

Law Office of Rose M. Zoia
50 Old Courthouse Square, Suite 401
Santa Rosa, California 95404
707.526.5894 . fax 267.381.6097
rzoia@sbcglobal.net . zoialaw.com

Planning Commission Mtg.

OCT 18 2016

Agenda Item #

9C

October 18, 2016

via email

Sean Trippi
Principal Planner
Napa County Planning Department
Building & Environmental Services Department
1195 Third Street, Suite 210
Napa CA

RE: Yountville Washington Street Winery
P16-00083-UP

Dear Mr. Trippi:

On behalf of Preserve Rural Agricultural Napa County (PRANC) and Michael Clark, please consider these comments on the proposed exemption for this project.

The Project

The Yountville Washington Street 30,000 gallon winery project would add a 3,460 square foot winery production building including a 480 square foot covered crush pad; a 1,324 square foot hospitality building with up to 10 employees; daily visitation for a maximum of 25 persons per day, 175 per week, and 9,100 per year; 10 events of up to 30 persons and one (1) event of up to 100 persons for a total of 400 persons annually for events and 9,500 per year for tasting and events; and on-site consumption.

Categorical Exemptions in General

The California Secretary of Natural Resources is entitled to create classes or categories of projects that the Secretary has found *typically* do not have a significant effect on the environment and that are, thus, exempt from review under the California Environmental Quality Act (CEQA). The Secretary's

determination is that "the environmental changes *typically* associated with projects in that class are no significant effects within the meaning of CEQA."¹

The exemptions are *classes* or *categories* of projects and, thus, certain projects may or may not fit within the scope of the category,² may or may not factually fit within the category,³ and/or may or may not be excepted from the category.

The Project is Not Exempt

The Class 3 exemption is found in the CEQA Guidelines (14 Cal Code Regs) § 15303 and states:

Class 3 consists of construction and location of *limited numbers* of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the *conversion of existing small structures from one use to another where only minor modifications are made in the exterior* of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include but are not limited to:

- (a) One single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.
- (b) A duplex or similar multi-family residential structure totaling no more than four dwelling units. In urbanized areas, this exemption applies to apartments, duplexes, and similar structures designed for not more than six dwelling units.

¹ *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1104 [emphasis supplied].

² *Save Our Carmel River v. Monterey Peninsula Water Mgmt. Dist.* (2006) 141 Cal.App.4th 677, 793.

³ *San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School District* (2006) 139 Cal.App.4th 1356, 1382.

(c) *A store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area. In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.*

(d) *Water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction.*

(e) *Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.*

(f) *An accessory steam sterilization unit for the treatment of medical waste at a facility occupied by a medical waste generator, provided that the unit is installed and operated in accordance with the Medical Waste Management Act (Section 117600, et seq., of the Health and Safety Code) and accepts no offsite waste.*

[Emphasis supplied]

A new 30,000 gallon winery project totaling 5,264 square feet of production and hospitality area does not fit into a categorical exemption from CEQA review. This is a new project which would accommodate nearly 9,100 visitors per year. It does not fit into the scope of this limited exemption nor does it factually fit within the definition of the category.⁴

⁴ This writer, in her near 30 years of experience, is personally aware of no wineries that have been approved on an exemption. A search of "15303 and winery and exempt" in Lexis online research reveals no cases fitting these search terms

Examples of projects that are within the exemption include a small commercial structure in an urban environment,⁵ a residence,⁶ closure of two elementary schools,⁷ expansion of fiber-optic network,⁸ installation of wireless telecommunications equipment on utility poles,⁹ and a rodeo at a fairgrounds.¹⁰

Again, a new 30,000 gallon winery, tasting room, and event center is not a Class 3, or any other, exempted project.

In Any Event, the Project is Excepted from the Exemption

The CEQA Guidelines provide for exceptions to exemptions, as follows and as is relevant here:

* * *

(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.¹¹

Here, this project will create cumulative impacts in combination with, among other projects, the approved Bell Winery project at 6200 Washington

⁵ *Fairbank v. City of Mill Valley* (1999) 75 Cal. App. 4th 1243

⁶ *Association for Protection etc. Values v. City of Ukiah* (1999) 2 Cal. App. 4th 720

⁷ *San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School Dist.* (2006) 139 Cal. App. 4th 1356

⁸ *San Francisco Beautiful v. City and County of San Francisco* (2014) 226 Cal. App. 4th 1012

⁹ *Robinson v. City and County of San Francisco* (2012) 208 Cal. App. 4th 950

¹⁰ *Citizens for Environmental Responsibility v. State ex rel. 14th Dist. Ag. Assn.* (2015) 242 Cal. App. 4th 555

¹¹ Guidelines, § 15300.1

Street (in litigation) and the concurrently proposed McVicar Vineyards project located at 6155 Solano Avenue.

The Bell Winery project consists of a 60,000 gallon winery in a 9,959± square foot winery including a tasting room, a commercial kitchen, and other uses; a 1,450 square foot exterior covered crush pad; 15 employees; visitation of 100 persons per day, 420 persons per week, and 21,840 per year, and on-site consumption.

The McVicar project would add a new 20,000 gallon winery consisting of the conversion of an existing 1,131 square foot building for winery production including a 300 square foot tasting room and 831 square foot production area, a 600 square foot covered crush pad and an 800 square foot patio, and six (6) parking spaces. The winery would employ seven (7) full time employees and hours of operation would be 8:30 am to 5:00 pm for production and 10:00 am to 6:00 pm for hospitality. Visitation would be a maximum of 12 visitors per day, 84 visitors per week, and 4,368 per year, plus 10 catered events per year with a maximum of 30 guests per event equaling 300 more visitors per year for a total of 4,668 per year.

These three projects alone would add 35,640 visitors per year to the area, resulting in sure cumulative impacts to traffic, noise, light pollution, and other areas. There also is a reasonable possibility that this project will have a significant effect on the environment due to unusual circumstances.

Use Permit Findings Cannot be Made

PRANC and Mr. Clark respectfully request that the Planning Commission deny the project based on the inability to make user permit findings. In the alternative, they request that Planning Commission find the project is not exempt from CEQA and require the preparation of an Initial Study.

Thank you for your close attention to this matter.

Very truly yours,


Rose M. Zoia

cc: Planning Commission

Trippi, Sean

From: Michael Clark <mclarkdesign@sbcglobal.net>
Sent: Tuesday, October 18, 2016 9:59 PM
To: Trippi, Sean
Subject: Yountville Washington Street Winery-Use Permit P16-00083-UP

Planning Commission Mtg.

OCT 19 2016

Agenda Item # 9C

Hello Sean,

I am requesting a continuance regarding the Yountville Washington Street Winery use Permit P16-00083-UP. I received notice on October 17, 2016. I would like to have a chance to have another meeting with James Keller, George Monteverdi, John McDowell and yourself.

Thank you,
Michael Clark

October 16, 2016

OCT 19 2016

Napa County Planning Commission
1195 Third Street, Ste. 305
Napa, CA 94558

Agenda Item # 9C

Re: Yountville Washington Street Winery
Use Permit P16-00083-UP

Dear Planning Commission,

I am the neighboring property owner of the proposed new Yountville Washington Street Winery. I am also the person that stood before you about two years ago regarding the Bell Wine Cellars major modification.

I am not against new development, however I am for well-planned development especially in our Agriculture Preserve. I think there is a way this project could move forward and still maintain the beautiful rural setting it is to be built on. The fast track to build these projects does not allow time for good planning.

I had a meeting on site with the applicant James Keller and his consultant George Monteverdi. We discussed the project and looked over the plans. One of my concerns is the placement of the winery. I thought it was interesting the individuals who are trying to get the winery built could not show me the exact placement of the new proposed structure.

I scheduled a meeting with Sean Trippi of the Planning Department a week or so ago for yesterday, October 18 at 10:00am. On Monday, October 17, I received a letter that this project was going before the Planning Commission today.

My meeting yesterday with Sean Trippi was very informative. One of my questions to Sean was about the variance regarding the 300 foot setback from my driveway that was stated to me in a letter from Monteverdi Consulting. He stated the variance was no longer needed. He stated that if a winery was to be built on the south side of my driveway the setback would apply, but it does not apply to the north of my driveway. This is confusing.

I also asked Sean about the lighting since light pollution is very much a concern. Bell Cellars has lighting on the building to illuminate the structure at night. Sean stated this kind of lighting would not be happening with this project because the type of lighting is not consistent with the building code. Later in the conversation Sean noticed in the plans Gooseneck lighting all around the building.

My major concern is the close proximity to Hopper Creek. I find it hard to believe that our building ordinances have a 300 foot setback from the property owners driveway and only a 45 foot setback from Hopper Creek.

Another concern is about the noise from the winery at my home. The noise from Hopper Creek Winery which is further away from this proposed winery can be heard during crush and events.

I also feel a better study of traffic needs to be done because of the cumulative impact of Bell Cellars, Yountville Washington Street Winery, and McVicar Winery adding 35,000 more visitors to an already dangerous intersection on Highway 29. These individual projects may not create a significant impact on the environment, however the cumulative impact of several non-significant findings will create a major impact.

This property is also in a 100-year floodplain. In wet winters this property can have 2-4 feet of standing water.

The Planning Department and The Planning Commission also should look at the viability of these small wineries. There are three small wineries around me that have stated to me in conversation that financially they are not doing well.

Thank you for listening to my concerns.

Sincerely,

Michael Clark

OCT 19 2016

Agenda Item # 9C

4. Existing erosion control plans: Modification thereof when:
 - (a) the footprint of the area disturbed is not expanded;
 - (b) the amount of sediment delivered from the site as calculated by a qualified professional is not increased; AND
 - (c) groundwater use is not increased.
5. Vineyard replants: Replantings or other modifications to existing vineyards under a Track I Erosion Control Plan process when:
 - (a) the footprint of the area to be replanted is within the footprint of the vineyard on June 16, 1993 or as on an approved erosion control plan;
 - (b) the amount of sediment delivered from the site as calculated by a qualified professional is not increased; AND
 - (c) groundwater use is not increased.
6. Tentative map revisions: Revisions to approved maps that do not involve the relocation of either building sites or access roads.
7. Approved oil, gas, and geothermal wells: Revisions that do not involve disturbance of previously undisturbed areas.
8. Existing mining operations: Temporary cessation thereof.

Class 3: New Construction or Conversion of Small Structures [State CEQA Guidelines §15303]

9. Farmworker housing: Construction and operation thereof where not permitted by right.
10. Construction and operation of small wineries, other agricultural processing facilities, and farm management uses that:
 - (a) are less than 5,000 square feet in size excluding caves;
 - (b) will involve either no cave excavation, or excavation sufficient to create no more than 5,000 additional square feet with all of the excavated cave spoils to be used on site;
 - (b) will produce 30,000 gallons or less per year;
 - (c) will generate less than 40 vehicle trips per day and 5 peak hour trips except on those days when marketing events are taking place;
 - (d) will hold no more than 10 marketing events per year, each with no more than 30 attendees, except for one wine auction event with up to 100 persons in attendance; AND
 - (e) will hold no temporary events.
- 10.5 Construction and operation of small public/emergency service facilities, including sheriff's communication towers and power generators and buildings of less than 5,000 feet on less than 30% slopes involving less than 2,000 cubic yards of grading/excavation.
11. Wells: Installation and/or operation thereof pursuant to a groundwater permit when the amount of groundwater proposed to be used in total on the parcel is less than or equal to the amount of groundwater historically used (i.e., during the last 3 years).

