



Planning Commission Mtg.

MAY 20 2015

Agenda Item #

9A

May 19, 2015

Ms. Heather Phillips, Chairman
Napa County Planning Commission
1195 Third Street, Suite 305
Napa, California 94559

RECEIVED
MAY 19 2015
Napa County Planning Building
& Environmental Services

Re: Markham Vineyards Use Permit No. P14-00100-MOD

Dear Chair Phillips and Members of the Commission:

Our application to increase production at our historic winery is scheduled for consideration by the Commission on Wednesday. We received the staff report on Friday and have had an opportunity to review it. We very much appreciate the recommendation for approval from staff. However, were very surprised to see in the recommendation conditions (Condition 4A) that for the first time imposes a limitation on the number of public guests we will be permitted to host going forward. This recommendation was not discussed with us before we received the staff report on Friday nor does it represent the number of guests that historically visited the winery.

By way of background, the winery was originally built in 1879. The original stone winery building and the keystone are in place. Post Prohibition, the winery was operated as a co-op by the Allied Grape Growers until it was purchased in 1969 by United Vintners. The winery was in operation when the first use permit was issued in 1979 (permit #U-157879). This permit authorized the current permitted capacity of 300,000 annual production and public tours and tastings. We have operated as a public tasting facility since then and are one of many pre-WDO wineries protected as a conforming use by section 12201(i) of ordinance #947.

As noted in the staff report, we were among the first pre-WDO wineries to apply for a permit modification following adoption of the WDO in January 1990. Use permit U-89-33 was approved on March 21, 1990. As part of this permit, we were asked to provide staff with existing visitor data for 1989 as this would establish the number of pre-WDO public visitors and be used as a baseline to evaluate future request for additional visitors to the winery. This data was included in the staff report (see attached page 26, dated February 1, 1990).

We are not currently seeking any change to our pre-WDO visitation or marketing program as part of the application that is before your Commission. This visitation level represents the current level of visitation at the winery. We have based our entire business model, staffing levels, and current water and wastewater systems on maintaining this level of visitation. We cannot accept the staff condition to reduce



our current visitation levels, as it would impose a significant economic hardship. We understand that the county must approve any expansion of these pre-WDO visitation levels and that any additional guests beyond those pre-WDO levels must be by prior appointment. We respectfully request that condition #4A be modified to read:

A. Tours and Tastings

The level of public tours and tasting shall be as authorized by permit #U-89-3, approved March 21, 1990. Any expansion shall be by separate use permit approved by the Commission.

A corresponding change should be made to condition #18 for consistency.

We believe this condition is fully compliant with the WDO and will provide guidance to other pre-WDO wineries that may come before the Commission in the future. Further we believe that reducing pre-WDO visitation levels, when no change is requested sets a very dangerous precedent and will discourage pre-WDO wineries from filing permit modifications in the future.

We thank you for your attention to this matter.

Sincerely,



David W. Flanary
Markham Vineyards

CC: John McDowell, Deputy Planning Director
Shaveta Sharma, Project Planner

Supplemental Application for Winery Uses

Operations

Please indicate whether the activity or uses below are already legally **EXISTING**, whether they exist and are proposed to be **EXPANDED** as part of this application, whether they are **NEWLY PROPOSED** as part of this application, or whether they are neither existing nor proposed (**NONE**).

Retail Wine Sales	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> Expanded	<input type="checkbox"/> Newly Proposed	<input type="checkbox"/> None
Tours and Tasting- Open to the Public	<input checked="" type="checkbox"/> Existing			
Tours and Tasting- By Appointment	<input type="checkbox"/> Existing	<input type="checkbox"/> Expanded	<input type="checkbox"/> Newly Proposed	<input type="checkbox"/> None
Food at Tours and Tastings	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> Expanded	<input type="checkbox"/> Newly Proposed	<input type="checkbox"/> None
Marketing Events*	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> Expanded	<input type="checkbox"/> Newly Proposed	<input type="checkbox"/> None
Food at Marketing Events	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> Expanded	<input type="checkbox"/> Newly Proposed	<input type="checkbox"/> None
Will food be prepared...		<input type="checkbox"/> On-Site?	<input checked="" type="checkbox"/> Catered?	
Public display of art or wine-related items	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> Expanded	<input type="checkbox"/> Newly Proposed	<input type="checkbox"/> None

* For reference please see definition of "Marketing," at Napa County Code §18.08.370 - <http://library.municode.com/index.aspx?clientId=16513>

Production Capacity *

Please identify the winery's...

Existing production capacity: 300,000 gal/y Per permit No: U-157879 Permit date: 2/79

Current maximum actual production: 350,148 gal/y For what year? 2013

Proposed production capacity: _____ gal/y

* For this section, please see "Winery Production Process," at page 11.

Visitation and Hours of Operation

Please identify the winery's...

Maximum daily tours and tastings visitation:	<u>public</u> existing	<u>no change</u> proposed
Average daily tours and tastings visitation ¹ :	<u>public</u> existing	<u>no change</u> proposed
Visitation hours (e.g. M-Sa, 10am-4pm):	<u>10:00am-4:30pm</u> existing	<u>No change</u> proposed
Non-harvest Production hours ² :	<u>7:30am-5:00pm</u> existing	<u>No change</u> proposed

¹ Average daily visitation is requested primarily for purposes of environmental review and will not, as a general rule, provide a basis for any condition of approval limiting allowed winery visitation.

² It is assumed that wineries will operate up to 24 hours per day during crush.

MARKHAM VINEYARDS
St. Helena, CA

EXISTING VISITOR DATA

1989

The following data was compiled from daily estimates of retail sales/tasting visits performed by retail staff.

<u>Month</u>	<u>Estimated Number of Visitors</u>
January	971
February	1,268
March	1,695
April	1,825
May	2,325
June	1,715
July	2,685
August	2,553
September	2,790
October	1,770
November	1,706
December	<u>1,009</u>
TOTAL	22,312

Mike Hackett 5-20-15 PC

I would like to bring to your attention the recent actions from our County Planning Commission regarding winery use permit violations. I feel compelled to speak to you today because these Commissioners are seated at your discretion, and its apparent, that they are slow reacting to the change in attitude in and outside of this County building.

I believe the change began occurring after the 2014 election cycle, after Mr. Pedroza took over for Bill Dodd, and most importantly, when we were fortunate enough to hire Mr. Morrison. I have learned that Planning Director Morrison is level-headed, hard-working, smart and is pursuing a balanced approach. He also knows that he works with, and FOR the Supervisors. Its no coincidence then, that a broad coalition of interested citizens have joined in the call for change.

I would like to highlight an example: Brought to the PC last week, was the Caves on Soda Canyon project, where it was apparent to all, that the principle had gone WAY outside his use permit and violated his building permit. Mr. Lederer and Commissioner Scott talked directly with the principle. Their memory of the initial project was quite different than the finished product. Mr. McDougal spoke of numerous infractions during the meeting. The County had him caught "red-handed" in this illegal action. As you all know, a ventilation shaft had been turned into a 4th portal, was excavated, offering a view over the valley to the west. Then a large concrete party/viewing patio was poured, without a permit.

I wish you had all been there. The individual was asked to "cover up" the portal, leave the deck as is, and reapply for proper permits in a year. The principle's actions were egregious, purposeful, and he was rewarded with a slap on the wrist. The clear perception we are left with, is that he'll get this permitted next year. In recent weeks, the Planning Commission has exercised extremely soft treatment to violators. I do not believe this is the message that this County wants to send.

On several occasions, the Planning Commissioners have alluded to the need to wait for your direction after the APAC finishes and our Planning Director moves its recommendations forward. I would like to recommend that all of you have a dialogue with your respective Planning Commissioner about the new norm that will encourage us all to take care of the finite resources within our County.

APPLICATION FOR USE PERMIT

FOR OFFICE USE ONLY

ZONING DISTRICT: AP Also see PA 3358
 FILE NO: PA 3357
 REQUEST: Expand the existing winery with a Date Submitted: 2/2/90
16,000 square foot structure for casegoods Date Complete: _____
handling and storage; a 13,000 square foot Date Published: _____
addition for administration, and a 7,700
square foot barrel aging room within a ZA CDPC BS APPEAL
portion of an existing building on the east Hearing _____
side of State Hwy 29, 500 feet north of Deer Park Road (AP# 22-200-08) Action _____

TO BE COMPLETED BY APPLICANT
 (please print or type)

Applicant's Name: Markham Advertising Co., Inc. Telephone #: (707) 963-5292
 Address: P.O. Box 636 St. Helena, CA 94574
 (mail) No Street City State Zip Code
 Status of Applicant's Interest in Property: Owner
 Property Owner's Name: Markham Advertising Co., Inc. Telephone #: (707) 963-5292
 Address: P.O. Box 636 St. Helena CA 94574
No Street City State Zip Code
 Site Address (if any): 2812 St. Helena Hwy, North Assessor's Parcel #: 22-200-08
St. Helena, CA
No Street City
 Use Requested: see attached Supplemental
Information Sheet

I certify that all the information contained in this application, including but not limited to the supplemental information sheet, water supply/waste disposal information sheet, site plan, plot plan, floor plan, building elevations, water supply/waste disposal system plot plan and toxic materials list, is complete and accurate to the best of my knowledge.

Byron Axelrod *Byron Axelrod*
 Signature of Applicant Signature of Property Owner

TO BE COMPLETED BY CONSERVATION DEVELOPMENT AND PLANNING DEPARTMENT

\$700.00 16846 Received by: Kevin Clark 17
 Receipt Number Conservation, Development & Planning Department

**USE PERMIT APPLICATION
SUPPLEMENTAL INFORMATION SHEET**

(Use Permit _____)

I. USE

- A. Description of Proposed Use: Construction of new barrel aging, casegoods storage, office, employee areas at existing premium winery and Visitors Center
- B. Special Operations: Crushing, bottling, storage, warehousing and distribution
- C. Project Phases: one two more than two (please specify) _____
- D. Estimated Completion Date For Each Phase: phase 1: 12/91 phase 3: _____
 (month & year) phase 2: _____
- E. Actual Construction Time Required For Each Phase: less than 3 months more than 3 months
- F. Related Necessary On- And Off-Site Concurrent or Subsequent Projects: General site work and landscaping
- G. Additional Licenses/Approvals Required:
 district: None regional: None
 state: None federal: BATF

II. BUILDINGS

- A. Floor Area: (in square ft) new construction: 36,700
 existing structures or portions thereof to be utilized: 35,300
 existing structures or portions thereof to be removed: 1,250
- B. Square Footage Devoted to Each Separate Use: living N/A; storage/warehouse 12,000±;
 offices 13,000±; sales 2,102
 other (*) 44,900±
 * Fermentation, aging, crushing, bottling, laboratory.
- C. Maximum Bldg Height: existing structures: 34' max. new construction: 28' max.
- D. Type of New Construction (e.g., wood-frame): Tilt-up concrete, metal roof
- E. Type of Exterior Night Lighting Proposed: Metal Halide for crush area during harvest, incandescent safety lighting remainder of year.

III. PARKING

	<u>Present</u>	<u>Proposed</u>
A. Customer Parking Spaces:	<u>37</u>	<u>37</u>
B. Worker Parking Spaces:	<u>20</u>	<u>20</u>

IV. TYPICAL OPERATION

	<u>Present</u>	<u>Proposed</u>
A. Days of Operation:	<u>5 days/week</u>	<u>5 days/week</u>
B. Expected Hours of Operation:	<u>8 hours/day</u>	<u>8 hours/day</u>
C. Anticipated Number of Shifts:	<u>1</u>	<u>1</u>
D. Expected Number of Full-Time Workers/Shift:	<u>15</u>	<u>15</u>
E. Expected Number of Part-Time Workers/Shift:	<u>5 (bottling)</u>	<u>5 (bottling)</u>
F. Anticipated Number of Visitors		
● busiest day:	<u>300</u>	<u>300</u>
● average per week:	<u>400</u>	<u>400</u>
G. Anticipated Number of Deliveries/Pickups		
● busiest day:	<u>20</u>	<u>20</u>
● average per week:	<u>8</u>	<u>8</u>

V. SUPPLEMENTAL INFORMATION FOR SELECTED USES

A. Wineries

- operations proposed: crushing; fermentation; storage ageing; bottling/packing; shipping via commercial carrier
- administration; public retail sales; public ~~tours~~ tasting; tours/~~marketing~~ by prior appointment only; other (_____)
- initial/current production (in gallons/year): 300,000
- production capacity requested (in gallons/year): 300,000

B. Commercial Meeting/Food Serving Facilities N/A

- restaurant/deli seating capacity: _____
- bar seating capacity: _____
- public meeting room seating capacity: _____

C. Residential Care Facilities/ N/A
Day Care Centers

	<u>Present</u>	<u>Proposed</u>
● type of care:	_____	_____
● total number of guests/children:	_____	_____
● number of bedrooms:	_____	_____
● distance to nearest existing/ approved facility/center:	_____	_____

**USE PERMIT
WATER SUPPLY/WASTE DISPOSAL
INFORMATION SHEET**

(Use Permit _____)

I. WATER SUPPLY	<u>Domestic</u>	<u>Emergency</u>	
A. Source of Water (eg., spring, well, mutual water company, city, district, etc):	<u>City</u>	<u>City</u>	
B. Name of Water Supplier (if water company, city, district): annexation needed?	City of St. Helena Yes ___ No <u>X</u>	City of St. Helena Yes ___ No <u>X</u>	
C. Current Water Use (in gallons/day):	<u>2600</u>	<u>--</u>	
D. Anticipated Future Water Demand (in gallons/day):	<u>5000</u>	<u>--</u>	
E. Water Availability (in gallons/minute):	<u>1000 gpm</u>	<u>1000 gpm</u>	
F. Capacity of Water Storage System (in gallons):	<u>N/A</u>	<u>83,000 gallons</u>	
G. Nature of Storage Facility (eg., tank, reservoir, swimming pool, etc):	<u>N/A</u>	<u>Steel Fire Protection Storage Tank</u>	
II. LIQUID WASTE	<u>Domestic</u> (sewage)	<u>Winery</u>	<u>Other</u> (please specify Combined)
A. Disposal Method (e.g, on-site septic system, on-site ponds, community system, district, etc.):	<u>Onsite waste-water management system</u>	<u>Onsite waste-water management system</u>	<u>--</u>
B. Name of Disposal Agency (if sewage district, city, community system): annexation needed?	N/A Yes ___ No ___	N/A Yes ___ No ___	-- Yes ___ No ___
C. Current Waste Flows (peak flow in gallons/day):	<u>720 (peak)</u>	<u>8100 (peak)</u>	<u>--</u>
D. Anticipated Future Waste Flows (peak flow in gallons/day):	<u>1000 (peak)</u>	<u>9600 (peak)</u>	<u>--</u>
E. Future Waste Disposal Capacity (in gallons/day):	<u>--</u>	<u>--</u>	<u>Combined disposal 13,300</u>

Planning Commission Mtg.

MAY 20 2015

Agenda Item # 9A

Sharma, Shaveta

From: Jeff Redding <jreddingaicp@comcast.net>
Sent: Tuesday, November 11, 2014 12:29 PM
To: Sharma, Shaveta
Subject: Re: Electronic copies of all Markham submittals
Attachments: Markham Draft ND JRRTC comments 11 11 14.doc

Follow Up Flag: Follow up
Flag Status: Flagged

Planning Commission Mtg.

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Agenda Item # 9A

Shaveta, attached please find my comments on the draft ND that you prepared. Very thorough. I did add some very minor comments the most significant of which is I referenced use permit #03205-UP that authorized the expansion of the combined wastewater management system from 9.985 million gallons to the current capacity of 16.07 million gallons that will accommodate the requested production increase without change to the system. Other less important edits are also included. I adjusted the employee numbers to correspond with our application. You will note that the number of employees has decreased from 26 FT as shown in the Summit Engineering Report, dated November 19, 2002 to the current employee level of 22 FT employees. These employee numbers are also reflected in our winery traffic information worksheets. I hope these are helpful to you.

Thanks for the courtesy of allowing us the opportunity to review your draft.

Regards,

Jeff

On Nov 10, 2014, at 9:07 AM, Sharma, Shaveta wrote:

For your review is the Draft ND, let me know if you see any errors. Thanks.

From: Jeff Redding [<mailto:jreddingaicp@comcast.net>]
Sent: Monday, November 10, 2014 8:36 AM
To: Sharma, Shaveta
Subject: Re: Electronic copies of all Markham submittals

Absolutely. I have already contacted Summit Engineering and asked them to send you copies of the materials their office prepared.

Thanks for contacting me. Have you set a tentative hearing date for our item?

Jeff

On Nov 10, 2014, at 8:12 AM, Sharma, Shaveta wrote:

Jeff,

COUNTY OF NAPA
PLANNING, BUILDING & ENVIRONMENTAL SERVICES DEPARTMENT
1195 THIRD ST., SUITE 210
NAPA, CA 94559
(707) 253-4416

Initial Study Checklist

1. **Project Title:** Markham Vineyards, Use Permit Major Modification P14-00100.
2. **Property Owner:** Markham Vineyards, PO Box 636, St. Helena, CA 94574; (707) 302-2034
3. **Project Sponsor's Name and Address:** David W. Flanary, PO Box 636, St. Helena, CA 94574; (707) 302-2034
4. **Representative:** Jeffrey Redding, 2423 Renfrew Street, Napa, CA 94558; (707) 255-7375
5. **County Contact Person, Phone Number and email:** Shaveta Sharma; (707) 299-1358; shaveta.sharma@countyofnapa.org
6. **Project location and APN:** The project is located on an 9.97 acre site at 2812 St. Helena Highway, St. Helena, approximately 300 feet north of its intersection with Deer Park Road, designated Assessor's Parcel Number: 022-200-008.
7. **General Plan description:** Agriculture, Watershed and Open Space designations (AWOS) and Agricultural Resource (AR).
8. **Zoning:** Agricultural Preserve (AP).

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9. **Background/Project History:** The 9.974 acre parcel consists of a winery building totaling approximately and accessory and equipment and storage buildings. The existing winery was originally constructed in the 1870s. Post Prohibition the winery was used as a co-op by the Allied Grape Growers until its purchase by United Vintners in 1969. In 1978, the winery was purchased by H. Bruce Markham and has been operational since that time under the same name.

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February 1979- Use Permit #U-157879 was approved by the Conservation, Development, and Planning Commission to expand an existing winery with a 3,200 square foot addition to accommodate a tasting room, case storage, retails sales, and offices.

March 1989- Use Permit #U-28889 was approved by the Conservation, Development, and Planning Commission to allow demolition of 24,670 square feet, reroof of the existing stone cellar for use in aging barrels, construction of a new crush area, fermenting room, aging cellar and bottling facility. No increase in floor area, production, or public use of the facilities was permitted.

March 1990- Use Permit #U-89-33 and Variance V-98-5 was approved by the Conservation, Development, and Planning Commission to construct 36,700 square foot addition to the existing winery of 16,000 square feet for case goods handling and storage, including a loading dock, a 7,700 square foot barrel aging room, and a 13,000 square foot office/employee facility. No increase in floor area, production, or public use of the facilities was permitted.

October 1996-Use Permit #96075-MOD and was approved by the Conservation, Development, and Planning Commission to install five (5) outdoor wine storage tanks (two 50,000 and three 25,000 gallon tanks). No increase in floor area, production, or public use of the facilities was permitted.

October 2003—Use Permit #03205-UP was approved by the Conservation, Development and Planning Commission for a combined wastewater system serving Markham Vineyards, The Culinary Institute, Freemark Abbey and the Wine Country Inn to allow for the system to be expanded from 9.985 million gallons per year to 16.07 million gallons per year

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August 2011—Audit of winery's 2010 production level was completed. The winery was found to be in compliance with the allowable production levels.

Existing Winery characteristics: The winery in its most recent production processed 350,148 gallons of wine; has a total of 59, 800 square feet of winery structures; has 226 full-time employees and four part-time employees; conducts both public and by

appointment tours and tastings for an average of 50 visitors per day; and holds 81 annual marketing events with an average attendance of 5 persons, and a maximum attendance of 390 persons.

10. **Project Description:** Approval to modify the previous project approvals (Use Permit #U-157879, Use Permit #U-28889, Use Permit #U-89-33, and and Use Permit #96075-MOD) for an existing Winery to allow the following:
(a) Increase production from 300,000 gallons per year up to 429,000 gallons per year; and
(b) No expansion or increase in increase in floor area, employees, visitation, or marketing is proposed.

Note that no change is requested to Use Permit #03205-UP as additional production can be accommodated within the existing combined wastewater treatment system.

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11. **Environmental setting and surrounding land uses:**

The rectangle-shaped lot is relatively level (0 to 2 percent slopes) and is located on the valley floor trending from west to east toward the Napa River, located approximately ¼ mile east of the site. The entirety of the project site is within the 100 year floodplain. Vegetation on site is entirely ornamental, with no native species remaining. The majority of the site is developed with buildings, paving, and other improvements, as well as two large wastewater ponds. Surrounding land uses are rural residential, vineyards, and wineries (Ballentine Winery, Revana Winery, Freemark Abbey, Grace Family Winery, Vineyard 29, St. Clements Vineyards, William Colely Winery, Charles Krug Winery, Fantesca Estate). The nearest off site residence is approximately 700 feet away from the winery building.

12. **Other agencies whose approval is required** (e.g., permits, financing approval, or participation agreement).

The project would also require various ministerial approvals by the County, including but not limited to building permits, grading permits, and waste disposal permits, in addition to CalFire. Permits may also be required by the Department of Alcoholic Beverage Control and Bureau of Alcohol, Tobacco, & Firearms.

Responsible (R) and Trustee (T) Agencies

None Required.

Other Agencies Contacted

Federal Trade and Taxation Bureau
Department of Alcoholic Beverage Control

ENVIRONMENTAL IMPACTS AND BASIS OF CONCLUSIONS:

The conclusions and recommendations contained herein are professional opinions derived in accordance with current standards of professional practice. They are based on a review of the Napa County Environmental Resource Maps, the other sources of information listed in the file, and the comments received, conversations with knowledgeable individuals; the preparer's personal knowledge of the area; and, where necessary, a visit to the site. For further information, see the environmental background information contained in the permanent file on this project.

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

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