Use Permit P08-00428 - UP, as modified by Very Minor Modification P13-00238 - VMM) in order to increase the annual production capacity of a winery approved at 4326 Big Ranch Road, from 50,000 gallons of wine per year to 85,000 gallons of wine per year. Staff supports approval of the Major Modification request, as there would be no increases in visitation or marketing event attendance, and thereby, no increases in visitor-related traffic above already permitted levels. The proposed increase in production would result in an annual increase of approximately 210 truck trips to and from the site for delivery of grapes during the six-week harvest season and winemaking products throughout the year. While water usage related to the increased production would increase, water usage would not exceed one acre-foot per parcel acre per year for the property. The addition of a 2,000-gallon septic tank would have insignificant visual impact on views of the area from Big Ranch Road, as the tank would be installed behind (east of) the winery's production building and below grade.

## **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

## **ENVIRONMENTAL IMPACT**

Consideration and possible adoption of a Subsequent Negative Declaration. According to the proposed Subsequent Negative Declaration, the proposed project would have no potentially significant environmental impacts. This project site is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5.

## **BACKGROUND AND DISCUSSION**

**Property Owner/Applicant:** Cunat Premium Vineyards, LLC

**Representative:** Beth Painter, Balanced Planning, 1455 First Street, Suite 127, Napa; phone (707) 287-9089; email beth@bnapa.com

**Zoning:** AP (Agricultural Preserve) District

**General Plan Designation:** Agricultural Resource (AR)

**Application Filed:** March 5, 2015

**Application Complete:** June 29, 2015

**Parcel Size:** 50 acres

***Approved and Proposed Winery Characteristics:***

**Approved Winery Building Size:** 28,558 square feet (inclusive of hospitality and indoor and covered outdoor production areas)

**Proposed Winery Building Size:** No change

**Approved Production Capacity:** 50,000 gallons of wine per year

**Proposed Production Capacity:** 85,000 gallons of wine per year

**Approved Winery Development Area:** Approximately 34,050 square feet (inclusive of hospitality, indoor production areas, outdoor covered and uncovered production areas, and employee parking lot)

**Proposed Winery Development Area:** No change

**Approved Winery Coverage:** Eight percent of the site (maximum 25 percent allowed)

**Proposed Winery Coverage:** No change

**Approved Accessory to Production Ratio:** 18 percent (24,125 gross square feet production area, 4,433 gross square feet accessory area; maximum 40 percent of production area allowed)

**Proposed Accessory to Production Ratio:** No change

**Approved Number of Employees:** Three full-time employees, three part-time employees, and up to four seasonal employees

**Proposed Number of Employees:** No change

**Approved Visitation:** By appointment, for up to 18 visitors per day, up to a maximum of 40 visitors per week

**Proposed Visitation:** No change

**Approved Marketing Program:** 12 events annually for up to 25 people, plus 12 events annually for up to 50 people, plus two harvest events annually for up to 100 people

**Proposed Marketing Program:** No change

**Approved Hours of Winery Operation:** Monday through Friday, 7:00 a.m. to 5:00 p.m.; daily during crush

**Proposed Hours of Winery Operation:** No change

**Approved Hours of Visitation:** Daily, 7:00 a.m. to 5:00 p.m.

**Proposed Hours of Visitation:** No change

**Approved On-site Parking:** 24 stalls  
**Proposed On-site Parking:** No change

**Setbacks Required:** 20 feet from side and rear lot lines, 600 feet from centerline of Big Ranch Road  
**Proposed Changes to Setbacks:** No change (winery structures currently compliant with required setbacks)

**Adjacent General Plan Designations, Zoning Districts and Land Uses:**

North: Oak Knoll Avenue borders the site to the north. Beyond Oak Knoll Avenue are four parcels, including a 1.4-acre parcel developed with a single-family residence, two parcels (42.5 acres and 16 acres) planted with vineyards, and the 3.1-acre Oak Knoll Inn bed and breakfast. All properties are zoned AP (Agricultural Preserve) District and have a General Plan land use designation of Agricultural Resource.

South: Two parcels, including a two-acre single-family residential parcel and an 81.3-acre parcel developed with the Monticello Cellars winery and planted vineyard lands. All properties are zoned AP District and have a General Plan land use designation of Agricultural Resource.

East: The Napa River borders the site to the east. Beyond the river are two parcels, including a 4.7-acre single-family residential parcel and a 24.8-acre parcel planted with vineyards. All properties are zoned AP District and have a General Plan land use designation of Agricultural Resource.

West: Big Ranch Road borders the site to the west. Beyond Big Ranch Road are two parcels, including a 9.7-acre parcel developed with a single-family residence and planted with vineyards, and a 41.1-acre parcel planted with vineyards. All properties are zoned AP District and have a General Plan land use designation of Agricultural Resource.

**Nearby Wineries (within one mile of project site):**

The attached table lists the 12 wineries operating or approved to operate on properties within one mile of the Materra Winery site. Of the 12 wineries, four have annual production levels (100,000 gallons) that are higher than, but comparable to, the increase in production requested by Materra's operators.

**Parcel History and Evolution of this Application:**

On January 7, 2009, the Planning Commission approved a use permit (Use Permit Application P08-00428 - UP) for Cunat Premium Vineyards to operate a wine production facility (Materra Winery) with visitation and marketing events on a 50-acre property located at 4326 Big Ranch Road. Up to that time, the property had been used for agricultural vineyard purposes for roughly 50 years and was developed with a residence, barn and four other accessory structures related to the agricultural use. Grapes grown on-site were either sold to wineries or, more recently, processed off-site for bottling under the Materra label created in 2007. A Williamson Act contract, which ensured preservation of the property for agricultural use in exchange for certain property tax benefits, had been in effect on the property since 1975. In addition to agriculture, the contract allowed one single-family residence with accessory structures as a permitted use of the site, and it further allowed establishment of wineries on the property with a conditional use permit. The Williamson Act contract remains in effect to date, and current uses on-site are consistent with the terms of the contract.

The Planning Commission's 2009 use permit approval included: 1) an annual production capacity of 50,000 gallons of wine; 2) three full-time employees, three part-time employees, and up to four seasonal employees; 3) winery hours of operation between 7:00 a.m. and 5:00 p.m., Monday through Friday (harvest and crush season excepted); 4) an appointment-only tasting room, with attendance of up to 18 guests per day and no more than 40 guests per week; 5) 12 annual marketing events for up to 25 people, plus 12 annual marketing events for up to 50

people and two annual marketing events for up to 100 people; and 6) construction of a 15,371 square foot production building, a separate 5,094 square foot hospitality building (both buildings of a Mediterranean architectural style), and 5,145 square feet of loading area and outdoor crush pad. Following construction of the winery, 43 of the 46 acres of vineyard would remain on-site. Though not included with that action, the applicant at the time expressed intent to build a new single-family residence on the property.

In October 2010, the applicant received the first permit (sewage system installation, Engineering permit E10-00434) related to construction of the winery, and on April 4, 2011, the Planning Director determined that the use permit approval had been exercised (Use Determination Application P11-00062).

On March 24, 2014, the Planning Director approved Very Minor Modification Application P13-00283 – VMM. Notice of intent to approve P13-00283 – VMM was mailed to owners of property within a 300-foot radius of the boundaries of the Materra Winery property, prior to approval of the application. With approval of P13-00283 – VMM, the project entitlements were revised to include: 1) a change in the architectural style of the winery buildings, from Mediterranean to French farmhouse; 2) a decrease in the hospitality room area from 5,094 square feet to 3,268 square feet, and construction of the hospitality room in the same structure as the barrel storage room; 3) an increase in the winery production building area from 15,371 square feet to 22,850 square feet; 4) alignment of the winery access driveway from Big Ranch Road, to a new location 200 feet south of Oak Knoll Avenue, consistent with the adopted CEQA mitigation measure; and 5) on-premise wine consumption, consistent with Assembly Bill 2004 (Evans), in the tasting room/barrel storage building and adjacent landscaped area.

Construction of the winery and related on-site improvements, which commenced in late 2010, was recently completed in April 2015. The single-family residence and associated agricultural buildings have been demolished. The attached graphics depict the site layout and new production and barrel storage/hospitality buildings. There are currently no active permits for any new single-family residence on-site, though the applicant still has plans for future construction of a house on the property.

Following completion of construction and demolition activities, the 50-acre property has approximately 46 acres of vineyards; this acreage includes 2.5 acres that were not previously in production. Since 2008, the property owner has been undergoing a process to replant the existing vineyard on-site and anticipates receiving a higher yield of seven tons per acre from the new vines as compared to the older vines, which were producing an average of two tons per acre. Consequently, adding this grape tonnage to the 189 acres of Napa County grape contracts that the owner currently has, the winery owner is requesting the use permit modification to increase the maximum allowable production capacity of the winery.

#### **Code Compliance History:**

There are no records of prior code violations related to this property.

#### **Discussion Points:**

1. Modifications to Winery Operations – As explained above, the applicant is requesting a modification to the winery use permit in order to increase the annual production capacity of the winery from 50,000 gallons to 85,000 gallons of wine. The winery buildings and outdoor processing areas on-site would not and do not need to be expanded for the sake of the production increase, and the applicant is not requesting any increases be made to the winery's approved parking, employment, or visitation and marketing programs. In order to accommodate the additional process waste water from the proposed increase in production, a new, 2,000-gallon septic tank is proposed to be added to the 5,000-gallons of tank storage area just to the east of (behind) the new winery production building. This new tank would not be visible from Big Ranch Road due to its placement underground, behind the recently-built buildings on-site.

2. Zoning and Winery Definition Ordinance (WDO) – The property is located in the AP (Agricultural Preserve) District, where the agricultural/vineyard use is permitted and wineries and aboveground disposal of winery wastewater are conditionally permitted uses (Napa County Code Sections 18.16.020 and 18.16.030). As noted above, the winery is authorized to operate on the property under the approval granted with P08-00428 – UP, as later modified with approval of P13-00283 – VMM. Additionally, with the exception of a new 2,000-gallon tank for storage of process wastewater (which would be installed below-grade), no physical changes to the site are proposed with this Major Modification request, such that currently compliant building setbacks, winery coverage, and accessory use components of the winery would remain compliant with standards as specified in Napa County Code Chapter 18.104.

Napa County Code Section 18.104.250 specifies that production capacity of new wineries be determined with approval of a use permit, and that at least 75 percent of grapes processed at wineries in the AP and AW (Agricultural Watershed) Districts be grown in Napa County. The applicant currently has use permit approval under P08-00428 for a production capacity of 50,000 gallons of wine per year and is in compliance with this code section. With submittal of the current use permit Major Modification application to increase the currently approved production levels, the applicant is pursuing continued compliance for a higher production level. Additionally, on-site vineyards represent roughly 63 percent of the grapes that could be processed at the winery's proposed higher production level; the remaining percentage of grapes would come from 189 tons of existing Napa County grape contracts.

3. Winery Comparison – The attached list identifies 24 wineries with annual permitted production capacities that are comparable to the currently permitted production capacity (50,000 gallons of wine per year) of the Materra winery. Attributes of each winery, including visitation levels, are included in the table. A second table, also attached, lists the names, locations and attributes of 12 other wineries with annual permitted production capacities between 70,000 and 90,000 gallons of wine per year, comparable to the applicant's current production increase request.

4. Subsequent Negative Declaration – This project is subject to the requirements of the California Environmental Quality Act (CEQA). On January 7, 2009, the Planning Commission adopted a Mitigated Negative Declaration (MND) for the Materra Winery, prior to approving P08-00428 – UP. The initial study (IS) that informed the MND identified a potentially significant impact in the area of Traffic and Transportation, and identified a mitigation measure that required re-alignment of the winery access driveway from Big Ranch Road so as not to create unsafe vehicular traffic movements at the intersection of Big Ranch Road with Oak Knoll Avenue. The applicant has complied with this mitigation measure with the recently-built winery site improvements. Potential impacts in all other areas discussed in the initial study were found to be less than significant.

The proposed Major Modification represents a change in the scope of the project as described in the 2009 IS/MND. Analysis of the proposed amendment concludes that no new potentially significant environmental effects would occur if the proposed project were approved.

5. Water Demand and Availability – The proposed increase in wine production would increase the winery's demand for water. The property receives irrigation water from two on-site wells and an existing reservoir on the property to the south of the site, and is licensed by the California State Water Resources Control Board to draw up to 76.5 acre-feet of water from the Napa River each year for irrigation and frost protection purposes (35 acre-feet for reservoir storage between January 15 and March 15, and up to 2.99 cubic feet per second between March 15 and May 15 for replenishment of storage; Division of Water Rights License 11513).

The applicant's engineer submitted with the use permit application an estimate of water use associated with the requested production increase. The report was prepared in accordance with current Napa County Water Availability Analysis Guidelines (May 2015) and indicated that with the proposed increase in production, estimated water use at the site would be 40.51 acre-feet per year. The estimated increase is 1.73 acre-feet per year more than what the anticipated water use was as of the 2009 use permit approval. However, both the 2009 and current estimates of

water use are within the maximum 50 acre-feet per year (one acre-foot per acre on the property) that the County has established as an acceptable threshold for groundwater extraction. Thus, while water use on the site would increase as a result of the proposed production increase, the estimated increase in water demand would be within the County's acceptable threshold of no more than one acre-foot of water per parcel acre per year for full winery operation, without accounting for any offset of water use as a result of extraction of water from the adjacent water reservoir and Napa River.

6. Greenhouse Gas Reduction Strategies – The current Major Modification application does not involve construction of any new buildings on the property; however, the recently-built structures incorporate several sustainable design elements that help to reduce interior temperature control demands and thereby reduce greenhouse gas emissions related to energy use from indoor cooling needs. These elements include light-colored, reflective, exterior roofs and walls; six-inch thick exterior wall insulation; fans and vents that facilitate capture of cool, morning and evening air inside of the building; and an extended roof overhang that provides shade to the production building's southern elevation. The building also includes water-efficient plumbing and energy-efficient lighting fixtures, and it was built according to the criteria as a LEED™ Silver building. Though not currently installed, the applicant plans to install photovoltaic (solar) panels on the building roof and over an on-site septic system leachfield, within the calendar year, and anticipates that the installation would accommodate over 100 percent of the winery's energy needs using a renewable energy source.

Other sustainable measures implemented with vineyard and winery operations include recycling of agricultural waste as ground fertilizer in the vineyard rows. Planting recently completed with the new buildings' construction includes water-efficient landscaping; installation of native plant species near the property's eastern boundary at the Napa River; removal of invasive plant species; and installation of swales facilitating biofiltration of stormwater runoff.

#### **Consistency with Standards:**

All reviewing departments and agencies have found the project, as proposed and as conditioned, to be consistent with their respective requirements and regulations.

1. Zoning Ordinance – The property that is the subject of this application is located in the AP District, where vineyards are a permitted use and wineries are a conditionally permitted use. The recently-built winery is compliant with development regulations applicable to structures in the AP District. The requested use permit Major Modification was filed in accordance with Napa County Code Section 18.104.250, which specifies the use permit as the appropriate mechanism for determining annual production capacities of new wineries. As outlined in the project statement, the winery would operate in compliance with the requirement that at least 75 percent of grapes processed at wineries be grown in Napa County. It is further noted that over 60 percent of the grapes anticipated to be processed at the winery would be grown on-site.

2. Environmental Health – Conditions of approval recommended by staff of the Environmental Health Division would re-enforce Napa County permit requirements related to the installation and ongoing maintenance and inspection of the proposed septic tank expansion.

3. Other Agencies – All other agencies have found the current Major Modification to be consistent with their requirements, provided that previously-adopted conditions of approval (excluding conditions that have already been implemented with the built improvements) are carried forward, as appropriate, into any approvals of the current application.

#### **Decision-making Options:**

Option 1: Approve Applicant's Proposal (Staff recommended option).

This action would increase the winery's annual production from 50,000 gallons per year to 85,000 gallons per year. Physical changes to the site would be minimal, consisting of installation of one, 2,000-gallon underground septic tank in a screened location behind the existing production building. The winery's approved visitation, employment and marketing programs, as well as the vehicle trips associated with each, would remain unchanged from the current entitlements. The majority of grapes processed at the winery would be grown on-site, although there would be an increase of truck trips associated with an increase in the quantity of grapes purchased from other wineries (up to 30,000 gallons' worth) as compared to the original 2009 use permit approval (approximately 18,000 gallons' worth). This difference in on-haul of grapes from off-site Napa County vineyards equates to approximately 40 net new truck trips per year (20 inbound and 20 outbound), or roughly one new roundtrip truck trip every other day during the six-week harvest season. Truck trips to deliver winemaking supplies to the site and distribute wine to off-site locations would also increase by approximately 170 trips (85 roundtrips) annually as the volume of wine produced on-site increases; this increase is roughly equal to two new round trip truck trips each week during the year, outside of the harvest season.

Action Required – Follow the proposed action listed in the Summary section of this staff report, amending select, Project-Specific Conditions as listed in Exhibit B, as may be appropriate, at the time the motion of approval is made.

Option 2: Modify the Applicant's Proposal to Reduce Annual Production.

As with option 1, this option would allow an increase, over 50,000 gallons of wine, in the annual production permitted for the winery. However, the increase would be less than that proposed. Allowing production of up to 70,000 gallons of wine annually, this option would accommodate processing of all grapes grown on-site using the projected seven tons per acre estimated by the applicant, plus the 18,000 gallons' worth of grapes (roughly equal to 120 tons) anticipated under the 2009 use permit approvals. This option could result in cancellation of an estimated 10,000 gallons' worth (roughly 70 tons) of the winery's existing grape contracts but would not increase the number of truck trips associated with deliveries of grapes to the site, as compared to that analyzed in the 2009 IS/MND. As with option 1, truck trips to deliver winemaking supplies and to distribute wine to off-site locations would increase as the volume of wine produced on-site would increase. Installation of a new septic tank would still be required under this option.

Action Required – Amend the recommended, Project-Specific Conditions of approval Exhibit B, in order to reduce maximum allowable production to a number between 50,000 and 85,000 gallons, at the time the motion of approval is made.

Option 3: Deny the Applicant's Proposal.

This action would result in continued operation of the winery within the annual production level (50,000 gallons of wine) authorized with the approval of Use Permit P08-00428 – UP. In any year that the crop yields of the 46 acres of on-site vineyards are seven tons per acre as projected by the applicant, the winery would potentially exceed its permitted annual production capacity by an estimated 1,500 gallons of wine, in violation of its use permit. Alternatively, in such a year, truck trips for delivery of grapes off-site could increase slightly (by approximately four trips, or two round trips) during the harvest season, as the winery could opt to sell its excess on-site grapes to other wineries in order to maintain compliance with its use permit. Under this option, and in the event that on-site crop yields are very high, truck trips to deliver grapes to the Materra winery from off-site wineries would be eliminated (and those contracts canceled, with the tonnage re-directed to other wineries), as on-site fruit would be sufficient to achieve the winery's annual production maximum.

Action Required – In the event that the Commission determines that the proposed Major Modification does not or cannot meet the required findings for grant of a use permit, Commissioners must articulate the basis of the conflict with the findings. The Commission would then make a tentative motion to deny the proposal and remand the matter to staff to draft the required findings of denial, based on the Commissioners' statements. Staff would return to the Commission with the findings of denial on a specified date.



Continuance Option

The Commission may continue an item to a future hearing date, at its discretion.

**SUPPORTING DOCUMENTS**

- A . Exhibit A - Findings
- B . Exhibit B - Conditions of Approval
- C . Department Comments
- D . Subsequent Initial Study / Negative Declaration
- E . Public Comment Letters
- F . Approval Letter, Adopted MND, Conditions of Approval, P08-00428-UP
- G . Approval Letter, P13-00283-VMM
- H . Application Submittal Packet, P15-00071-MOD
- I . Site Photos and As-built Site Plan
- J . Wineries within One Mile of Site
- K . Approved and Proposed Winery Production Comparison Charts
- L . Graphics

Napa County Planning Commission: Approve

Reviewed By: John McDowell