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January 17, 2020

VIA E-MAIL & OVERNIGHT MAIL

Joelle Gallagher, Commissioner
Dave Whitmer, Commissioner
Anne Cottrell, Commissioner
Andrew Mazotti, Commissioner
Jeri Hansen, Commissioner
c/o David Morrison, Director
COUNTY OF NAPA PLANNING COMMISSION
1195 Third Street, Suite 210
Napa, CA 94559

**Re: 270 Kreuzer Lane – Napa, California
Caldwell Vineyard Use Permit No. P17-00074-MOD
APN Nos.: 045-310-056 and 045-310-055**

Dear Commissioners:

This firm represents the Kreuzer Lane Protection Committee (the “KLPC”), a group of concerned property owners on Kreuzer Lane and in the surrounding neighborhood, in connection with the pending Use Permit Major Modification application (the “Project”) for Caldwell Vineyards Winery (CVW).

Following the Commission’s October 17, 2018 unanimous and appropriate rejection of the Project as being excessive in size and scope, the Project Sponsor pursued an appeal to the Board of Supervisors (BOS). At the hearing on March 12, 2019, the BOS took the somewhat unusual step of sending the matter back to the Planning Department and this Commission, with the direction that the Project Sponsor meet with the neighbors (the KLPC) to discuss a resolution and what might constitute an acceptable expansion of the existing use permit. Unfortunately, despite the KLPC’s numerous requests, only two direct meetings have been held in the last ten months. To date, CVW has also rejected the KLPC’s offer to engage in mediation.

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As discussed below, the Project remains excessive in size and scope, particularly given the documented lack of compliance with the current Use Permit by the Project Sponsor CVW.

In short summary, although there has been a reduction in proposed daily and monthly visitors from the original application, the Project application of 35 visitors per day for eight months of the year, previously rejected as excessive by the Commission, remains outsized and inconsistent with the Napa County policies regarding incidental uses in an Agricultural Zoning District, and if approved, will mark a major departure from prior County Policy in this regard. Also notably, the significant increases in use associated with the Project have not been adequately studied, particularly in connection with water impacts. The proposed Negative Declaration is not supported by the facts or law. These issues are discussed in further detail below.

Meetings With the Project Sponsor

At the direction of the BOS at the conclusion hearing on March 12, 2019, the undersigned met with the attorney for the Project Sponsor on April 3, 2019. The meeting was productive, and it was agreed that further meetings with the respective principals in attendance would be appropriate. And to provide further encouragement for a full and frank discussion, it was agreed that any communications or proposals with regard to the specifics of the Proposal would be confidential. That confidentiality agreement will be honored herein.

An initial meeting was held on June 10. Attendees for the Project Sponsor included former Planning Commissioner Terry Scott. In general terms, it was again productive, with an exchange of views and proposals, and an agreement to meet in August.

Efforts to schedule an August meeting by the KLPC were unsuccessful, although there were exchanges between the attorneys on aspects of the Project in response to a mid-August request from the Project Sponsor for a written statement of the KLPC's position in advance of any meeting, which statement was provided. *All of this while the Project Sponsor CVW was submitting a revised Project proposal to the Planning Department on August 13, 2019.*

The KLPC's inquiry for a meeting was repeated in a phone call on September 16, with no response. In subsequent emails and phone conversations in early October, and continuing through November 13, 2019, the KLPC continued in their quest for a meeting, and further encouraged the use of a mediator in an effort to bring the matter to a final conclusion for all concerned.

A second meeting of principals finally occurred on December 16. Once again, Mr. Scott appeared as part of the Project Sponsor group. This meeting was somewhat disappointing in that while the KLPC expressed its position on a number of the Project specifics, no positions were expressed or negotiation occurred on the part of the Project Sponsor. A promised response by the CVW by the

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end of December never arrived, and there have been no recent discussions despite the KLPC's continued requests to have another meeting, engage in more dialogue, or proceed to mediation. Needless to say, the KLPC remain ready, willing and able to meet to resolve the remaining issues associated with the Project.

Compliance Issues

The ongoing trepidation of the KLPC with regard to the Project is the demonstrated failure of the CVW to comply with the existing Conditions of Approval, which suggests that there is little chance that it will comply with any of the use restrictions suggested in the current proposal.

For example, after months of requests submitted through the Planning Department, the KLPC has recently been provided with the actual numbers of *reported* guests/visits at the Caldwell Winery in 2018 and 2019. The chart as received from Wyntress Balcher of the Planning Department for each year is attached as **Exhibit A**.

As can be seen, as against the total annual number of authorized visitors of 2,496, the *reported* number of annual visitors in 2018 and 2019 were 4,249 and 4,097, respectively. In short, this is 1.7 times and 1.65 times, respectively, the approved number of visitors for each year, during a time when the CVW was actively seeking an increase in approved visitors and touting its compliance with the terms of its existing Use Permit.

And such is not the only obvious evidence of the inability of the CVW to comply with the conditions of the Use Permit. Attached as **Exhibit B** is a copy of November 12, 2019 letter from Kelli Cahill of the Planning Department entitled "Amended Information and Notice Regarding Apparent Code Violation". As can be seen from the attachment thereto, there are any number of ongoing violations of the Use Permit Conditions of Approval.

Given these ongoing issues and violations, it is difficult for the KPLC to treat any proposal as the limit of what the Project Sponsor intends to do in connection with this Project. At a minimum, the Project should not be considered until all of the violations are addressed. And once addressed, if some new expanded Project is to be approved, it should be extremely limited in scope given the demonstrated inability of the Project Sponsor to comply with the existing conditions of approval and the law. In addition, as Mr. Morrison suggested in his letter to the Commission on March 12, 2019, there needs to be enhanced accountability for monitoring compliance with Conditions of Approval. This was also mentioned by the BOS at the March 12, 2019 appeal hearing.

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The Project Is Inconsistent with the Napa General Plan

The Caldwell Vineyard Winery is situated on two parcels at the very end of Kreuzer Lane, which is at that point a private road. The Property is located in an Agricultural Watershed zone, which allows wineries and accessory uses subject to use permit control. To that end, the County has adopted the Winery Definition Ordinance to protect agriculture and open space and to regulate winery development and expansion so as to avoid potential negative environmental effects.

Napa General Plan Agricultural Preservation and Land Use Goal AG/LU-1 guides the County to "preserve existing agricultural land uses and plan for agriculture and related activities as the primary land uses in Napa County." General Plan Agricultural Preservation and Land Use Goal AG/LU-3 states the County should, "support the economic viability of agriculture, including grape growing, winemaking, other types of agriculture, and supporting industries to ensure the preservation of agricultural lands." As relevant here, there is nothing in the Goal about preserving or promoting retail winery uses.

Similarly, Agricultural Preservation and Land Use Policy AG/LU 1 of the 2008 General Plan states "agriculture and related activities are the *primary* land uses in Napa County" and Land Use Policy AG-LU-2 states that: "'agriculture" is defined as the raising of crops, trees, and livestock; the production and processing of agricultural products; and the related marketing, sales, and other *accessory* uses ... " The property's General Plan land use designation is AWOS (Agriculture, Watershed and Open Space), which allows "agriculture, processing of agricultural products, and single-family dwellings." Again, there is nothing in the Policy statement with regard to the promotion of marketing or retail uses.

Unusual here is that the Caldwell Vineyard Winery is in an Agricultural Watershed zoning district. While wineries are allowed as conditional uses in such a district, marketing activities and other accessory uses are to remain strictly *incidental* to the main use. As currently proposed, the expansion of winery operations will be such that the marketing and retail component will begin to dwarf the actual production/farming component. Stated another way, if this Project is approved as proposed, the marketing/visitation aspect of the Winery will no longer function as an ancillary component, incidental and clearly subordinate to the main use. Instead, the marketing and retail aspect of the Winery will become equal to or more dominant than its production component. Is that consistent with the 50th anniversary of the Napa County Agricultural Preserve?

While the Sponsor will likely assert that the daily, weekly and annual visitation numbers have been reduced from the original proposal, such is a concession without a difference - the original proposal sought an absurd 14 times increase in daily and weekly visitors. As revised, the proposal still asks

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for a 2.5 times increase in annual visitors. There is nothing incidental about that increase in an Agricultural Watershed zoning district.

No better evidence of the manner in which this proposal will deviate from the General Plan and County Policy is the Winery Comparison Analysis attached to the Planning Department's submission to the Commission in connection with the original Project application. The so-called "By Appointment Wineries" in Napa County are those to which marketing and retail uses are to be incidental to agricultural use. There are asserted to be twenty-one (21) such wineries in the 30,000 – 38,000 gallon production category. By our analysis, *not one of those comparison wineries is in an Agricultural Watershed zoning district.* Instead, all of the comparison wineries are in an Agricultural Preserve District, and most are on the valley floor near the main arterial routes of Highway 29 and Silverado Trail.

And even the numbers with regard to those comparison "By Appointment Wineries" in the Agricultural Preserve District by major traffic arteries demonstrate an effort by the County to ensure that marketing and retail uses remain incidental to agricultural use. The chart shows that the average for approved daily/weekly visitors is 18/105. The average for annual approved visitors is 5209, and for marketing visitors is 579. The average number of approved total annual visitors is 5733.

The Caldwell Vineyard application seeks to eviscerate those protections, and reveals dramatic increases in all categories relative to the average for similar and larger size "By Appointment" wineries. Overall, the Project would still be the *sixth largest* of the twenty-one comparison wineries list in terms of annual visitors, even though the winery has *no* building, its cave is one-third the size of the largest "By Appointment" Winery and it is in an Agricultural Watershed zoning district. Indeed, The Project application for 25-35 daily visitors will be approximately *twice* the average for these comparable wineries overall, and will be 1.8 times the average during the so-called high season.

These numbers, as well as the fact that the CVW is requesting an approximately 250% increase in annual visitors and a 300% increase in employees – both full and part-time - against a 40% increase in wine production, demonstrates an intent on the part of the CVW to make the marketing/visitation aspect of the Winery no longer function as an ancillary component, incidental and subordinate to the main use, but instead an equal or primary use. This is clearly inconsistent with Napa's Agricultural Preservation and Land Use Policy. If the Project is approved at the current numbers, it will send a message throughout Napa County that the Planning Commission has a new approach and position with regard to Napa's Agricultural Preservation and Land Use Policy, and its General Plan.

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Stated another way, approval of this application in its current form is in violation of the General Plan and will not properly balance the rights of the individual winery owner with that of the community (i.e the immediate neighbors). The proposed increase in intensity will generate a level of noise, traffic, and activity in what is otherwise a quiet, rural agricultural area that will diminish the quality of life for nearby residents and increase the presence of components that will detract from the rural residential character. To ensure a more balanced approach, following a proper environmental analysis, there needs to be substantial new Conditions of Approval imposed on the Project, including but not limited to demonstrated compliance with the original Conditions of Approval and a reduction in the number of approved visitors to be consistent with Napa's Agricultural Preservation and Land Use Policy and the General Plan.

Project Provisions

Mindful of the suggestion by the BOS that the KLPC indicate what, if any, increased Project would be acceptable, we discuss some alternatives below. However, we must continue to caution that given the past conduct of the Project Sponsor, and the fact that this winery is in an Agricultural Watershed District, we continue to believe that only a minimal increase in visitation and usage would be appropriate. In this context, we discuss the Project proposal by category.

1. Production

Mindful of the importance of farming and the right to farm in Napa County, the KLPC has no objection to the increased annual production from 25,000 to 35,000 gallons, subject to the understanding there is no associated cave expansion.

2. Tour/Tasting Visitation

For all of the reasons discussed above, including the lack of compliance to date and the location, the KLPC believes if an increase in annual visitors is to be allowed, that it be no more than double the existing number, or 5,000.

With respect to seasonality, it is suggested that there be two seasons – the High Season as proposed, and the remainder of the year. In the High Season, reflecting hours of 10 – 5 every day, the daily maximum should be no more than 24 (triple the current number), and a weekly maximum of 150. As for the remainder of the year, a 6-day per week schedule, with a daily limit of 16 (double the current number) and a weekly maximum of 76, all subject to the maximum yearly limit so as to allow for some daily and seasonal variability. The KLPC would also request that the day off per week be a consistent day of the week, specifically identified in the Use Permit.

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Hours of operation should be 10 – 4 during the remainder of the year, consistent with the use permits throughout the County.

With regard to Marketing Events, there is no objection to the proposed 12 Very Small Events (28 each) and the 3 Small Events (68 each), *but the number of visitors to each event should count against the weekly total*, and not be offset only against the daily limit. In addition, and importantly, the neighborhood location of the winery requires that all events other than temporary events must take place inside the cave, and that there be no alcohol consumed outside. This was a promise previously made by the CVW, and one of the primary reasons why the neighbors originally agreed to support CVW's original use permit application. This important condition of the current Use Permit should remain in effect.

All Marketing events should close to guests at 9:00 p.m., with employees leaving by 10:00 p.m.

It is acknowledged that the Project Sponsor may apply for two temporary events by permit, subject again to a 10:00 p.m. closing to guests, and 11:00 p.m. closing for employees.

3. Event Notification

Formal notification should be provided with regard to *all* events at CVW, regardless of size, to all parcels on Kreuzer Lane and Kreuse Canyon Road, via USPS mail and email (list supplied by KLPC) in advance of CVW scheduled events (regardless of ownership or rental). Sixty (60) days notice for Temporary Events and Small Events (68 max.) Thirty (30) days notice for Very Small Events (28 max.). If CVW obtains a temporary permit, parcels must receive a copy of the temporary permit in the same time-frames as listed above.

4. Crush Pad and Cover

The "crush pad" should be used during crush season only. No other activities on the "crush pad" unless they are wine-making-related crushing activity. No outside barrel-making. Auxiliary compressors and fans must be operated inside the cave.

5. Visitor Logs & Other Compliance Checks

Daily, weekly and monthly tour and *event* visitor log books for tracking of visitation totals should be kept and maintained in perpetuity. They should be made available to the County and all parcels on the private portion of Kreuzer Lane upon ten days written request. There should be an annual meeting to be scheduled in June of every year in perpetuity, with sixty (60) days' notice to residents of Kreuzer Lane and Kreuse Canyon Road.

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6. Gate Area Signage

New signage should be posted to the left of the stone-pillared gate at the end of public Kreuzer Lane (beginning of private Kreuzer Lane) and should state: "Tours and Tasting by Prior Appointment Only", and be incorporated into the existing signage. The total sign size should not be larger than the sign that already exists; however the point size of the additional language should be proportional to the winery name. No other winery signage (branded or otherwise) should be placed along public or private Kreuzer Lane by CVW, except for directional signs.

Note that this language is part of the existing Use Permit, and has never been implemented. Contrary to the CVW's application entry entitled "'B' Recommended Conditions of Approval..." —4.20, item 4, —the property entrance for 270 Kreuzer Lane is not at the stone-pillared gate. That property entrance is much farther up the road, past the private Kreuzer Lane residences. The required "Tours and Tasting by Prior Appointment Only" signage required by the County in the original Use Permit, and never installed, must appear at the beginning of private Kreuzer Lane, at the stone-pillared gate.

7. Visual Screening

Evergreen screening shall be installed between the industrial portions of the operation (e.g. tanks, crushing area, parking area, etc.) and off-site residences that can view the structures." The screening (as outlined in the original Use Permit) must be installed between the entirety of the industrial portions of the operation and off-site residences that can view the structures. The mature height of the screening must reach above the height of the portals. All planted screenings shall be properly maintained, and promptly replaced when necessary.

All outdoor storage of winery equipment shall be screened from the view of adjacent properties by a visual barrier consisting of fencing or dense landscaping. No item in storage is to exceed the height of the screening. Water and fuel tanks, and similar structures, shall be screened to the extent practical so as to not be visible from public roads and adjacent parcels.

8. Noise and Sound.

No amplified music allowed outside, other than by temporary permit, a maximum of two times per year. Doors to the caves must be kept closed during events and business operations, especially if there is amplified music inside the caves. The permanent outdoor pumps and equipment must be sound-proofed or moved to a location that doesn't bounce sound off the sheer cliff into which the cave winery was built.

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9. Fire Prevention and Protection

Visitations and events must be cancelled during red-flag fire conditions. Fire break to be constructed. Secondary exit road should have signage and the locks permanently removed on the emergency gate.

The Project Requires Environmental Review

The recommendation of the Planning Department is a Negative Declaration with respect to a potential environmental impact. To the contrary, even a cursory or summary review of the Project demonstrates that in several important areas, proper environmental review is required.

By itself, a review of comparison winery approvals discussed above suggests that this Project is a dramatic deviation from prior land use applications in this County, worthy of further study. And a simple calculation of the proposed increases to the prior approval of this Project compels the same conclusion.

Traffic

There are only 38 existing parking spaces. It is highly unlikely that the 38 existing parking spaces will be sufficient for the three large events of 68 guests and the two temporary larger events. There is no explanation of how the vaguely-described valet parking solution will address special event concerns. At a minimum, there needs to be proper description of the larger event operations.

Water

The Caldwell Vineyard consists of two separate parcels - a winery parcel and a vineyard parcel. The winery parcel is located in a MST deficient groundwater basin. It is unclear how and in what manner the vineyard parcel will be used for the winery and/or to ensure that the well in the MST ground deficient parcel will not be used beyond its current level, particularly since the water depth of the wells in the MST area is increasing.

Moreover, as the caves exist on both parcels, should the entire winery be considered part of the MST deficient groundwater basin? Is a lot line adjustment necessary to obtain a proper analysis here?

There is no detail provided with regard to the water system in use at the site. For example, what is the age of the system? Is there water service to the sub-buildings?

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The Water Availability Analysis reports minimal increases in water use. Further peer review will be necessary with respect to the assumptions and calculations.

Fire

It is not clear how the Fire Department could have approved the Project given that there is no method for a turnaround near the wine caves. The road is simply not wide enough to accommodate a fire-fighting effort in that area.

The Atlas Wildfire of 2017 was a wake-up call for many residents of Napa County, and especially those on rural wildland property such as the area where Caldwell Vineyard Winery and several adjacent residential properties are situated. The Napa County fire marshal's office gave its approval for the major modification before the October, 2017 wildfires. It is suggested that the fire marshal to re-inspect the winery and surrounding location post-fire, before any Project modification is approved.

Note that the neighboring parcel owners at 199 Kreuzer Lane have worked for decades to harden its fire defenses, including a circular driveway that doubles as a firebreak, around the structures within it. Cal Fire came in several times to advise parcel owners on best practices. The preventative measures worked well, assisted by U.S. Forest Service, and Cal Fire. There is still a danger, however: the highly flammable steep canyon separating the 199 Kreuzer Lane property from the Caldwell Vineyard Winery Cave complex. This is the most vulnerable border, and the threat extends to those properties west of the winery.

Wildfire danger caused by and at the Caldwell Vineyard was less of a concern when the Use Permit stipulated that all visitation activities occur within the winery cave, but residents have far greater concern now that an outside picnic area has been requested. A single careless act by any one of the new, potential thousands of tasting and event guests who might be permitted to eat and drink outside the cave area, could spark a wildfire.

Additionally, parking and driving on unpaved areas - a potential fire hazard in fire season - is possible and dangerous because thoroughfares and parking areas below the cave portals are not fenced.

Conditions of Approval

The proposed Conditions of Approval are not stringent enough, given the Project Sponsor's demonstrated inability to abide by the original Conditions of Approval.

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Outdoor Activity

According to the current use permit, "no tasks" are authorized outside the caves. The project proposes an outside picnic area that is quite extensive in size and design, with an undisclosed number of picnic tables for daily visitors and marketing events. There is a concern in this regard given the border of a high wildfire danger area, is within line of sight and sound of adjacent residences, and would be in operation seven days a week, from 10 am to 5 pm, if approved.

The KLPC has no objection to a picnic table for use by employees of the winery, and by drivers waiting for clients, but, as promised repeatedly by the CVW owner representative in meetings with neighbors, it will not be used for wine tasting or outdoor entertainment/marketing. This needs to be included in the Use Permit.

Also concerning is unsupervised alcohol consumption implicit in this picnic plan, which would increase the danger of driving up and down the steep cliff-side narrow driveway and past 25 residences, and beyond.

The long-roadside screening called for in the original use permit should be installed, rather than the few sparsely-planted trees that are there now.

The loud outdoor pumps and fans that operate 24-hours-a-day, 7 days a week, should be sound-proofed and screened, as called for in the original use permit but never accomplished.

Residences, both facing the Caldwell Vineyard Winery and along Kreuzer Lane, are impacted by outside event noise. There should be no outdoor amplified music or sound, except for temporary events. In connection with the original application, the neighbors were guaranteed by the owner of Caldwell Vineyard that there would be no outside music, but this turned out to be untrue for some events and activities.

Parking

The original use permit specified: "In no case shall parking impede emergency vehicle access on public roads. If any event is held, which will exceed available onsite parking, the Caldwell Vineyard Winery shall arrange for off-site parking and [provide] shuttle service to the winery." That has not occurred. Specific plans for shuttle parking need to be provided to the County and the neighbors. Additionally, CVW will instruct employees not to block access to trash and recycling bins, as this often results in the trash truck and other service vehicles having to honk horns repeatedly to alert staff for access.

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Duane Morris

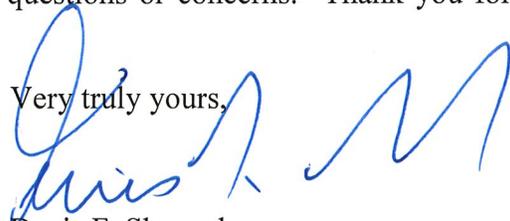
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Summary

The current Project Application is in violation of the General Plan and inconsistent with Napa's Land Use Policy, and must be significantly modified for that reason. It is also respectfully submitted that regardless of the size of the Project, a proper environmental review needs to be conducted in connection with the current Project application, particularly with respect to water impacts. And if a reduced Project is approved, significant additional Conditions of Approval will be necessary.

Please do not hesitate to call me if you have any questions or concerns. Thank you for your consideration in this regard.

Very truly yours,



Denis F. Shanagher

DFS

cc: Wyntress Balcher
Tom Adams, Esq.
Clients

EXHIBIT

A

EXHIBIT A

EXHIBIT

B

EXHIBIT B



A Tradition of Stewardship
A Commitment to Service

**Form 1 – Information Sheet
Planning, Building & Environmental Services**

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

David Morrison
Director

**AMENDED INFORMATION AND NOTICE
REGARDING APPARENT CODE VIOLATION**

November 12, 2019

Caldwell Vineyard, LLC.
169 Kreuzer Lane
Napa, CA. 94559

Via Certified and Regular USPS Mail

LOCATION: 270 Kreuzer Lane, Napa, CA; APN 045-310-055-000 CE19-00992

Dear Property Owner:

The Napa County Department of Planning, Building, & Environmental Services has received information and/or observed that a Code violation exists or has occurred at the above-referenced Property. We have received complaints that you recently held an annual marketing event at the winery that did not adhere to the conditions of approval outlined in approved Use Permit #03318. The report stated that the event was held over two days on September 13 and 14th in areas outdoors with amplified music. Additionally, neighboring property owners were not informed of the event 60 days prior to the event as required by Use Permit #03318. This notice amends the previous notice of September 19, 2019.

Furthermore, additional information has been received indicating that additional conditions of approval as approved by Use Permit #03318 have not been implemented or are not being adhered to as required.

Please refer to the attached notice and informational sheet that describes in more detail the reported or apparent Code violation(s) and the references to the provisions that appear to have been violated.

Please contact us within ten (10) calendar days of the date of this Notice. We look forward to discussing this situation with you and resolving the apparent violation promptly. You may reach me at (707) 265-2325.

If you do not address the above-described violations by November 22, 2019, the County will take additional code compliance actions, including Citation, Notice of Nuisance, Order to Abate, and/or Filing of Enforcement Proceedings.

Sincerely,

Kelli Cahill,
Code Compliance Officer
Planning, Building & Environmental Services

Cc: File, Admin.



A Tradition of Stewardship
A Commitment to Service

DATE:

November 12, 2019

REPORTED OR APPARENT CODE VIOLATION

IMPORTANT ENFORCEMENT INFORMATION

This letter is a courtesy notice to advise you that a code violation exists on the property identified below. An annual marketing event was held at the winery that did not adhere to the conditions of approval outlined in Use Permit #03318. The report stated that the vent was held over two days on September 13 and 14th in areas outdoors with amplified music. Neighboring property owners were not informed of the event 60 days prior to the event as required. Furthermore, information has been received indicating that additional conditions of approval under Use Permit #03318 have not been implemented or adhered to as required. This notice amends the previous notice of September 19, 2019. Our Department encourages voluntary compliance and you are being given the opportunity to correct the violation identified in this notice before further enforcement action is taken.

NAME OF PERSON/ENTITY	ADDRESS OF VIOLATION:	MAILING ADDRESS:
Caldwell Vineyard, LLC.	270 Kreuzer Lane, Napa APN# 045-310-055-000	169 Kreuzer Lane Napa, CA. 94559

CODE SECTION(S) VIOLATED:	VIOLATION DESCRIPTION:
<p>Use Permit No. 03318, Condition of Approval</p> <ul style="list-style-type: none"> • No. 1 – Scope <ul style="list-style-type: none"> - No Outdoor winery activities - Marketing events shall be limited to 13 events per year. Each event requires a minimum 60 days notice to the neighbors at parcel nos. 045-310-045 and 045-310-047. - Tours and tastings are limited to 8 people per day or 40 people per week - No tasks are authorized outside the caves • No. 2 – Tours and Tastings <ul style="list-style-type: none"> - Tours and tasting shall be complete by 4:00pm. - All wine sales shall be complete by 4:30pm • No. 5 – Signs <ul style="list-style-type: none"> - At least one sign shall inform the public that "Tours and Tastings are by Prior Appointment Only" • No. 9 – Outdoor Storage / Screening <ul style="list-style-type: none"> - Outdoor storage of winery equipment shall be screened from view of adjacent properties by 	<ul style="list-style-type: none"> • Winery equipment related to crush have been observed outside the cave, with signs stating "Slow Work Zone Ahead". Use Permit No. 03318 does not permit winery related activities outside the caves. • Any of the 13 allowed marketing events require a minimum of 60 days prior notice to owners of assessor parcel nos. 045-310-045 and 045-310-047. • Other than marketing events, reports have indicated that the maximum number of visitors to the site on any day (whether visiting or for retail sales or for tours and/or tastings) shall not exceed eight (8) people per day or forty (40) people per week has been exceeded with some regularity. • We have received a report that visitors to the winery stay beyond 4:00pm, to as late as 6:30pm. • There are currently five (5) winery signs on and offsite that do not state that the winery is open to the public with prior appointment only. Additionally, there is no record of permit for any signs. • Review of aerial photographs indicate that outdoor storage winery equipment on an adjacent parcel have

<p>a visual barrier consisting of fencing or dense landscaping.</p> <ul style="list-style-type: none"> - Exterior winery equipment shall be enclosed or muffled and maintained so as not to create a noise disturbance. <ul style="list-style-type: none"> • No. 14 - Noise 	<p>not been adequately screened as required by Use Permit No. 03318 Condition of Approval No. 9.</p> <ul style="list-style-type: none"> • Exterior winery equipment is not enclosed or muffled to prevent noise disturbance to neighbor properties. • There shall be no amplified music sound system or amplified music utilized outside of approved, enclosed winery buildings unless a special permit to that effect has been secured through the County.
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CORRECTION(S) REQUIRED AND DEADLINE TO CORRECT:

1. Please contact me within ten (10) calendar days of the date of this letter (November 22, 2019) to confirm your receipt of this correspondence and to discuss your options to comply with the code.
2. Please provide a total number of marketing events held at the winery to-date for the year 2019, including the total number of guests/visitors per event.
3. Please provide complete visitation logs for the winery to-date for the year 2019.
4. Please ensure that all tour and tastings be complete by 4pm, and all wine sales complete by 4:30pm as outlined in Condition of Approval No. 2.
5. To date, this department has not received a permit for any offsite or onsite winery signs, of which there are 5. Please submit a complete site plan map identifying the location of all winery signs, including photographs, size, dimension, and heights.
6. Please provide a detailed plan for screening storage of equipment on adjacent parcel 045-310-055, as to create a visual barrier consisting of fencing or dense landscaping as required under Condition of Approval No. 9.
7. Prior to any event, including those with amplified music or amplified sound system that will take place outdoors, you will need to apply for a Temporary Event Permit a minimum of 60 days prior to the event. Please note that only upon issuance of that permit will outdoor events be permitted on site. Furthermore, any event currently scheduled on or before January 11, 2020 will need to be cancelled as they do not meet the minimum 60 days required to obtain the necessary permits.

This division is aware that a Use Permit Modification is pending within this office, and will likely be heard before the Napa County Planning Commission soon. It is in your best interest to respond to this notice, and work to comply with all items listed above in order to bring your current operations into compliance with Approved Use Permit No. 03318 prior to the hearing.

NAME OF CODE ENFORCEMENT OFFICER:	DEPT. PHONE NUMBER & EMAIL CONTACT:
Kelli Cahill	(707) 265-2325
District Supervisor:	
Belia Ramos	District #5

YOU FACE THE MEASURES ON THE BACK OF THIS NOTICE UNLESS YOU PROMPTLY CONTACT AND WORK WITH COUNTY STAFF TO ADDRESS THE ABOVE DESCRIBED REPORTED OR APPARENT CODE VIOLATION(S)

Unless you promptly contact County staff and work with staff to address the above-described reported and/or apparent Code violations by the date specified above, one or more of the following code compliance measures will be implemented by the County:

1. Issuance of a Citation pursuant to Napa County Code Chapter 1.28.

Under Chapter 1.28 of the Napa County Code, Code Enforcement staff may issue a Citation. The issuance of a Citation for a violation of the Code shall, unless the violation is corrected prior to the deadline stated in the Citation, result in the imposition of administrative penalties. Such penalties may vary with the type of violation, but currently the lowest penalties that may be levied are as follows:

- \$100 for the first violation
 - \$200 for the second violation of the same Code provision within 1 year
 - \$500 for the third violation and for each additional violation of the same Code provision within 1 year.
- For violations that pertain to real property, the Citation will be recorded with the Napa County Recorder's office and constitute a lien on the property if you fail to correct the violation by the deadline stated in the Citation.
 - You will be given an opportunity to request a hearing before a hearing officer to contest the Citation and/or to contest the administrative penalties or recordation of the Citation.
 - If you fail to pay an administrative penalty and/or fail to correct the Code violation after a Citation is issued, the matter will then be referred to County Counsel or the District Attorney for further enforcement through civil litigation proceedings.

2. Issuance of Notice of Nuisance pursuant to Napa County Code Chapter 1.20

- a. Alternatively, the Enforcement Officer shall (unless circumstances dictate otherwise) issue a Notice of Nuisance pursuant to Napa County Code Section 1.20.040, which will be copied to all lienholders of record of the property.
- b. This Notice will include an Order to abate the nuisance by a specified, reasonable time.
- c. If the violation is not corrected by the stated deadline, an abatement hearing may be held before the Napa County Board of Supervisors.
- d. The Board may, if it finds a nuisance exists, order the violator to pay all administrative costs incurred in the course of abatement proceedings and investigation.
- e. Recordation of the notice of nuisance and imposition of administrative penalties under Chapter 1.28 may also occur.
- f. Depending on the nature of the violation and whether it poses a threat to health and safety, County Code Enforcement may choose to engage in summary (immediate) abatement steps to eliminate the nuisance without an administrative hearing before the Board of Supervisors.

3. Issuance, if applicable, of a Notice of Violation and Order to Repair or Abate Substandard Housing Conditions pursuant to Health and Safety Code Sections 17980 and 17980.6.

- a. The Notice of Violation as to substandard housing conditions will include an order to remedy the violation(s) within a reasonable period of time.
- b. Administrative penalties under Chapter 1.28 may also be imposed if the conditions are not corrected by the deadline stated in the Notice.
- c. If the violations are not corrected by the deadline, the Notice of Violation will be recorded with the Napa County Recorder's office and constitute a lien on the property.
- d. Failure to correct substandard housing conditions may also result in appointment of a receiver for the property affected by the violation.

4. Referral to County Counsel or the District Attorney for Filing of Enforcement Proceedings in Court

Depending on the circumstances and severity of the violation, direct referral of a violation to County Counsel or to the District Attorney for filing of enforcement proceedings may occur at the outset, without the issuance of a Citation or the other Notices described below. Pursuant to Napa County Code Section 1.20.155, in the course of such litigation, the County may seek civil penalties up to \$1,000.00 for each day that the violation continues to exist.

The County's remedies and procedural steps for enforcement of the County Code and other statutes and regulations enforced by the County, as described herein, are cumulative, alternative, and subject to the County's discretion depending on the circumstances presented. The County, in enforcing the County Code and other statutes and regulations, has prosecutorial discretion to select -- based on the particular circumstances -- the appropriate enforcement measures to be taken, as permitted by the County Code and other laws.