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CEQA Memo



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**Planning, Building & Environmental Services**

1195 Third Street, Suite 210  
Napa, CA 94559  
www.countyofnapa.org

**David Morrison**  
Director

**MEMORANDUM**

To: Planning Commission From: Kelli Cahill, Planner III

Date: March 23, 2016 Re: Caymus Vineyards Use Permit  
Major Modification P12-00221  
Categorical Exemption Determination  
Assessor's Parcel No. 020-200-066

**PURPOSE**

Pursuant to Section 303 of Napa County's Local Procedures for Implementing the California Environmental Quality Act (CEQA), the Planning Department has prepared this environmental evaluation for the proposed Caymus Vineyards Modification (File No. P12-00221).

**Project Description:**

The Caymus Vineyards Major Use Permit Modification requests (1) Approval of a Use Permit Modification P12-00221-UP to stagger project implementation occurring in two phases. In Phase One, the applicant requests (a) a decrease in production to 110,000 gallons, (b) demolition of 6,695 square feet from existing Buildings B2, B6, B7, and B8, (c) remodeling of Buildings B3 and B5, (d) installation of fire suppression sprinkler systems within the existing Building B5 and associated outdoor water storage tanks within an already developed area; (e) remodeling of the existing Building B3 to reduce its size, and remodeling of the interior of the existing Building B5; (f) removal of concrete and structures within the creek setback and restoration of the creek bank; (g) improvement of an existing access road, relocation of interior vehicle access roads, and relocation of parking; (h) on-premises consumption of wine for customers in accordance with Business and Professions Code Sections 23358, 23390 and 23396.5 (AB 2004 -Evans Bill also known as the Picnic Bill) in the areas located on the patio area located between Building B5 and the proposed greenhouse, the grass areas located direction east and

west of the greenhouse, and the garden located outside the tasting/sales area on the west side of Building B5 as specified in the application; and (i) food and wine pairing.

In Phase Two, the Applicant proposes (a) to increase production by 550,000 gallons for a total of 660,000 gallons of wine per year, (b) demolition of Building B9, (c) to construct an 8,205 square foot agricultural greenhouse, and (d) to upgrade to the existing Lyve equipment process wastewater system. No increase in the existing number of employees, number of parking spaces, number of visitors, or marketing events is requested. The proposed Use Permit Modification would result in a reduction in environmental impacts through the reduction in wine production and the demolition of certain structures and overall reduction in the size of the facility.

The project also includes adoption of an ordinance approving a Development Agreement between Caymus and the County. As part of the Development Agreement, Caymus has volunteered to install a left-turn lane per the Napa County Roads and Streets Standards, as well as reconfigure the existing triangle intersection of Conn Creek Road and State Route 128 into a more standard "T" intersection.

### **BASELINE AND USE OF EXEMPTIONS**

Recent caselaw generally affirms the use of existing conditions as baseline. For example, in *Communities for a Better Environment v. S. Coast Air Quality Management District*, the Supreme Court of California held that a baseline must reflect "existing physical conditions in the affected areas...rather than the level of development of activity that could or should have been present according to a plan or regulation." ((2010) 48 Cal.4<sup>th</sup> 210, 320-321 [internal citations, quotations, and emphasis omitted].) Likewise, courts of appeal have affirmed that the proper baseline for CEQA analysis must reflect current, operative conditions. (see, e.g. *Citizens for East Shore Parks v. Cal State Lands Comm'n.* (2001) 202 Cal.App.4<sup>th</sup> 549.)

Moreover, the County has the discretion to use current conditions, including current levels of wine production and visitors, as the appropriate baseline for any environmental determination under CEQA. (14 Cal. Code Regs. §15125(a); see also *Envotl. Planning & Info. Council v. Cnty of El Dorado* (1982) 131 Cal.App.3d 350 [an environmental impact report must focus on impacts to the existing condition]; *Save Our Peninsula Comm. v. Monterey Cnty Bd. of Supervisors* (2001) 87 Cal.App.4<sup>th</sup> 99, 121 [[T]he impacts of the project must be measured against the 'real conditions on the ground']).

## APPLICABILITY OF CATEGORICAL EXEMPTIONS

### **A. Class 2 (Section 15302)**

The proposed Use Permit Modification would result in a reduction in environmental impacts through the reduction in wine production and the demolition of certain structures totaling approximately 6,695 square feet and overall reduction in size of the facility from 195,995 to 101,984. State CEQA Guidelines Section 15302, provides an exemption for the “Replacement or Reconstruction” of existing structures or facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced (14 Cal. Code Regs. § 15302). As demonstrated in *Dehne v. County of Santa Clara* (1981) 115 Cal. App.3d 827, 837, courts do not interpret “same site” literally; the replacement structures need not have the exact same footprint or exact same scope or location of operations as the prior structures. It is sufficient that the replacement structure is located on the same overall project site as is the case here.

Additionally, there is no evidence the Use Permit Modification poses a reasonable possibility of adverse environmental impacts due to unusual circumstances. A project is not exempt if there is a reasonable possibility of a significant effect on the environment due to unusual circumstances (14 Cal. Code Regs. §15300.2(c).

### **B. Class 1 (Section 15301) and Local CEQA Guidelines Appendix B, Section (1)(d)**

As part of the Development Agreement, Caymus will install a left-turn lane per the Napa County Roads and Streets Standards, as well as reconfigure the existing triangle intersection of Conn Creek Road and State Route 128 into a more standard “T” intersection to meet Caltrans and Napa County Roads and Streets Standards criteria. The road enhancements would result in minor alterations to existing facilities. Minor widening of State Route 128/Conn Creek Road would be required to construct the left-turn lane. Additionally, the proposed “T” intersection improvements will be constructed within the existing roadway to minimize the amount of disturbance, and include a landscaping component where pavement currently exists. As such, the proposed road enhancements would occur within existing facilities without effect on the environment.

State CEQA Guidelines Section 15301, provides an exemption for “Existing Facilities” consisting of the repair, maintenance, minor alteration of existing public or private facilities, such as existing highways and streets, and similar facilities (this includes road grading for the purpose of public safety) (14 Cal. Code Regs. § 15301). Pursuant to

Sections 15022(a)(1)(C) and 15300.4 of the State CEQA Guidelines, the Napa County Board of Supervisors has adopted local guidelines for implementing CEQA which identifies specific projects that would be categorically exempt from established CEQA Guidelines. The road enhancements would be Categorical Exempt under Section 15301 and the County's Local Guidelines pursuant to Appendix B, Class 1, Section (d) which identifies the addition of a short auxiliary lane when required for localized purposes such as turning, lane changing or accelerating or decelerating as the type of local project that is considered exempt. Because the road enhancements will occur within existing roads and highways and consist of a short auxiliary lane with areas for deceleration and acceleration, they fall within this local class of projects that are exempt. Furthermore, these road enhancements are consistent with other similar projects where the County has relied on this local exemption.

### CONCLUSION

For the reasons contained herein and in the letters from Latham & Watkins, LLC (July 6, 2015 and February 17, 2016) (incorporated here by reference) these exemptions are appropriate and this proposal meets the Categorical Exemptions discussed above. Staff recommends that the Commission recommend that the Board of Supervisors find the project categorically exempt.