

CVW Use Permit Major Modification (January 22, 2020 hearing)
And the Kreuzer Lane Protection Committee response
on behalf of the Kreuzer Lane Neighborhood

Planning Commission Mtg.

JAN 22 REC'D 2020

Agenda Item # 7A

The purple text: The Proposed Caldwell Vineyard Winery (CVW) Use Permit Items.

The black text: Kreuzer Lane Protection Committee (KLPC) responses and proposed changes. This document also includes what we think should and should not be allowed, given the winery's history of non-compliance, promises made to the neighbors by the owner at the winery's inception, and the rural, residential nature of the area.

Please note— CVW/Napa County Planning Department positions are taken from the Napa County website winery documents, including: "B" document "Recommended Conditions of Approval and Final Agency Approval Memos." The complete document can be found on the Napa County Website.

A. CVW-Proposed Production

Planning Department recommends the following be approved: Increase from 25,000 annual gallons to 35,000 annual gallons.

Kreuzer Lane Protection Committee neighborhood position:

We believe in the Right to Farm and want our neighbor to succeed in its agricultural endeavor. We have no issue with the increase in gallonage as long as the winery isn't counting on an outsized on-site tasting/entertainment effort in order to support the agricultural increase.

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**B. CVW and Napa Planning Department
Proposed By-Appointment Tasting / Tour Visitation**

Tours and tastings shall be by appointment only and shall be limited to the following:

a. CVW-Proposed Maximum Limitations on visitation will be based upon three seasons:

- i. Low Season = January, February, March, December
- ii. Mid Season = May, June, July, August
- iii. High Season = April, September, October, November

b. CVW-Proposed Frequency:

- i. Six days per week during Low Season
- ii. Seven days per week during Mid Season
- iii. Seven days per week during High Season

c. CVW-Proposed Maximum number of persons per day:

- i. 25 per day during Low Season
- ii. 35 per day during Mid Season
- iii. 35 per day during High Season

d. CVW-Proposed Maximum number of persons per week:

- i. 84 per week during Low Season
- ii. 106 per week during Mid Season
- iii. 190 per week during High Season

e. CVW-Proposed Maximum total annual By-appointment Visitation: 6250

f. CVW-Proposed Hours of visitation: 10:00 am to 6:00 pm

g. CVW-Proposed Food service to include crackers, cheese and charcuterie prepared by off-site caterer and prepped/plated in the prep kitchen

h. Napa County Planning-proposed The winery shall not be open for tours/tasting on the days of Marketing Events.

Kreuzer Lane Protection Committee neighborhood position: on visitation by season

The KLPC strongly disagrees that there should be a three season split as compliance has proven difficult enough with only one. We believe that there could be a 2-season split: one 4-month High Season and a single Non-High-season—rather than a further split between Low-Season and Mid-Season.

A High and Non-High seasonal split has already been determined and approved for several wineries. The Caldwell Vineyard Winery has constructed a 3-way split to maximize its visitation during a second season with peak numbers—but that, and their request for flexibility in scheduling, has the potential to make monitoring more complicated.

Kreuzer Lane Protection Committee neighborhood position: on hours

The hours of operation should end at 5 p.m. in the High Season, and 4 p.m. in the rest of the year—which is more consistent with Napa County hours for wineries in rural neighborhoods.

Kreuzer Lane Protection Committee neighborhood position: on days of the week

We would like to have one mandated and consistent, predetermined day off per week in all non-High Season Months. Neighbors would like to be able to plan for tranquil outside activity without winery activity. The KLPC would also prefer one day off in the High Season as well, but is willing to concede to 7-days per week during that 4-month period as long as the winery isn't permitted to have tasting/marketing visitation outside of the cave winery.

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B. KLPC - PROPOSAL REGARDING—

By-Appointment Tasting / Tour Visitation

Visitation Numbers, Days Open, and Opening Hours.

The KLPC recommends the following be approved.

Tours and tastings shall be by appointment only and shall be limited to the following:

a. Maximum Limitations on visitation should be based upon two seasons:

- i. Non-High Season Months = May, June, July, August, January, February, March, & December
- ii. High Season Months = April, September, October, November (CVW's preferred High-Season Months)

b. Frequency / Days of Visitation:

- i. Six days per week during Non-High Season Months
- ii. Seven days per week during High Season

c. Maximum number of persons per day:

- i. 16 per day during Non-High Season Months
- ii. 24 per day during High Season

d. Maximum number of persons per week:

- i. 76 per week during Non-High Season Months
- ii. 150 per week during High Season

e. Maximum total annual by-appointment visitation: 5,000, including both tour / tasting and marketing event visitors, and is inclusive of all crush and personal visitors.

f. Hours of visitation:

- i. 10:00 am to 4:00 pm during Non-High Season Months
- ii. 10:00 am to 5:00 pm during High Season

g. Days of visitation:

- 6 days per week during Non-High Season Months (consistently same day off every week).
- 7 days per week during 4-month High Season (except for Red Flag fire danger days).

Kreuzer Lane Protection Committee Note: The Use Permit should not allow a *flexible* number of visitors by day, month, or season to achieve the annual maximum number of tours/tasting/marketing visitors, as they requested in their re-application. The winery must not exceed daily or weekly maximum numbers of visitors.

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**C. CVW and Napa Planning Department
Proposed Marketing Events & Event Visitors**

Marketing events shall be limited to the following:

a. CVW-Proposed Marketing Events, *Very Small*

1. Frequency: 12 times per year
2. Maximum number of persons: 28
3. Time of Day: 10 am to 10:00 pm

b. CVW-Proposed Marketing Events, *Small*

1. Frequency: Three (3) times per year
2. Maximum number of persons: 68
3. Time of Day: 10:00 am to 10:00 pm

c. CVW-Proposed All Marketing Events to have food prepared by an off-site caterer. The crush pad area shall be used by the caterers for food prep during marketing events and the caterer will provide prep stations as required.

d. Notice to Neighbors: A minimum of 30 days prior notice of Type Small Marketing Events (maximum 68 guests) shall be provided to the owners of the following properties located on Kreuzer Lane beyond the end of the county-maintained road: APN #045-310-042; APN #045-310-045; APN #045-310-047; APN #045-310-053; APN #045-310-052. For all other marketing events prior notice shall be provided to said property owners within a reasonable time after the events have been scheduled. Copies of such notices shall be provided to the PBES department. Said notice will include cell phone number of contact person who will be on site during the event, with authority to immediately address any issues that may arise.

e. Location of Marketing Events: Marketing events shall be held in the caves or in the outdoor picnic area. As noted in COA #4.10; there shall be no amplified sound system or amplified music utilized outside of approved, enclosed, winery cave.

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C. KLPC - Proposal Response Regarding—

Proposed Marketing Events / Event Visitors / Event Notification

Regarding CVW Proposal Items "a." and "b."

Kreuzer Lane Protection Committee neighborhood position: The KLPC can support the number of events that CVW proposes as long as the events are held inside of the cave winery, and neighbors receive advance notice of 60 days for "small" events, and 30 days for "very small" events. We are not contesting CVW's number of marketing events, but we would like events to end by 9 pm, with employees leaving by 10 pm.

Regarding CVW Proposal Item "e." Location of Marketing Events

Kreuzer Lane Protection Committee neighborhood position:

The cave winery uses its outdoor space for marketing events now, in violation of its current Use Permit. In their re-application for major modification, CVW is now asking for blanket permission to have both tours/tasting and marketing events outside, in a commercial picnic area. This is a cave winery, not a winery with a cave and this extension of the indoor tasting and event venue, should not be approved.

The cave winery was built and designed—and expanded in 2007—to house the entirety of its tour/tasting visitation and marketing events. At the time of the winery's creation, the owner promised neighbors that, in exchange for their pulling their letters of protest to the CABC, there would be no outside tasting / marketing entertainment component.

Despite the passage of California State AB 2004 in July of 2008, allowing the option of On-Premises Consumption of alcohol, local governments have the discretion to determine whether or not outdoor drinking areas are appropriate for wineries in their area. Napa County's PBES Director's July 17, 2008 memo merely reinforces the County's authority over such a permit—it does not guarantee an applicant the ability to receive the permit, or grant all that the winery requests.

Also regarding proposal item "e." A permanent commercial outdoor picnic area is not appropriate for this fire-prone location in a rural neighborhood. Marketing guests at marketing events must count against the maximum number of weekly visitors allowed for tours/tasting.

Regarding CVW Proposal Item "d." Notice of Events to Neighbors

Kreuzer Lane Protection Committee neighborhood position:

Notification should be provided with regard to all events at CVW, regardless of size, to all parcels on Kreuzer Lane and Kreuse Canyon Road, in advance of CVW scheduled events (regardless of home 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.

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D. CVW and Napa Planning Department

Proposed Event and Marketing Visitor Logs & Other Compliance Checks

Planning Department recommends the following be approved:

On Page 8 of 19 [in "B" Recommended Conditions of Approval]

4.20 OTHER CONDITIONS APPLICABLE TO THE OPERATIONAL ASPECTS OF THE PROJECT

A log book (or similar record) required by COA No. 4.2 shall be maintained and submitted to the PEBS Department on monthly basis, tracking annual visitation totals for a one year period from approval of the project. The log book records shall be made available to the owners listed in COA 4.3(d) upon request.

On Page 4 of 19 [in "B" Recommended Conditions of Approval]

under 4.2 TOURS AND TASTINGS/VISITATION

A log book (or similar record) shall be maintained to document the number of visitors to the

1. In meetings as the winery came into being in the early 2000s, the owner stressed to neighbors on upper Kreuzer Lane that all visitation and events would be housed inside the cave winery. This was reinforced to neighbors by a winery rep in a Jan 3, 2019 meeting with the winery, at the winery.

2. Neighbors agreed in the Jan. 3, 2019 meeting to an outdoor picnic table for use by staff and waiting drivers only. No outdoor marketing events or tasting.

winery (for either tours and tastings or marketing events), and the dates of the visits. This record of visitors shall be made available to the Planning, Building and Environmental Services (PBES) Department upon request.

Regarding:

2. The winery shall hold an annual meeting with the neighbors in June to discuss concerns for a period of two years after project approval. Confirmation of the meetings shall be submitted (sic)*

*Sentence is not completed in the Napa County Planning Department's document.

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D. KLPC - Proposal Response Regarding—
CVW's Proposed Event and Marketing Visitor Logs & Other Compliance
Checks

Kreuzer Lane Protection Committee neighborhood position:

Regarding Log Books: We are confused that there are conflicting entries in the "B" Recommended Conditions of Approval document. One entry says that logs are available for one year and neighbors can have access. The other entry puts no time period on access by the County, and neighbors are excluded.

Neighbors on upper Kreuzer Lane would like to have continued access to the visitation logs upon request, and in perpetuity, and marketing visitation logs as well. The winery has been found to be out of compliance with regard to visitation for a number of years, including in 2017 when it submitted logbooks that its chief operating officer at the time assured neighbors were accurate and true. KLPC neighborhood photo documentation proved that claim to be false in specific weeks and on specific days. The winery is currently out of compliance for both 2018 and 2019 as well— exceeding the visitation allowed in its current Use Permit, even while the winery works to get a major modification approved.

- By-day visitation logs should continue to be kept *in perpetuity* by the winery, and available upon written request within 10 days to the county and the parcels of upper Kreuzer Lane. Additionally, event visitation logs should also be kept and made available upon written request within 10 days to the county and the parcels of upper Kreuzer Lane.
- 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.
- The Kreuzer Lane Protection Association would like to know what compliance plan the county foresees putting into place because of the winery's long history of non-compliance and willful disregard of visitation limits in its use permit, even when violations are called to the winery's attention.

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**E. CVW and Napa Planning Department
Proposed Event and Visitation Traffic / Parking**

Traffic and Parking outside of the Winery:

Planning Department recommends the following be approved:

4.12 PARKING The location of visitor parking and truck loading zone areas shall be identified along with proposed circulation and traffic control signage (if any).

Parking shall be limited to approved parking spaces only and shall not occur along access or public roads or in other locations except during harvest activities **and approved marketing events**. In no case shall parking impede emergency vehicle access or public roads.

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**E. KLPC - Proposal Response Regarding—
Proposed Event and Visitation Traffic / Parking**

Kreuzer Lane Protection Committee neighborhood position:

Roadsides on public and private Kreuzer Lane are not appropriate parking areas for winery marketing visitors, which the Planning Department entry at left reads as though its supporting roadway use for “approved marketing events.”

Additionally, the residence driveways and properties on lower and upper Kreuzer Lane, and Kreuse Canyon Rd are also not parking areas for winery guests.

Additionally, the stone-pillared gate between lower and upper Kreuzer Lane is not the entrance to the winery, and can't be used as a checkpoint for winery events. The 270 Kreuzer Lane entry begins past the upper Kreuzer Lane residences.

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**F. CVW and Napa Planning Department
Proposed Visual Screening and Noise**

Planning Department recommends the following be approved:

4.16 b. All landscaping and outdoor screening, storage, and utility structures shall be permanently maintained in accordance with the landscaping and building plans approved by the County. No stored items shall exceed the height of the screening. Exterior winery equipment shall be maintained so as to not create a noise disturbance or exceed noise thresholds in the County Code.

6.6 OUTDOOR STORAGE/SCREENING/UTILITIES

c. Exterior winery equipment shall be located, enclosed or muffled so as not to exceed noise thresholds in the County Code.

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**F. KLPC - Proposal Response Regarding—
Visual Screening**

The winery is currently out of compliance with regard to visual screening as stored items exceed the height of the screen, or have no screen at all. The winery has been out of compliance on this for many years.

From the original Use Permit: "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."

"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." Additionally—planted screenings shall be properly maintained, and promptly replaced when necessary. Recent additional (non-native) plantings are cosmetic for the area and do not provide screening.

**F. KLPC - Proposal Response Regarding—
Sound Disturbance**

Noise has grown exponentially over the last 15 years, and fans run 24/7. Neighbors support the Right to Farm; however the excessive noise caused by the industrial portion of the winery's operation is unnecessary. There are ample ways to dampen noise—acoustic blankets, sound curtains, foam coating, and housing. Any of these cost-effective solutions would drastically reduce the fan noise that currently bounces off cave winery's sheer cliff face, into the neighboring property facing the winery. The winery owner has received numerous emails through the years with suggestions and links to products and companies that could mitigate and dampen sound.

- The permanent outdoor pumps and equipment to the East of the so-called crush pad are screened by chain link fencing and plastic inserts that shield the equipment from view, but do nothing to suppress the noise of the equipment.
- A sound engineering study should be conducted at the site of the equipment rather than at the adjacent property because of the fluctuating nature of the sound—weather dependent, and time-of-year dependent. The equipment should be sound-proofed or moved to a location that doesn't bounce sound off the sheer cliff.
- 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. CVW has regularly disregarded the County and Use Permit prohibition on amplified music/sound.

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G. CVW and Napa Planning Department-Proposed Crush Pad and Cover

CVW is seeking permission to cover their crush pad with a 2,000 sq. ft. Permanent cover, use the outside area for winemaking activities and catering use during marketing events.

G. Kreuzer Lane Protection Committee neighborhood position: Kreuzer Lane Neighbors have no opinion about the cover of the crush pad. However, the so-called crush pad should be used for wine-making-related crushing activity only. "Use creep" has turned the entire crush pad area and vicinity into a full time service area for several years now, including outdoor entertainment, despite the fact that the current use permit forbids it.

Tasks such as barrel making began on the crush pad within the last two years, creating a racket that lasts for days and hours and resounds off of the cliff-side the cave winery is cut into. The winery has significant land holdings above the cave with room for barrel making if it can't be done in the cave, and would have less noise impact if practiced there. *Please review also: "Section C" on page 4 of this document.*

H. CVW and Napa Planning Department-Proposed Traffic Calming and Signage

Planning Department recommends the following be approved: Installation of traffic calming measures on the private portion of Kreuzer Lane (such as speed limit signs and "mumble strips").

H. Kreuzer Lane Protection Committee neighborhood position: Yes, some forms of quiet deterrence is needed as traffic has intensified greatly in recent years, and speeding is common.

I. CVW and Napa Planning Department-Proposed Staff and Service Traffic and Parking

Planning Department recommends the following be approved: 4.11 TRAFFIC

To the maximum extent feasible, scheduling of recurring vehicle trips to and from the site for employees and deliveries shall not occur during peak travel times (4:00 pm-6:00 pm, weekdays; 2:00 pm-4:00 pm Saturdays; and Sundays). All road improvements on private property required per Engineering Services shall be maintained in good working condition and in accordance with the Napa County Roads and Streets Standards.

I. Kreuzer Lane Protection Committee neighborhood position: Staff parking in non-designated parking areas should be discouraged so that service trucks don't have to sound their horn to get attention from staff inside the cave winery to move their personal vehicles.

J. CVW and Napa Planning Department-Proposed Gate Area Signage

Planning Department recommends the following be approved:

4.20 4. Within 30 days of approval of this permit, at least one legible sign shall be placed at the property entrance with the words "Tours and Tasting by Prior Appointment Only" to inform the public of same.

J. Kreuzer Lane Protection Committee neighborhood position: Counter to an entry in the Napa County 'B' Recommended Conditions of Approval —4.20, item 4, —the property entrance for 270 Kreuzer Lane is **not** at the stone-pillared gate. The 270 Kreuzer Lane property entrance is much farther up the road, past the private Kreuzer Lane residences. 169 Kreuzer Lane is the property adjacent to the stone-pillared gate. However, 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.

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K CVW and Napa Planning Department

Proposed Activity outside of the Cave Winery

Planning Department recommends the following be approved: 4.20 5. Uses allowed outside of the winery cave shall be limited to associated winery function, such as, but not limited to deliveries, crushing, visitor arrival and departures, and on-premise consumption of wine as per COA 4.4 above. [See "B" Recommended Conditions of Approval and Final Agency Approval Memos for language]

K. Kreuzer Lane Protection Committee neighborhood position:

There should be no tour /tasting, or marketing events held outside the cave winery, and no alcohol consumed or served outside, except as may be allowed by permit for the two temporary events allowed per year. Farming-related uses of the crush pad are acceptable.

Please review also: "Section C" on page 4 of this document.

L. CVW and Napa Planning Department

Proposed Outdoor Picnic Area

Planning Department recommends the following be approved: May be used by Caldwell employees, drivers waiting for their clients, & Marketing Events only.

L. Kreuzer Lane Protection Committee neighborhood position:

The cave winery itself was built and is designed to house tour / tasting visitation and marketing events. In meetings as the winery came into being, the owner stressed to neighbors on upper Kreuzer Lane that all visitation and marketing events would be housed inside the cave winery.

An outdoor picnic area is not appropriate for the location or this cave winery, although an outdoor picnic table for use of staff for meals, and waiting drivers is certainly acceptable and encouraged. It should not be used for Marketing Events.

This is a cave winery in a rural residential area with a long history of non-compliance—including event non-compliance, and event code violations. Turning the outside into an extension of the cave winery is inappropriate, nor should alcohol be served outside of the cave winery except for the two temporary events per year as allowed by temporary permit. *Please review also: "Section C" on page 4 of this document.*

M. CVW and Napa Planning Department

Proposed Road Widening

Planning Department recommends the following be approved: To County standards (w/continuation of exception for topography)

M. Kreuzer Lane Protection Committee neighborhood position: We find the approved road exception to be curious, but it should be explored with Napa County itself rather than the winery. We continue to not understand how CVW was able to get the exception they got to not widen the road leading down the steep cliffside drive down to their cave winery. The "continuation of exception for topography" continues to be a dangerous exception. Any car or van full of visitors meeting a truck on certain parts of that road must back up to accommodate the other vehicle. No large truck would be able to back up, and people in a car or van unfamiliar with the steep cliff-side route will have difficulty doing so.

