

The Commission may deny the use permit if it finds that based on substantial evidence in the record that it is unable to make any of the required use permit findings and/or that the project is inconsistent with the General Plan. Among the findings that the Commission must make before granting the use permit modification is that “grant of the use permit modification, as conditioned, will not adversely affect the public health, safety and welfare of the County of Napa.” The Commission could find that public health, safety and welfare of the County of Napa would be adversely affected based on the following:

1) In recent months, the Board of Supervisors has publicly directed PBES staff to step up code enforcement and improve adherence to existing County codes and ordinances. To accomplish that direction, the Board is funding a new full time code enforcement officer within the PBES Department and an additional deputy county counsel position. The Board has declared that compliance rather than “after the fact forgiveness” is a priority and important goal towards ensuring consistent business practices in Napa County. Approval of the use permit modification would undermine these goals and direction.

2) General Plan Agricultural Preservation and Land Use Policy AG/LU-118 affirms the County’s commitment to maintaining the quality of life in Napa County through enforcing regulations and codes. Conservation Element Policy CON-7 provides in part that enforcement actions shall be designed to discourage significant damage and future violations.

3) In an effort to provide more outreach and transparency, the County recently adopted enhanced public noticing procedures to provide earlier and expanded notice of discretionary projects so that County residents would be more informed of projects in their neighborhoods which could be potentially impactful. The enhanced noticing allows for more public participation, earlier in the process and gives applicants feedback on ways to design their projects so as to be more harmonious with the neighborhood. “After the fact forgiveness” deprives the public and decision-makers of an opportunity to evaluate and shape a project before it is constructed and incentivize others to engage in non-compliance.

4) Granting the use permit modification creates an unfair business advantage to the applicant over other winery operators who follow the County’s procedures and apply for approvals prior to engaging in the unpermitted activity. Views from the fourth portal and outdoor ridgetop tasting areas are some of the most prestigious in the Valley and add significant economic value to the Winery and the property.

5) The Commission heard testimony that due to the topography of the site and location of the caves, outdoor tastings and running of the generator as the power source or the winery creates noise impacts to the neighbors and disrupts their tranquility.

Failure to comply with the County’s regulatory process jeopardizes the community’s health, safety and welfare for all of the reasons stated above.