



A Tradition of Stewardship  
A Commitment to Service

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**NAPA COUNTY CLERK OF THE BOARD'S OFFICE**  
1195 Third Street, Suite 310, Napa, California, 94559 • (707) 253-4421

**JUN 29 2015**

**EXECUTIVE OFFICE**

# **NOTICE OF INTENT TO APPEAL**

(Chapter 2.88 of Napa County Code)

TO BE COMPLETED BY APPELLANT  
(Please type or print legibly)

Appellant's Name: George Caloyannidis

Telephone #: (707) 812-3747 Fax #: (707) 942-0908

E-Mail Address: calti@comcast.net

Mailing Address: 2202 Diamond Mountain Road, Calistoga, CA 94515  
No. Street City State Zip

Action Being Appealed: Planning Commission Reverie Winery

Use Permit Major MOD P13-00027 MOD and P15-00141

Date of Decision: June 17, 2015

Nature of Permit or Decision: Approval by Planning Commission

Permit Number (if known): Previous Use Permit 94254-UP

[Signature]

Signature of Appellant

June 29, 2015

Date

George Caloyannidis

Print Name

TO BE COMPLETED BY CLERK OF THE BOARD

Notice of Intent to Appeal Fee: \$ 416 Receipt Nos. 795228

Received by: [Signature] Date: 6/29/15

<b>RECEIPT</b>		DATE <u>6/29/15</u>	No. <u>795228</u>
RECEIVED FROM <u>George Caloyannidis</u>		\$ <u>416.00</u>	
<u>Four hundred sixteen &amp; 00/100</u>		DOLLARS	
<input type="radio"/> FOR RENT <input type="radio"/> FOR <u>Notice of Intent to Appeal - Reverse Writ</u>			
ACCOUNT		<input type="radio"/> CASH <input checked="" type="radio"/> CHECK	FROM <u>PRBS</u> TO _____ BY <u>Santa Pres</u>
PAYMENT		<input type="radio"/> MONEY ORDER <input type="radio"/> CREDIT CARD	
BAL. DUE			3-11

**GCT ASSOC. ENTERPRISES**

(GCT-PROPERTIES)

2202 DIAMOND MTN. RD. 707-942-0904  
CALISTOGA, CA 94515

13505

DATE 6/29/15

90-7172/3222

PAY TO THE ORDER OF County of Napa

\$ 416.00

Four hundred sixteen & 00/100

DOLLARS

**CITIBANK**

CITIBANK (WEST), F.S.B. BR #127  
974 SOUTH WESTLAKE BOULEVARD  
WESTLAKE VILLAGE, CA 91361

FOR \_\_\_\_\_

[Signature]

⑈013505⑈ ⑆322271724⑆ 601176548⑈

MP



A Tradition of Stewardship  
A Commitment to Service

NAPA COUNTY CLERK OF THE BOARD'S OFFICE  
1195 Third Street, Suite 310, Napa, California, 94559  
(707) 253-4421

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JUL 14 2015

NAPA COUNTY  
EXECUTIVE OFFICE

**APPEAL PACKET FORM**  
(Chapter 2.88.050 of Napa County Code)

Please submit original plus two (2) copies of the entire Appeal Packet, including this form.

TO BE COMPLETED BY APPELLANT  
(Please type or print legibly)

Appellant's Name: George Caloyannidis

Telephone #: (707) 942-0904 Fax #: ( )

E-Mail Address: calti@comcast.net

Mailing Address: 2202 Diamond Mtn. Rd., Calistoga, CA 94515  
No. Street City State Zip

Status of Appellant's Interest in Property: Neighbor  
project applicant, adjacent property owner, other (describe)

Action Being Appealed: Use Permit MOD P13-00027, Planning Commission

Permittee Name: Reverie Winery, Norman Kiken

Permittee Address: 1530 Diamond Mtn. Rd., Calistoga, CA 94515

Permit Number: P13-00027 Date of Decision: June 17, 2015

Nature of Permit or Decision: Major Use Permit Modification

**Reason for Appeal** (Be Specific - If the basis of the appeal will be, in whole or in part, that there was a prejudicial abuse of discretion on the part of the approving authority, that there was a lack of a fair and impartial hearing, or that no facts were presented to the approving authority that support the decision, **factual or legal basis for such grounds of appeal must be expressly stated or they are waived.** (attach additional sheet if necessary):

See Attachment including Exhibits

Project Site Address/Location: 1530 Diamond Mtn. Rd., Calistoga, CA 94515  
Street City State Zip

Assessor's Parcel No.: 020-440-005

If the decision appealed from involves real property, the Appellant must also submit the original and two copies of 1) Title Insurance Report and 2) Assessor's Map Book Pages pursuant to County Code Section 2.88.050(B).

George Caloyannidis  
Signature of Appellant

July 14, 2015  
Date

George Caloyannidis  
Print Name

TO BE COMPLETED BY CLERK OF THE BOARD

Appeal Packet Fee \$24.42 Receipt Nos. 795230

Received by: [Signature] Date: 7/14/15

The Board of Supervisors should uphold the appeal for the following reasons.

**I. The Planning Commission's findings are inadequate.**

The Commission found, summarily, that "That grant of the use permit, as conditioned, will not adversely affect the public health, safety or welfare of the county." The Commission's ostensible basis for this finding was solely as follows: "Various County divisions and departments have reviewed the project and commented regarding water, waste water disposal, access, and fire protection. Conditions are recommended which will incorporate these comments into the project to assure the ongoing protection of the public health and safety." Finding No. 11. This is inadequate.

Findings in support of approvals such as a use permit must comply with the standards set forth in the California's Supreme Court's decision in *Topanga Association for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506. Specifically, "the challenged decision must set forth findings to bridge the analytic gap between the raw evidence and ultimate decision or order." *Id.* at 515. It must show "the analytic route the administrative agency traveled from evidence to action." *Id.*

The Commission's finding might be sufficient to show that the project will not adversely affect public health and safety. But the finding wholly fails to address one component of the finding required by section 18.124.070(C) of the County Code for issuance of a use permit, namely, that the permit "will not adversely affect the . . . *welfare of the county*." (Emphasis added.) It makes no mention of County welfare, let alone explains — providing "the analytic route . . . from evidence to action" — why the permit is consistent with County welfare.

In fact, the Commission could not have made that finding under the circumstances here. The proposed use permit would authorize uses that have been maintained *illegally* for many years. The Commission failed to consider the impact on the welfare of the County of a permit authorizing existing code violations, let alone find that it would have no such impact as required by section 18.124.070(C).

Indeed, it appears that the Commission misconstrued the broad scope of its mandate and believed it *could not* consider illegality of the applicant's prior conduct. The Staff Report erroneously and repeatedly implies as much. And Commissioner Phillips stated that "we evaluate this application as a current project, not how we got here." That is plainly wrong. The fact that the applicant is seeking to authorize illegally initiated and expanded uses is acutely relevant to the Commission's required finding that issuance of the use permit would not adversely affect the welfare of County residents. *See Upton v. Gray* (1969) 269 Cal.App.2d 352 ("The proposed use is in the best interest of public convenience and necessity and will not be contrary to the public health, morals, or welfare."); *O'Hagen v. Board of Zoning Adjustment* (1971) 19 Cal.App.3d 151 ("That such use would be essential or desirable to the public convenience or welfare, and will not impair the integrity and character of the zoned district or be detrimental to the public health, safety, morals or welfare."); *Neighborhood Action Group v. County of Calaveras* (1984) 156 Cal.App.3d 1176 ("The purpose of the conditional use permit is to enable a municipality to control certain uses which could have detrimental effects on the community.").

It is unquestionably true that issuing a use permit to legalize uses that have been illegally initiated and maintained for years can adversely affect public welfare. It also degrades the moral fabric

of the community when the County by its own policy is unwilling to enforce its own laws. It sends a clear signal to other landowners throughout the County that the County's land use regulations are essentially optional and encourages them to build first and seek permission later. It creates incentives for other landowners to disregard the County's land use regulations, knowing that, when if the owner later wishes to sell the property, it can simply ask the Planning Commission to approve the illegal improvements ex post facto. Avoiding these incentives is a fully appropriate basis for denying the permit. *See PMI Mortgage Ins. Co. v. City of Pacific Grove* (1981) 128 Cal.App.3d 724, 731-32 (upholding denial of variance for parcels that had been illegally subdivided by prior property owner, based on the precedent that would be created by issuing such variance).

This is not a question of "punishing" the applicant for its illegal actions. Denying the permit would send a clear signal that the County will not simply approve land uses that are illegally initiated and presented to the Planning Commission as a fait accompli. The Commission could and should have denied the permit on this basis.

## **II. The applicant's contention that the permit application is "voluntary" is not credible.**

The applicant has asserted that its application to legalize the existing illegal uses is "voluntary." That assertion is not credible. That the application was not motivated by a good faith intention to "come clean" strongly supports denying the permit.

In fact, it appears that the applicant did not seek a permit legalizing the existing uses until (1) there was a threat of a County audit that would reveal that the applicant had made substantial illegal improvements, and (2) until the applicant wished to sell the property and needed to legalize the improvements to make the property salable. Indeed, the staff report suggests that the applicant had refused to agree to basic measures to mitigate the impacts of its prior illegal improvements and only came forward with a proposal to address those impacts at the eleventh hour. This does not suggest a good-faith effort to rectify the applicant's prior illegal conduct.

The applicant's credibility is further undermined by several facts:

1. The applicant argued, disingenuously, that it was unaware of the required County approvals. The applicant's and potential buyer's attorneys repeatedly argued that "no one specifically told Mr. Kiken that he needed the various permits he failed to obtain." But shortly after Mr. Kiken acquired his property in 1993, he obtained a building permit in 1994 for his 5,000-square-foot home and a 2,000-foot-long hillside access drive for which he also submitted an Erosion Control Plan. At least as early as 1994, Mr. Kiken was aware of what zoning and building, excavation and grading permits involved. The permit for the winery was issued in 1995.

2. During Planning Commission testimony and speaking on behalf of the Reverie buyer, attorney Gilbreth produced a file which according to him contained proof that Mr. Kiken had obtained all necessary permits, which, according to him, proved that "Mr. Kiken had done everything he needed to do, observed the law and was a good citizen." The file had not been previously made available to the public, but later review revealed that the file does *not* include evidence that the applicant had obtained all permits required for the improvements.

3. The applicant has taken inconsistent positions about the scope of the “existing” illegal uses.<sup>1</sup> In his original application, Mr. Kiken requested that the County “recognize” an existing cave of ± 3,700 sq. ft. OSHA inspected the cave in 2001 as part of its construction safety - not use - procedures and reported a size of 10’ h x 13’ w x 160’ and subsequently in 2008 inspected an extension of 10’ x 13’ x 110’ (**Exhibit 1**), which all together account for 3,380 sq. ft. Then, at some point in time, this OSHA inspected cave (the only inspection by any agency available) was expanded to 4,710 sq. ft., a full 33% larger. This is the cave the Commission “recognized”.

4. Likewise, the initial Reverie application certified by Mr. Kiken (**Exhibit 2**), indicated that its production was 8,400 gallons and its level of visitations was 20 “maximum per day” and 20 “average daily per week”. Yet the Commission “recognized” 9,200 gallons of production and visitation levels of 40 “per day maximum” and 180 per week, all being “proposed” rather than existing.

Further, the applicant informed neighbors that “We have exceeded both the currently permitted visitation and wine production. While the new permit may appear to increase these, the new permit will allow less than what we have been doing.” (**Exhibit 3**). The subsequent Reverie application clearly sought an *increase* in visitation and production beyond the existing, illegal use. June 3 Staff Report at 8.

The voluntariness of the application for the use permit and the argument that the applicant was unaware of the permitting requirements are relevant to the question whether issuing a permit to legalize illegal uses will encourage others to make illegal improvements and whether granting the permit will advance or undermine County welfare. Allowing a landowner to legalize illegal uses solely because it can make more money by doing so, rather than out of a good-faith effort to correct a prior mistake, will doubly encourage other landowners to ignore land use requirements. Because the applicant here was aware of the County’s land use permitting requirements, and only admitted its illegal activity when it was in its financial interest to do so, approving a permit to legalize the existing uses here would only encourage others in the County to build first and seek approval later.

### **III. Authorizing illegal improvements distorts the CEQA process.**

The Commission’s approval of the Reverie application also makes a mockery of CEQA. As the Reverie case demonstrates, where illegal uses are allowed to continue unchecked by enforcement for years, that illegal use risks becoming the baseline condition for any CEQA analysis when the landowner applies for new permits or permits to legalize the existing illegal condition. See *Center for Biological Diversity v. Department of Fish and Wildlife* (2015) 234 Cal.App.4th 214, 250-51 (holding that “the baseline must include existing conditions, even when those conditions have never been reviewed and are unlawful”); *Eureka Citizens for Responsible Government v. City of Eureka* (2007) 147 Cal.App.4th 357, 370 (existing playground built in violation of code was nevertheless part of the CEQA baseline). As a result, no meaningful CEQA analysis can be performed where the landowner seeks to authorize an existing illegal use. Accordingly, where the local government is willing to turn a blind eye to such illegal

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<sup>1</sup> It is troubling that the County has thus far simply accepted the applicant’s assertions about the scope of the existing use, without requiring any corroboration or apparently performing any independent investigation. Moreover, the County has no system in place to audit visitation numbers on an independent basis. It relies solely on records maintained by wineries, which undermines the credibility of any audit. It relies solely on the honor system.

conduct and retroactively approve illegal uses, the landowner's ability to skirt CEQA provides yet another incentive to build or expand uses and structures without abiding by the local government's land use process. Why properly seek approval when you can build first and thereby make your new development an environmental fait accompli?

The County makes matters worse by failing to do anything to investigate the applicant's claims about the extent of an existing illegal use. The applicant can claim to have increased its use beyond the limits of its existing use permits, whether true or not, and the County will subsequently "recognize" and legalize that claimed use without scrutiny. Without corroboration, the applicant's claims become the baseline for CEQA analysis, allowing the applicant to evade full analysis and mitigation of the impacts of that expanded use. In other words, the County's current practice of authorizing existing illegal uses without scrutiny not only encourages illegal uses, it paradoxically encourages landowners to exaggerate the extent of those illegal uses. As it stands in Napa County, there will be no consequence from doing so.

The County's process here — widespread non-enforcement of code violations combined with a willingness to later retroactively legalize those violations with little scrutiny — thus carves a giant loophole in CEQA and creates strong incentives for landowners to break the law.

Napa County's consistent pattern of after-the-fact approval of violations, violates the very spirit of the CEQA process as mandated by the state law to safeguard the environment and the public interest.

#### **IV. The expanded winery has serious environmental impacts.**

##### **A. The project has cumulatively considerable traffic impacts.**

The CEQA Guidelines require the County to ask, "Does this project have impacts that are individually limited, but cumulatively considerable? ('Cumulatively considerable' means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects and the effects of probable future projects)". The project here has such impacts.

The applicant's traffic study by W-trans is compiled from outdated records as traffic in the immediate vicinity has increased substantially in the past two years, making left turns from Diamond Mountain Road on to Hwy 29 sometimes problematic and has extended traffic times to the center of Calistoga, at times by as much as 3 minutes.

The traffic study has failed to account for the unknown actual (rather than use permit) data traffic generated by Diamond Creek, Von Strasser and Constant Wineries, other existing and approved vineyards (2087 Diamond Mountain Road), all with winery potential as well as several yet undeveloped sites which would qualify for new wineries.

The County acknowledges that traffic volumes at Hwy 29 at Lodi Lane, 4 miles south operates at level D while ignoring the much more important Intersection of Hwy 29 and Lincoln Avenue in Calistoga which operates at levels D and F only 3/4 miles away.

In addition, the entitled Calistoga Hills resort which will generate 1,500 VDT (vehicle trips per day) is accessed off Hwy 29 a mere half mile from the Diamond Mountain Road intersection. The Hwy 29 / Lincoln Avenue intersection (3/4 mile away) was in 2013 at D -F levels of service compelling the City of

Calistoga to approve the resort's traffic study by invoking "overriding considerations" and accepting a \$267,795 in lieu fee which makes no difference to its level of service. That resort's EIR had concluded that *"the residual significance of the impact is significant and unavoidable"*.

It also failed to account for the approved Silver Rose resort in the City of Calistoga which will generate 1,400 VDT. Though accessed from the Silverado Trail, it is fair to assume that 700 VDT, if not more, will further impact said dysfunctional Lincoln / Hwy 29 intersection.

It also failed to account for the Bounsel property likely development, only 1/4 mile away in the City of Calistoga. A recent proposal to develop that property with three wineries along with visitations was withdrawn. However, it is more than likely that a project will be developed in the near future with a potential traffic impact in the order of an additional 1,500 VDT.

The already entitled and the likely future additional 4,000 to 5,000 VDT in the immediate vicinity should have been considered in assessing the cumulative traffic impacts.

This makes the CEQA statement that the: *"Segment of Hwy 29 in the vicinity of Diamond Mountain Road and south of the City of Calistoga generally is operating without capacity limitation"* false or at the minimum one which disregards the future cumulative impacts. It is not credible that in addition to the above factors, a ten-fold increase in visitations and a doubling of production will have a "less than significant impact".

The proposed mitigation to reduce traffic impacts caused by the permit modification by requiring the Reverie winery to make use of 8-passenger car-pool vehicles with a staging parking area in the City of Calistoga is disingenuous. Regardless of car-pooling, the same as many as 7 visitors arriving in 7 separate vehicles will impact traffic in the immediate vicinity on their way to Calistoga, all supposedly arriving at the same time and parking in a city where parking is at a premium even without the two large entitled developments having been built. The car-pool vehicle would represent one additional, not fewer vehicle which contributes to rather than diminishes congestion.

As Supervisors, you need to evaluate applications with a long term view of the general traffic patterns because current growth policies make them unsustainable. At this point in time, even use permits which viewed in isolation may seem as having small effects on traffic patterns, when they are considered cumulatively, their impacts are profound as anyone experiences today and contribute to the degradation of the resource.

There are approximately 60 projects which increase traffic seeking approval at this time and it is immaterial how few or how many are being approved each year. Incremental cumulative effects are slow in developing but they have the highly significant effect of gradually deteriorating the quality of Napa Valley life.

One need only recognize the findings and recommendations of the Transportation Element of the 2007 Draft EIR (**Exhibit 7**), to realize the catastrophic traffic patterns ahead. The question regarding this particular application is: When allocating such precious traffic increases, is a winery with so many compliance problems deserving them or should they be reserved for compliant applicants?

**B. The County did not evaluate the impact of the applicant's use of tailings from the cave excavation.**



According the OSHA inspection documents (**Exhibit 1**) the cave dimensions were 12'h x 13'w x 160' deep (2001) plus 10'h x 13'w x 110' deep (2008) with 3,510 square feet and a volume of 1,560 cubic yards which multiplied by a factor of 1.5 results in 2,348 cubic yards of tailings (235 truck loads). Mr. Kiken's original application asked the Commission to "recognize" a cave of 3,700 square feet but in his subsequent request, asked it to "recognize" a cave of 4,710 square feet which would have resulted in 3,510 cubic yards (350 truck loads) of tailings .

If OSHA inspected a cave of 3,510 square feet and Mr. Kiken certified a cave of 3,700 square feet, how is it possible for the Commission to have "recognized" a 33% larger cave of 4,710 square feet? And, lacking any OSHA inspection, when and under what permit was it enlarged?

In spite of my written request dated May 18, 2015 that the size of the vineyard paths lent any credibility to the applicant's statement that the cave tailings were spread "along vineyard paths", such assessment was absent at the Commission hearing. Whether the tailings were 235 or 350 truck loads, the stated tailings disposition area is questionable. Either way, the disposition of this amount of fill would have required a grading permit and an Erosion Control Plan. This was especially important due to the potential erosion in such proximity to Teal Creek. County grading permits were a County requirement well before 1993.

An engineering analysis could determine the original terrain configuration by extracting 2,348 or 3,510 cubic yards of fill from the vineyard paths and quite accurately evaluate the effects of non-engineered fill placement on them through computer simulations. By factoring in the available rainfall data, one could ascertain any erosion events onto Teal Creek something Staff maintained could not be determined at this time. Neither the aerial photographs provided by the applicant, nor Mr. Cassaire's observation after the cave was excavated, offer proof of any lack of environmental damage.

**V. The applicant's contention that the use permit is necessary to prevent the winery from going out of business is unsupported by the record.**

The applicant's attorneys have argued that, without approval of the permit modification, the Reverie winery "will go out of business." This appeared to be one of the primary bases for the Commission's approval. However, the applicant has submitted *no evidence* — no profit and loss or financial statements, only a going forward business plan — of the economics of the winery's operation to substantiate this statement.

Setting aside the question whether the County should guarantee a profit on every winery sale regardless of consequences, no evidence was presented that a sale under the existing use permit would result in a net loss of investment. We do know, however, that a modification would at a minimum double the price of its pending sale.

**VI. There were numerous other gaps in the record before the Planning Commission.**

The following material documentation was missing either prior or during the Planning Commission public hearing. The Commission could not make an informed decision, and the public could not knowledgeably comment on the proposed decision, without that information.

- During the Commission hearing, attorney Mr. Gilbreth produced a folder allegedly containing all the permits Mr. Kiken had been required to obtain. Such permit file should have been part of the public record. As it turned out, it did not contain the necessary permits as Mr. Gilbreth alleged. The Commission never examined the contents of that folder.
- The exact date the Reverie cave excavation and the date by which the County required cave permits as part of the use permit and associated building permits should have been part of the public record. It is indisputable however, that even though specific cave excavation permits may not have been required, use permits were indeed required at the time. These would have triggered all associated occupancy and building permits for utilities, grading permits and erosion control plans for the disposition of tailings. Such was the case with the Clos Pegase cave permits as early as 1987 (**Exhibit 4**). There is no question that Mr. Kiken knowingly avoided such process, including CEQA review and possibly Supplemental Property Tax Assessments.
- The information that the cave was excavated in two rather than one single operation with the associated code requirements at the time, was missing from the staff report.
- The size of the cave on the record varies from 3,510 sq.ft. to 3,700 sq.ft. The Commission "recognized" a cave of 4,710 sq.ft.
- The public record before the Commission stated that the Reverie winery had undergone an audit. The Planning Commission Board Agenda Letter dated June 3, 2015 (**Exhibit 5**) states: "The property was selected to participate in the 2012 Wine Audit which *was conducted at the conclusion of the 2012 with the results reported in July 2013* (Emphasis added)". No such audit results, crucial to the CEQA process, were made available to the public.
- While the record shows and the Commission believed that an audit was indeed performed, Mr. Morrison in an email responding to my request for clarification on July 7, 2015 (**Exhibit 6**) stated that "*The Reverie winery was not audited*"! If the latter is true, the Commission "recognized" prior violations believing - as did the public - that the extent of these violations were independently confirmed by an audit while in reality no such audit ever took place.
- While the extent of violations was acknowledged by Mr. Kiken, the duration of the violations was not made available to the public.
- No computer simulation for potential environmental damage to Teal Creek from the disposition of cave tailings without erosion controls was provided.

**VII. The Commission should have conditioned the permit to prohibit connection with the Calistoga Hills Resort.**

Any discretionary use permit modification or any order to comply with the existing one, must include a provision which does not present the applicant with additional opportunities to violate them. The common property line with the resort is one such additional opportunity. It will be impossible to monitor whether the property has been illegally joined with the resort through a subsequent use permit as the Commission recommended, as it is not accessible to the public.

Given the history of violations, it is plainly not prudent to assume that the landowner would comply with such a permit. Any condition of approval should specify that there shall be no access between the two properties and the building of a six-foot high concrete wall with no openings whatsoever separating the two properties along their common property line where the grade differential is less than eight feet in height.

**VIII. The applicant should not be rewarded for unfair business practices.**

Wineries, just like any other manufacturing business, gauges its production levels and marketing strategies according to its general competitive environment. In Napa County, it relies on the use permit levels of its competition to make such assessments. In that respect, the County has an obligation to monitor adherence to the use permits it issues.

When wineries such as Reverie exceed use permit levels, they are engaging in unfair business practices. When the County turns a blind eye to use permit violations and when wineries know they will not be penalized but rather rewarded for doing so, the County is aiding unfair business practices.

This is one more evidence that policies that reward use permit violations are contrary to both the welfare and the morals of the county.

**IX. The easy approval of illegal land uses disrespects law-abiding County residents.**

As described above, approving illegal uses without consequence only encourages more violations of the County Code and prevents appropriate environmental review of new land uses. But it also makes law-abiding County residents feel like chumps. To do so is to insult the vast majority of landowners who dutifully comply with the County's land use regulations even when it is expensive or inconvenient to do so.

**X. The Commission's decision was unavailable for review in the file as late as July 10, 2015.**

The June 17, 2015 Commission's final decision, including its findings was still not available in the file when I reviewed it on July 10, 2015 in preparation for this appeal. As a result, this appeal is based on my own observations, notes and documents available at the County's website. A request to Mr. John McDonald dated June 30, 2015 to forward said findings ( **Exhibit 8** ), failed to produce said document as of the appeal filing date.

Forcing an appellant to challenge a decision without having that final decision available to him is, at least, unfair.

\* \* \*

The staff report notes, "The Board of Supervisors and Planning Commission have expressed increased reluctance to reward illegal behavior with an after-the fact approval, which aspects of this project clearly contain." June 3 Staff Report at 8. It also refers to "Board direction to avoid rewarding violators with after-the-fact approvals." *Id.* Nevertheless, Planning staff and the Commission both apparently viewed themselves as bound to review the project with a narrow focus that largely ignored the history of illegal improvements on the property and the precedent that an approval of that illegal activity will set for others in the County who may be considering ignoring the County's land use regulations. Although that was erroneous, there can be no such confusion about the scope of *this Board's* review. Now is the time to implement that "reluctance" and "direction to avoid rewarding violators with after-the-fact approvals." The Board should uphold the appeal and deny the application.

**George Caloyannidis**

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**Subject:** FW: Inspections & Pre-Job for Reverie WC  
**Attachments:** Reverie Pre Job.pdf; Reverie Inspection 01.pdf; Reverie Inspection 08.pdf

----- Forwarded message -----  
From: **DIR DOSHM&TSAC** <[DOSHM&TSAC@dir.ca.gov](mailto:DOSHM&TSAC@dir.ca.gov)>  
Date: Wed, Jul 8, 2015 at 4:00 PM  
Subject: Inspections & Pre-Job for Reverie WC  
To: "[mhackett54@gmail.com](mailto:mhackett54@gmail.com)" <[mhackett54@gmail.com](mailto:mhackett54@gmail.com)>

Mr. Hackett,

I was informed by Mr. Patterson to go ahead and waive the fee. Attached are the rest of the files.

In the Pre-Job of July 2008, safety procedures are covered with the employees and the site is gone over to make sure it is safe to start work.

By chance, we also have the inspection done in August 2008. We do not have the inspection done in 2001, as those files were purged.

This is the extent of the files we have on this site.

Apologies,

Meredith Faszler

CA Dept. of Industrial Relations

Div. of Occupational Safety & Health

Mining & Tunneling Unit

2424 Arden Way, Ste 125

Sacramento, CA 95825

916.574.2540 – office



U.S. Department of Labor

[intranet.osha.gov](http://intranet.osha.gov) | [Labornet](#) | [RegionNet](#) Search:  on [Intranet](#) [Advanced Search](#)

## Establishment Search Inspection Detail -- OSHA View

<b>Inspection: 125784611 - Nordby Wine Caves Inc</b>	
<b>Office: Ca Sacto Min/Tunnel</b>	
Nr: 125784611 Report ID: 0950651 Open: 08/27/2001	
Nordby Wine Caves Inc 1520 Diamond Mountain Rd Calistoga , CA 94515 Union Status: NonUnion SIC: 1622/Bridge, Tunnel, & Elevated Highway Mailing: 1550 Airport Blvd Suite 201 , Santa Rosa , CA 95403	
Inspection Type: Planned Scope: No Insp Advance Notice: N Ownership: Private Hours Spent: 4.0 Safety/Health: Safety Close Conference: 08/27/2001 Emphasis: L:Tunnel Close Case: 09/07/2001 Opt Report Nr: 013-02	
Optional Information: Type ID Value S 03 T S 09 P S 14 SCIF S 20 TS	

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Occupational Safety & Health Administration  
 200 Constitution Avenue, NW  
 Washington, DC 20210



State of California

Department of Industrial Relations

DIVISION OF OCCUPATIONAL SAFETY AND HEALTH  
MINING AND TUNNELING UNIT

# Underground Classification

C029-019-02T

NORMAN AND EVELYN KIKEN

(NAME OF TUNNEL OR MINE AND COMPANY NAME)

of 1520 Diamond Mountain Road, Calistoga, California 94515

(MAILING ADDRESS)

at Reverie Vineyard Winecave

(LOCATION)

has been classified as \*\*\* NON GASSY \*\*\*

(CLASSIFICATION)

as required by the California Labor Code Section 7955.

The Division shall be notified if sufficient quantities of flammable gas or vapors have been encountered underground. Classifications are based on the California Labor Code Part 9, Tunnel Safety Orders and Mine Safety Orders.

The 160-feet of 13-foot by 12-foot horseshoe tunnels constituting the underground wine storage cave for the Reverie Vineyard at 1520 Diamond Mountain Road, Calistoga, Napa County.

This classification shall be conspicuously posted at the place of employment.

Date August 9, 2001

(SENIOR ENGINEER)

Gerald R. Fulghum







# Inspection Report

Thu Jul 10, 2008 1:56pm

Rpt ID	Assignment Nr.	CSHO ID	Supervisor ID	Inspection Nr.	Opt. Insp. Nr.
0950651	0	D8625	G7105	311723076	004-09

Establishment Name		NORDBY WINE CAVES INC			
Site Address	1520 DIAMOND MOUNTAIN RD CALISTOGA, CA 94515	Site Phone	(707) 484-4007	Site FAX	
Mailing Address	1550 AIRPORT BLVD SUITE 201 SANTA ROSA, CA 95403	Mail Phone	(707) 526-4500	Mail FAX	(707) 524-6934
Controlling Corp	C230 - 055-08T		Employer ID		
Ownership	A. Private Sector		City	0540	County 055
Legal Entity	A. Corporation	Previous Activity (State Only)			

Related Activity					
Type	Number	Satisfied	Type	Number	Satisfied

Employed in Establishment	0	Advance Notice?	No	Category	S. Safety
Covered By Inspection	0	Union?	No	Primary SIC	1622/237990
Controlled By Employer	0	Walkaround?	No	Secondary SIC	
		Interviewed? (State only)	No	Inspected (State Only)	

OSHA-200 Log Entries	Not Available	Year		LWDI Rate	
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Inspection Type	H. Programmed Planned	Reason No Inspection	I. Other
Scope of Inspection	D. No Inspection		
Classification			

Anticipatory Warrant Served?	No	Denial Date	Date ReEntered	Date ReDenied	ReEntered
Anticipatory Subpoena Served?	No				

Entry		First Closing Conference	07/07/08
Opening Conference	07/07/08	Second Closing Conference	
Walkaround		Exit	
Days On Site	1	Case Closed	
		No Citations Issued	

Type	ID	Optional Information
S	03	T
S	09	P
S	14	SCIF
S	20	TS

CSHO Signature	<i>Dough Patterson</i>	Date	7-10-08
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*JR Seamy*

7-15-08

## TUNNEL PREJOB SAFETY MEETING CHECKLIST

1. Region - District <div style="text-align: center;">5 - 1</div>	2. CSE/IH ID <div style="text-align: center;">D8625</div>	3. Report No. <div style="text-align: center;">004-09</div>	4. IMIS Inspection No. <div style="text-align: center;">311723076</div>
--	--	--	--

### 1. PROJECT INFORMATION:

Starting Date July 7, 2008 Project Duration 1 Month

Project Name Reverie Wine Cave

Project Location 1520 Diamond Mountain Rd Zip Code 94515

Name of Owner Norm Kiken

Owner's Address 1520 Diamond Mountain Rd  
Calistoga, California 94515 Telephone (707) 974-9453

Contractor Nordby Wine Caves Inc

Contractor's Address 1550 Airport Blvd.  
Santa Rosa, California 95403 Telephone (707) 526-4500

Employee's Representative or Local Non -Union

Workers Compensation SCIF

### 2. TUNNEL CLASSIFICATION:

Classification Type Non Gassy Date Issued June 16, 2008 ↩

Classification No. C230-055-08T Special Provisions: \_\_\_\_\_

1) Mechanical Ventilation; 2) Ventilation is to be checked every 4 hours

### 3. TUNNEL & BORE PIT SPECIFICATIONS:

Tunnel Diameter 10' H X 13' W Tunnel Length 110 feet ←

Shaft Diameter N/A Shaft Depth N/A

Excavation Method and Support and Additional Details \_\_\_\_\_

General Geology Sonoma Volcanic Tuff

Jacking Pit: Length N/A Width \_\_\_\_\_ Depth \_\_\_\_\_ Soil Type \_\_\_\_\_

Pit Shoring Type/Slope: \_\_\_\_\_ Access/Egress \_\_\_\_\_

Permit No. \_\_\_\_\_ Prior Notification \_\_\_\_\_ Competent Person \_\_\_\_\_

Additional Details: Keith Quimby is the competent person (707) 484-4007

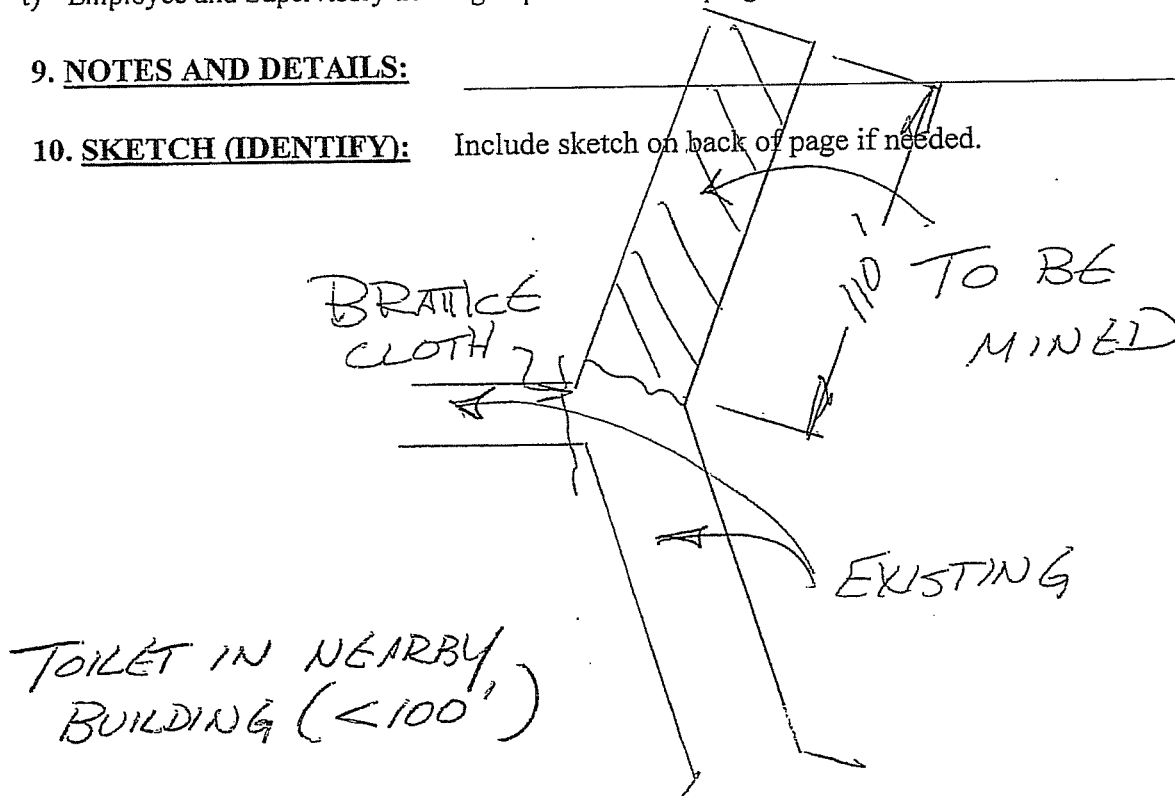
## TUNNEL PREJOB SAFETY MEETING CHECKLIST – PAGE 3

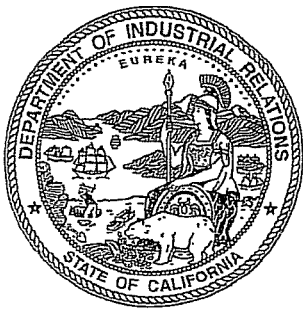
### 8. RELATED SAFETY ITEM DISCUSSION CHECKLIST:

- a) State Mining & Tunneling Program, including inspections, procedures, citations, training and technical assistance. Covered
- b) Reporting accidents and incidents to DOSH within 8 hours. Covered
- c) Gas tests, calibration, records, frequency, notifying DOSH. Covered
- d) Required Occupational Injury and Illness Record Keeping. Covered
- e) Crane boom clearance with overhead lines, and setup. Daily and quarterly inspections. N/A
- f) Required inspections, assignment, schedule, records. Covered
- g) Identification and location of existing utilities. Covered – None Present
- h) Fire prevention, protection, and special provisions. Covered
- i) Hazardous material training and information. Covered
- j) Hearing Conservation Program requirements. Covered
- k) Dust Control, sampling, Respiratory Protection Program elements. Dust Masks – None Fitted
- l) Personal Protective Equipment: hardhats, steel-toe boots, self-rescuers, welding goggles and clothing, safety belts and lines. Covered
- m) Traffic control, protection, warnings, reflective vests, etc. Covered
- n) Tunnel and shaft lighting, emergency and personnel lighting in case of power failure. Laser safety if laser is used. String Lights
- o) Tunnel and communication system and underground utility lines. Voice and Cap Lamps
- p) Explosives: Type, system, storage, transport, warning system. N/A
- q) Safety Meetings: Monthly \_\_\_\_\_ Weekly X Records \_\_\_\_\_
- r) Check-in system, primary and secondary exit provision.
- s) Underground Rescue Plan Yes X No \_\_\_\_\_ Posted & Known Yes X No \_\_\_\_\_  
Injury & Illness Program? Yes X No \_\_\_\_\_ Reviewed? Yes \_\_\_\_\_ No X  
If IIPP is reviewed, attach Check List
- t) Employee and Supervisory training requirements and programs. Covered

### 9. NOTES AND DETAILS:

### 10. SKETCH (IDENTIFY): Include sketch on back of page if needed.





State of California

Department of Industrial Relations

DIVISION OF OCCUPATIONAL SAFETY AND HEALTH  
MINING AND TUNNELING UNIT

# Underground Classification

C230-055-08T

REVERIE ON DIAMOND MOUNTAIN, LLC

(NAME OF TUNNEL OR MINE AND COMPANY NAME)

1520 Diamond Mountain Road, Calistoga, California 94515

of

(MAILING ADDRESS)

REVERIE VINEYARD WINE CAVE EXPANSION

at

(LOCATION)

\*\*\* NONGASSY with Special Conditions\*\*\*

has been classified as

(CLASSIFICATION)

as required by the California Labor Code Section 7955.

The Division shall be notified if sufficient quantities of flammable gas or vapors have been encountered underground. Classifications are based on the California Labor Code Part 9, Tunnel Safety Orders and Mine Safety Orders.

## \*\*\*SPECIAL CONDITIONS\*\*\*

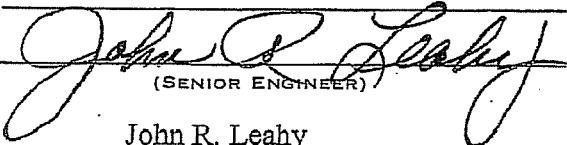
1. Positive mechanical ventilation shall be provided at any time a person is required, or allowed, to enter the tunnel, and at any other location where it is required for employee safety or health.
2. Ventilation velocity and air quality to be checked at least every 4 hours.

The 100 lineal feet of 10 feet high by 13 feet wide horseshoe-shaped tunnels constituting the 2,000 square foot Reverie Vineyard Wine Cave expansion located at 1520 Diamond Mountain Road, Calistoga, Napa County.

This classification shall be conspicuously posted at the place of employment.

June 16, 2008

Date

  
(SENIOR ENGINEER)

John R. Leahy



Inspection Report

Fri Aug 22, 2008 12:12pm

Rpt ID	Assignment Nr	CSHO ID	Supervisor ID	Inspection Nr.	Opt. Insp. Nr.
0950651	0	D8625	G7105	311723845	017-09

Establishment Name		NORDBY WINE CAVES INC			
Site Address	1520 DIAMOND MOUNTAIN RD CALISTOGA, CA 94515		Site Phone	(707) 484-4007	Site FAX
Mailing Address	1550 AIRPORT BLVD SUITE 201 SANTA ROSA, CA 95403		Mail Phone	(707) 526-4500	Mail FAX (707) 524-6934
Controlling Corp	REVERE WINERY		Employer ID		
Ownership	A. Private Sector		City	0540	County 055
Legal Entity	A. Corporation		Previous Activity (State Only)		

Related Activity					
Type	Number	Satisfied	Type	Number	Satisfied

Employed in Establishment	4	Advance Notice?	No	Category	S. Safety
Covered By Inspection	4	Union?	No	Primary SIC	1622 / 237990
Controlled By Employer	14	Walkaround?	Yes	Secondary SIC	
		Interviewed? (State only)	Yes	Inspected (State Only)	

OSHA-200 Log Entries	Not Available	Year	LWDF Rate
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Inspection Type	H. Programmed Planned	Reason No Inspection
Scope of Inspection	A. Comprehensive Inspection	
Classification		

Anticipatory Warrant Served?	No	Denial Date	Date ReEntered	Date ReDenied	ReEntered
Anticipatory Subpoena Served?	No				

Entry		First Closing Conference	08/19/08
Opening Conference	08/19/08	Second Closing Conference	
Walkaround		Exit	
Days On Site	1	Case Closed	
		No Citations Issued	

Type	ID	Optional Information
S	03	T
S	14	SCIF
S	18	HEAT
S	20	TM

CSHO Signature	Date	8-22-08
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*Handwritten signatures:*  
Duff Tatten  
JR Leasing

9-5-08

file No P13-00027

A Tradition of Stewardship  
A Commitment to Service

## Napa County

## Conservation, Development, and Planning Department

1195 Third Street, Suite 210, Napa, California, 94559 phone (707) 253-4417

web [www.countyofnapa.org/cdp/](http://www.countyofnapa.org/cdp/) email [cdp@countyofnapa.org](mailto:cdp@countyofnapa.org)

This is an application for a development permit

## Use Permit Application

To be completed by Planning staff...

Application Type: Major ModificationDate Submitted: 2-4-13 Resubmittal(s): \_\_\_\_\_ Date Complete: \_\_\_\_\_Request: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_\*Application Fee Deposit: \$ 5,000 Receipt No. 94742 Received by: SO Date: 2/4/13

\*Total Fees will be based on actual time and materials

To be completed by applicant...

Project Name: Reverie on Diamond Mountain ModificationAssessor's Parcel No: 020-440-005 Existing Parcel Size: 39.83 ac.Site Address/Location: 1530 Diamond Mountain Road, Calistoga CA 94515  
No. Street City State ZipPrimary Contact: ☐ Owner ☐ Applicant ☒ Representative (attorney, engineer, consulting planner, etc.)Property Owner: Norman KikenMailing Address: 1520 Diamond Mountain Road Calistoga CA 94515  
No. Street City State ZipTelephone No( 707 ) 942 6800 E-Mail: \_\_\_\_\_

Applicant (if other than property owner): \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
No. Street City State ZipTelephone No(        ) -        E-Mail: \_\_\_\_\_Representative (if applicable): Scott Greenwood-MeinertMailing Address: 1455 First St, Suite 301 Napa CA 94559  
No. Street City State ZipTelephone No( 707 ) 252 - 7122 E-Mail: ScottGM@dpf-law.com

## 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 checked="" type="checkbox"/> Expanded	<input type="checkbox"/> Newly Proposed	<input type="checkbox"/> None
Tours and Tasting- Open to the Public	<input type="checkbox"/> Existing			
Tours and Tasting- By Appointment	<input type="checkbox"/> Existing	<input checked="" type="checkbox"/> Expanded	<input type="checkbox"/> Newly Proposed	<input type="checkbox"/> None
Food at Tours and Tastings	<input type="checkbox"/> Existing	<input type="checkbox"/> Expanded	<input checked="" type="checkbox"/> Newly Proposed	<input type="checkbox"/> None
Marketing Events*	<input type="checkbox"/> Existing	<input checked="" 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 type="checkbox"/> Existing	<input type="checkbox"/> Expanded	<input type="checkbox"/> Newly Proposed	<input checked="" 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: 5,000 gal/y Per permit №: 94254-UP Permit date: 6/21/95

Current maximum actual production: 8,400 gal/y For what year?                     

Proposed production capacity: 9,200 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>20</u> existing	<u>40</u> proposed
Average daily tours and tastings visitation <sup>1</sup> :	<u>20/week</u> existing	<u>180/week</u> proposed
Visitation hours (e.g. M-Sa, 10am-4pm):	<u>8-5 daily</u> existing	<u>same</u> proposed
Non-harvest Production hours <sup>2</sup> :	<u>8-5</u> existing	<u>same</u> proposed

## Grape Origin

<sup>1</sup> 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.

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

## Use Permit Information Sheet

### Use

Narrative description of the proposed use (please attach additional sheets as necessary):

1. Recognize the use of  $\pm$  3,700 square feet of caves
2. Recognize the conversion of two residential guest rooms in the winery to office space
3. Recognize visitation by appointment for a maximum of 40 persons per day and an average of 180 per week.
4. Expand the marketing plan as shown on the attached plan
5. Allow the retail sales of wine by the glass, food pairings and picnicking
6. Increase production to 9,200 gallons per year
7. Authorize up to 5 employees

What, if any, additional licenses or approvals will be required to allow the use?

District \_\_\_\_\_ Regional \_\_\_\_\_  
State \_\_\_\_\_ Federal \_\_\_\_\_

### Improvements

Narrative description of the proposed on-site and off-site improvements (please attach additional sheets as necessary):

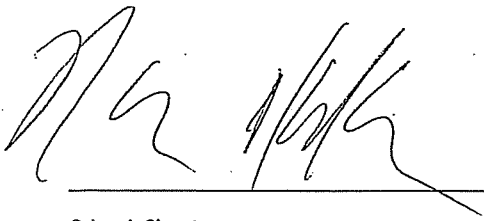


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### Initial Statement of Grape Source

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Pursuant to Napa County Zoning Ordinance Sections 12419(b) and (c),  
I hereby certify that the current application for establishment or expansion of a winery  
pursuant to the Napa County Winery Definition Ordinance will employ sources of  
grapes in accordance with the requirements of Section 12419(b) and/or (c) of that  
Ordinance.



Owner's Signature

Date

*Letters of commitment from grape suppliers and supporting documents may be required prior to issuance of any building permits for the project. Recertification of compliance will be required on a periodic basis. Recertification after initiation of the requested wine production may require the submittal of additional information regarding individual grape sources. Proprietary information will not be disclosed to the public.*

---

## Certification and Indemnification

---

Applicant certifies that all the information contained in this application, including all information required in the Checklist of Required Application Materials and any supplemental submitted information including, but not limited to, the information sheet, water supply/waste disposal information sheet, site plan, floor plan, building elevations, water supply/waste disposal system site plan and toxic materials list, is complete and accurate to the best of his/her knowledge. Applicant and property owner hereby authorize such investigations including access to County Assessor's Records as are deemed necessary by the County Planning Division for preparation of reports related to this application, *including the right of access to the property involved.*

Pursuant to Chapter 1.30 of the Napa County Code, as part of the application for a discretionary land use project approval for the project identified below, Applicant agrees to defend, indemnify, release and hold harmless Napa County, its agents, officers, attorneys, employees, departments, boards and commissions (hereafter collectively "County") from any claim, action or proceeding (hereafter collectively "proceeding") brought against County, the purpose of which is to attack, set aside, void or annul the discretionary project approval of the County, or an action relating to this project required by any such proceeding to be taken to comply with the California Environmental Quality Act by County, or both. This indemnification shall include, but not be limited to damages awarded against the County, if any, and cost of suit, attorneys' fees, and other liabilities and expenses incurred in connection with such proceeding that relate to this discretionary approval or an action related to this project taken to comply with CEQA whether incurred by the Applicant, the County, and/or the parties initiating or bringing such proceeding. Applicant further agrees to indemnify the County for all of County's costs, attorneys' fees, and damages, which the County incurs in enforcing this indemnification agreement.

Applicant further agrees, as a condition of project approval, to defend, indemnify and hold harmless the County for all costs incurred in additional investigation of or study of, or for supplementing, redrafting, revising, or amending any document (such as an EIR, negative declaration, specific plan, or general plan amendment) if made necessary by said proceeding and if the Applicant desires to pursue securing approvals which are conditioned on the approval of such documents.

In the event any such proceeding is brought, County shall promptly notify the Applicant of the proceeding, and County shall cooperate fully in the defense. If County fails to promptly notify the Applicant of the proceeding, or if County fails to cooperate fully in the defense, the Applicant shall not thereafter be responsible to defend, indemnify, or hold harmless the County. The County shall retain the right to participate in the defense of the proceeding if it bears its own attorneys' fees and costs, and defends the action in good faith. The Applicant shall not be required to pay or perform any settlement unless the settlement is approved by the Applicant.

\_\_\_\_\_  
Print Name of Property Owner

\_\_\_\_\_  
Print Name Signature of Applicant (if different)

\_\_\_\_\_  
Signature of Property Owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Date

Norman Kiken  
Reverie Winery  
1520 Diamond Mountain Road  
Calistoga, CA 94515  
(707) 974-9453

*George + Christine*

May 12, 2015

Dear Neighbor,

We wanted to keep you informed as to what we are doing at Reverie.

We have applied for a change in our winery operating permit. A hearing before the Napa County Planning Commission is scheduled for June 3, 2015.

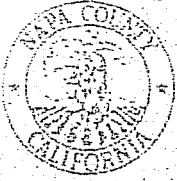
Most important to our neighbors is that the approval of this change will have **no effect** on what is likely to be your major concerns. Importantly, there will be **no additional traffic, no additional water usage and no additional noise**. However there may be limited additional traffic or noise during the construction described below.

By way of background our existing winery operating permit allows us very limited customer visitations and limited wine production. We have exceeded both the currently permitted visitation and wine production (even though we have only used our Diamond Mountain estate grapes.) While the new permit may appear to increase these, the new permit will allow less than what we have been doing.

The new permit will require the following construction:

- Limited widening of the road from Diamond Mountain Road that runs through the Von Strasser property to Reverie. This improvement is required to satisfy safety concerns and meet current code requirements.
- A new well will need to be dug. Our existing well does not meet the current code requirements for the depth of a sanitary seal. The existing well cannot economically be improved to satisfy this requirement. There will be no increase in water consumption.

continued



## NAPA COUNTY

CONSERVATION — DEVELOPMENT  
AND PLANNING DEPARTMENT

JAMES H. HICKEY  
Director

1195 THIRD STREET, ROOM 210 • NAPA, CALIFORNIA 94559-3092  
AREA CODE 707/253-4415

May 28, 1987

Assessor's Parcel # 20-150-12

Clos Pegase Winery  
P.O. Box 305  
Calistoga, Ca. 94515

Please be advised that Use Permit Application Number U-458697 to  
expand the winery with the increase in annual production, roof an existing work area,  
add 19,000 sq. ft. in caves on the winery site and to construct wastewater treatment  
ponds on the adjacent parcel across Dunaweal Lane  
along Dunaweal Lane approximately 500 feet south of Silverado Trail within  
located an AP (AGricultural Preserve) District.  
has been approved by the Napa County Conservation, Development and Planning  
Commission based upon the following conditions:

(SEE ATTACHED LIST OF CONDITIONS OF APPROVAL)

APPROVAL DATE: May 27, 1987

The use permit becomes effective ten (10) working days from the approval  
date unless an appeal is filed with the Napa County Board of Supervisors  
pursuant to Title XIII of the Napa County Code. In the event an appeal is  
made to the Board, you will be notified.

Pursuant to Section 12806 of the Napa County Code, the use permit must be  
activated within one (1) year and ten (10) calendar days from the approval  
date or the use permit shall automatically expire and become void. A one-  
year extension of time in which to activate the use permit may be granted by  
the County provided that such extension request is made thirty (30) days  
prior to the expiration date. A request for an extension of time is subject  
to payment of a \$190.00 filing fee.

Very truly yours,

JAMES H. HICKEY  
Secretary/Director

NOTE: Approved with modification of  
condition #3:

Director authorized to increase minimum  
parking spaces to 70 if circumstances  
require.

JHH:ml:1

Approved with additional Mitigation  
Measures (see Attachment A)

cc: Bill L. Hall, Building Codes Administrator  
Assessor's Office

EXHIBIT 15

ATTACHMENT A .

Additional Mitigation Measures  
imposed by the Conservation, Development and  
Planning Commission

Meeting: May 27, 1987

File #: U-458687

AESTHETICS

- Screen visible portions of the waste water treatment ponds from residences along the Silverado Trail south easterly of Dunaweal Lane with strategically placed native vegetation.

AIR QUALITY

- Use gravel and chemical suppressants as often as necessary for on-site roads used by heavy equipment, to mitigate particulate emission impacts.
- Use watering of working areas, storage pile surfaces and traffic areas, to mitigate particulate emission impacts.
- Cover cave tailings storage pile surfaces with topsoil and revegetate prior to the start of the wet season (October 15), to prevent erosion and minimize particulate emission impacts.

CONDITIONS OF APPROVAL

Agenda Item: 10

Meeting Date: May 20, 1987  
Use Permit: #U-458687

1. The permit be limited to an increase in annual production capacity not to exceed 200,000 gallons.
2. Winery expansion shall be in accordance with project description and drawings submitted on January 23, 1987, made as part of this application, including 1) project phasing, 2) location and 3) design (as maybe modified by the Commission).

Any expansion or changes in use to be by separate Use Permit submitted for Commission consideration.

3. Provisions for a minimum of 35 off-street parking spaces on a dust free, all weather surface approved by Public Works *Department*
4. *the* Excavated material related to 19,000 square feet of addition tunnels, shall not be sold for commercial purposes, but shall be disposed of in a manner approved by the Director.
5. Compliance with all applicable building codes, zoning standards and requirements of various County departments and agencies.
6. Mitigation measures contained in the attached Negative Declaration.

PAGE 6  
PROJECT  
HISTORY

## EXHIBIT 5



A Tradition of Stewardship  
A Commitment to Service

Agenda Date: 6/3/2015

Agenda Placement: 9B

### Napa County Planning Commission Board Agenda Letter

**TO:** Napa County Planning Commission

**FROM:** Melissa Frost for David Morrison - Director  
Planning, Building and Environmental Services

**REPORT BY:** John McDowell, Deputy Planning Director - 299-1354

**SUBJECT:** Reverie on Diamond Mountain Winery Use Permit Modification

#### RECOMMENDATION

**REVERIE ON DIAMOND MOUNTAIN WINERY / REVERIE ON DIAMOND MOUNTAIN, LLC. - USE PERMIT MAJOR MODIFICATION NO. P13-00027 and USE PERMIT EXCEPTION TO THE CONSERVATION REGULATIONS NO. P15-00141**

**CEQA Status:** Consideration and possible adoption of a Negative Declaration. According to the proposed negative declaration, the project would not have any potentially significant environmental impacts. The project site is not on any lists of hazardous waste sites enumerated under Government Code Section 65962.5.

**Request:** Request for approval of a modification to Use Permit #94254-UP, a Use Permit Exception to the Conservation Regulations (P15-00141) and an Exception to the Napa County Roads & Street Standards to allow the following: A) Recognize and authorize an increase the approved production capacity from 5,000 to 9,200 gallons per year; B) Recognize and authorize the 1,460 sq.ft. (Second Floor) of the winery building allocated to accessory use; C) Recognize and authorize the use of the 4,710 +/-sq.ft. cave for wine production, case storage and wine barrel storage and once fire sprinklers are installed use of the cave for tours, tastings and some events (Cave spoils were kept on the property and used to improve the vineyard roads); D) Recognize and authorize an increase in the approved "by appointment visitation" of 20 persons per day with an average of 20 per week to a maximum of 40 persons per day with an average of 200 persons per week; E) Recognize and authorize expansion of the existing marketing plan from the following: 1) tours and tastings for wine trade personnel at 10 persons per year with 5 to 10 (average 6) persons per event; 2) private promotional dinners at 4 per year with 6 to 18 (average 12) persons per event; and 3) wine auction related events such as barrel tastings and auctions at 2 per year with an average attendance of 25 persons to allow 1) 4 events per year with up to 60 persons; 2) 2 events per year with up to 40 persons; 3) 12 events per year with up to 10 guests; and 4) participation in the wine auction; F) Recognize and authorize an increase in the approved number of employees from 2 employees plus 1 temporary employee during harvest to a maximum of 5 employees; G) Recognize and authorize on-premise consumption of the wines produced on-site, consistent with Business and Professions Code §§23356, 23390, and 23396.5 (also known as AB 2004 (Evans 2008 or the Picnic Bill) within the winery building and improved lawn areas, and under the mature

**Production Capacity (Approved):** 5,000 gallons annually  
**Production Capacity (Existing):** 8,400 gallons annually  
**Production Capacity (Proposed):** 9,200 gallons annually

**Winery Coverage (Approved):** approximately 7,000 sq. ft., or .02%  
**Winery Coverage (Existing and Proposed):** approximately 650 sq. ft. larger, or 7,650 sq. ft., or .02%  
(Maximum 25% or 15 acres)

**Accessory/Production Ratio (Approved):** ±714 sq.ft. accessory/4,511 sq.ft. production; approximately 16% (not including the 714 sq. ft. guest cottage within winery building)  
**Accessory/Production Ratio (Existing and Proposed):** ±1,440 sq.ft. accessory/9,221 sq.ft. production; approximately 16%  
(Maximum 40% allowed)

**Outdoor areas to be utilized for tasting and marketing activities:** approximately 100 ft. by 150 ft., or 15,000 sq. ft. lawn, redwood grove and graveled area with small gazebo across creek (this does not include approximately 100 ft. by 50 ft., or 5,000 sq. ft. garden with pathways located between winery and redwood grove)

**Number of Employees (Approved):** 2 full-time and 1 part-time employees  
**Number of Employees (Proposed):** 5 employees

**Visitation (Approved):** Maximum of 20 visitors per day, and average of 20 visitors per week (by appointment only)  
**Visitation (Proposed):** Maximum 40 visitors per day; Average of 200 per week (by appointment only)

**Marketing Program (Approved):** 1) tours and tastings for wine trade personnel at 10 persons per year with 5 to 10 (average 6) persons per event; 2) private promotional dinners at 4 per year with 6 to 18 (average 12) persons per event; and 3) wine auction related events such as barrel tastings and auctions at 2 per year with an average attendance of 25 persons.

**Marketing Program (Proposed):** 1) 4 events per year with up to 60 persons; 2) 2 events per year with up to 40 persons; 3) 12 events per year with up to 10 guests; and 4) participation in the wine auction;

**Days and Hours of Operation (Approved and Existing):** 8 am-5 pm, daily  
**Days and Hours of Operation (Proposed):** no change

**Parking (Existing):** 5 parking spaces  
**Parking (Proposed):** 6 parking spaces, addition of 1 Americans with Disabilities space

**Adjacent General Plan Designation/Zoning District/Land Use:**

North:  
City of Calistoga – Vacant hillside property approved for Enchanted Hills Resort Project

South:  
AWOS General Plan Designation, AWP Zoning – Diamond Creek Vineyards Winery with residence and vineyards

West:  
AWOS General Plan Designation, AW Zoning – 3 hillside parcels containing residences ranging in size from 5 to 7 acres each

East:  
AWOS General Plan Designation, AW Zoning – Von Strasser Winery with residence and vineyards



made without use permit and building permit approval. Also after grant of final occupancy, the permittee began exceeding approved wine production levels purportedly up to 8,400 gallons per year, and increased visitation over approved limits. The current request seeks approval of these existing elements and as augmented in the project description detailed in the preceding section of this report. This application was not filed in response to a code compliance investigation, but the property had been selected for review in the Wine Audit prior to filing of this application.

The County's long standing procedure for addressing code violations begins with seeking voluntary compliance from property owners. Subsequent progressive steps include citations, civil actions, and referrals to the District Attorney. The voluntary compliance step often results in property owner's exercising their right to file a use permit modification seeking after-the-fact approval of previously unauthorized improvements and/or uses. As with all projects, the Planning Commission's role in reviewing the request is limited to weighing the merits of the proposal for consistency with guiding General Plan policies, and applying the standards and required findings of the Zoning Ordinance for grant of a use permit. It is not the Commission's role to determine punitive measures, or seek restitution for unfair business practices. Likewise, the Commission is in no way obligated to approve the request as submitted.

Staff has reviewed the request from a standpoint as if the improvements had yet to be installed and the expanded uses had yet to be implemented. From that perspective, staff believe that several aspects of the proposal would have been supported but not to the extent requested by the applicant as follows:

- The increased wine production from 5,000 gallons to 9,200 gallons annually is small, and sourced entirely from on the property and would have been supported.
- Construction of a 4,710 sq. ft. cave could have been supported, but the location of the portals in proximity to creek setbacks would not have been supported without some form of commensurate stream restoration project or alternative configuration consistent with the required findings for grant of a Conservation Regulation Use Permit Exception.
- Conversion of the guest quarters to winery use would have been supported.
- Outdoor visitation areas and event space could have been supported, but not within creek setbacks and the extent of that area is quite large when considered in relation to the size of the winery structures.

What remains unresolved for staff is the fact that the Commission has little in the way of flexibility on project design given the improvements already exist and the expanded use is already occurring to a certain degree beyond the permit. In one regard, the Commission has the advantage of seeing how the project would turn out if they were to approve it, but in the other regard, the question cannot be answered if the Commission would have found the existing design acceptable had it been developed in the proper order. It is within that context of this conundrum that staff cannot support the project as proposed and requests that the Commission pursue a reduced development alternative as follows:

- The production increase should be allowed but limited solely to production of wines to grapes that are 100% grown on-site.
- Visitation and marketing levels should not increase from originally approved levels, but the use permit conditions should be updated to reflect current condition language.
- Conversion of the second story guest cottage space to winery offices (only) should be permitted.
- In lieu of removing and replacing the eastern cave portal and unauthorized visitation areas on the west side of

modification and building permit. Presently, no residential use remains within the former barn/guest cottage. A 4,710+/- cave was also excavated in the hillside immediately adjacent to the winery/barn without obtaining a use permit modification, building permit and/or grading permit. According to Rick Stone of Nordby Wine Cave, the cave excavator, the cave was constructed in accordance with accepted industry standards at the time, and the cave spoils were disposed on site and used to improve vineyard roads.

July 2012 - The property was selected to participate in the 2012 Wine Audit which was conducted at the conclusion of the 2012 with results reported in July 2013.

February 4, 2013 - Use Permit Major Modification P13-00027 was voluntarily submitted by the property owner, as well as in advance of submitting required information in the Winery Audit process. The request seeks approval of the cave and other existing winery-related site improvements improved without benefit of permit as well as authorization of wine production and visitation/marketing exceeding levels contemplated in the original use permit entitlement. Processing of the application has been delayed by several factors including availability of staff and applicant driven changes to the project description. The original staff planner assigned to the project went out on a leave of absence and eventually left employment with the County. Upon taking over the project, the new staff planner worked with the applicant on developing substantial amounts of background study work on roadway engineering, water availability, biological analysis, traffic analysis and other project details.

August 20, 2014 - Demolition Permit B14-01281 was administratively approved authorizing the demolition of a 540 sq.ft. vineyard material storage building and 400 sq.ft. vineyard equipment shop building located within the stream setback of a small tributary flowing into Teale Creek. It should be noted that such buildings existed before adoption of the Conservation Regulations in 1991 and the establishment of stream setbacks, however, these structures had been modified/expanded and/or replaced at some point after 1991 and prior to submittal of Major Modification P13-0027. As indicated, the applicant expanded and partially enclosed one of the buildings that spanned the stream and constructed another. Demolition of the buildings resolved that portion of the code violation.

#### **Code Compliance:**

As noted in the project description and property history section above, there have been several violations associated with the winery and adjacent vineyard management buildings. The violations on the vineyard management buildings were resolved in 2014. Resolution of the winery-related violations is dependent upon the outcome of this use permit process. In March 2015 the Board of Supervisors and Planning Commission requested that staff commence an update to code enforcement practices and regulations to potentially increase penalties and/or consequences for code violations. As with any use permit, the Planning Commission's role remains to consider the merits of the use permit request and not to apply punitive measure in response to the code violations.

Civil penalties and/or fines are applied by the Building Official, Code Enforcement Division and County Counsel's Office. This project will be subject to after-the-fact building permit fees, which are double standard building permit fees plus payment of all staff costs. Citations and/or court-ordered civil penalties are not being pursued at this time, as the property owner has been diligent in responding to County demands placed upon them. As noted above, processing of the use permit modification, which started in February 2013 was delayed. County Code Section 1.28 sets infraction citation levels at \$100 a day for a first infraction for a maximum period of 1 year. Citation levels increase to \$200 a day and \$500 a day if property owners fail to comply with orders. If the County elevates the case to a civil action, court-ordered civil penalties are up to \$1,000 a day for a maximum period of 1 year plus recovery of County costs.

#### **Discussion Points:**

Staff Recommendation - Staff strives to find a balance between applicant objectives, County objectives, and the

**George Caloyannidis**

**From:** Morrison, David [David.Morrison@countyofnapa.org]  
**Sent:** Tuesday, July 07, 2015 6:26 PM  
**To:** 'Tittel/Caloyannidis'  
**Subject:** RE: AUDITS

See you then, sir.

**From:** Tittel/Caloyannidis [mailto:calti@comcast.net]  
**Sent:** Tuesday, July 07, 2015 1:00 PM  
**To:** Morrison, David  
**Subject:** RE: AUDITS

I appreciate that.  
 I can be there on Thursday at 11:00 am.  
 Thank you,  
 George

**From:** Morrison, David [mailto:David.Morrison@countyofnapa.org]  
**Sent:** Tuesday, July 07, 2015 12:55 PM  
**To:** 'Tittel/Caloyannidis'  
**Cc:** 'Dan Mufson'; McDowell, John; St. Claire, Linda; Anderson, Laura; C/ 2050 Geoff Ellsworth; C/ 2050 Ginna Beharry; C/ 2050 Kathy Felch  
**Subject:** RE: AUDITS

Mr. Caloyannidis,

The Reverie Winery was not audited. The winery owner elected to submit a Use Permit Modification application, prior to the conduct of the audit. That suspended any potential code enforcement actions (under the practices at that time, but which are no longer in effect). As such, there are no audit records. Moreover, audit materials and files related to potential violations are part of ongoing law enforcement actions are not available for public review.

You are welcome to review the Use Permit Modification case file, or any related land use files. Please let us know in advance so that we can have them ready.

I am available to meet between 10 and 12 on Thursday morning, if that would be convenient for you.

Respectfully,

David Morrison, Director  
 Napa County Planning, Building, and Environmental Services

**From:** Tittel/Caloyannidis [mailto:calti@comcast.net]  
**Sent:** Monday, July 06, 2015 9:55 AM  
**To:** Morrison, David  
**Cc:** 'Dan Mufson'; McDowell, John; St. Claire, Linda; Anderson, Laura; C/ 2050 Geoff Ellsworth; C/ 2050 Ginna Beharry; C/ 2050 Kathy Felch  
**Subject:** RE: AUDITS

Thank you Mr. Morrison for the extensive response which still leaves questions unanswered.

Since I have filed an intention to appeal the PC's decision regarding the Reverie winery application, I would most appreciate if the audit process and results of that winery is made available to me for review. This would not only clarify specific issues regarding the credibility of the numbers the PC approved but also justify (or not) the use of the word "RECOGNIZE" in the staff report which served as the basis for the approval.

It would also clarify, as I had requested in my comments in the record the use of the word "VOLUNTARY" regarding the winery's admission to violations which was widely used in its defense.

This review would clarify any systemic issues which we believe may be in play regarding the use (or misuse) of the word "AUDIT" and the degree to which the public may rely on its findings.

I am available for a meeting any time in the next few days.

George

PS: Since any trip to Napa involves a 45 minute drive each way, I would also appreciate if staff made available to me the file attorney Mr. Gilbreth presented during the PC hearing, allegedly substantiating that Mr. Kiken had obtained all necessary permits for all improvements proving that "he is a good citizen".

This file was not available for public review prior to the PC hearing.

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**From:** Morrison, David [<mailto:David.Morrison@countyofnapa.org>]  
**Sent:** Monday, July 06, 2015 12:32 AM  
**To:** 'Tittel/Caloyannidis'  
**Cc:** 'Dan Mufson'; McDowell, John; St. Claire, Linda; Anderson, Laura  
**Subject:** RE: AUDITS

Mr. Caloyannidis,

Let me begin by apologizing for not responding to you sooner. I have been out of the office since June 25 and did not have time to personally respond before my family left for vacation.

I am happy to clarify our wine audit process, to the extent possible over e-mail. I would also welcome the opportunity to sit down and discuss the details of it with you in person, if you would like.

I'm not sure that these answers will settle this issue. There has been a great deal of public concern expressed regarding the extent and effectiveness of the wine audit, as well as interest by the Grand Jury, Napa Register Editorial Board, Planning Commission, and Agricultural Protection Advisory Committee. Over the past 15 months that I have been in this position, code enforcement has been one of the highest priorities of the Board of Supervisors. They have authorized the hiring of two additional enforcement officers over the past year, imposed hundreds of thousands of dollars in fines, and requested updates on the issue every 3 to 6 months. The next update to the Board is tentatively scheduled for late July and I expect further direction to come from that meeting.

You have asked a number of questions that are appropriate, but also fairly complex. Here are my best attempts to answer them.

1. The audit is carried out in the Code Enforcement program, which is a part of the Building Division. The Building Division is one of five divisions which comprise the PBES Department (the others being Conservation/Engineering, Environmental Health, Parks and Open Space, and Planning). Code Enforcement is not under the Planning Division. The Code Enforcement Program is supervised by David Guidice, and the Building Division is managed by Gary West, Chief Building Official. Mr. West, in turn, reports directly to me. As such, all functions of the PBES Department including code enforcement are my personal responsibility.

2. I am not aware of any County Code or ordinance that mandates wineries to comply with the audit. In the absence of legal mandate, compliance with the audit can be said to be mandatory. However, wineries have consistently worked with staff to carry out the audit, even when the results were to the detriment of the winery being audited.
3. Wineries do respond to questions put to them by staff, but they are not the only method used. Staff conducts on-site inspections of the facilities, to verify condition compliance and to ensure that there are not any unpermitted construction or other violations. Wineries are also required to provide copies of their ATTTB forms to confirm production data, as well as copies of their log books and any other pertinent documents to indicate their compliance with visitation.
4. As mentioned above, written responses to questions are not the only means that staff uses to confirm compliance. Please keep in mind, however, that the wine audit only reviews businesses for their individual compliance with applicable county requirements (conditions of approval, codes, ordinances, etc.). It is not a comprehensive review of all winery operations, nor is it an audit of the industry as a whole.
5. The only records that we have regarding visitation are those log books and other documents maintained by the winery operator. There are no ticket sales, traffic counters, turnstiles, or other mechanisms to corroborate visitation levels. Given these constraints, it is a challenge to independently verify visitation levels. I would point out that this is a unique situation in terms of zoning. Typically, commercial uses are limited by the number of people that can be accommodated within a facility at any given time. An occupancy rate is assumed, usually based on actual data, and the number of traffic trips, water usage, waste water demand, and other impacts are derived from those assumptions. A restaurant is analyzed based on the number of tables and chairs. A retail store is analyzed based on the number of square feet of retail space. A hotel is analyzed based on the number of beds. In none of these other instances does the County place daily, weekly, or annual visitation limits, nor are the number of visitors monitored and audited. The wine industry is the only business evaluated in this manner. Other jurisdictions do not measure wineries by the number of daily, weekly, or annual visitors either. As a result, it may be time for Napa County to consider alternative approaches to evaluating and enforcing visitation.
6. Both marketing events and tasting room visitors are reviewed in the audit. Those two activities define all visitation as regulated by County use permits. You may be referring to temporary events. Those are not regulated through use permits, but are instead administered through a different part of the County Code and are not currently included in the wine audit.

If you have any follow questions to my responses, or require further assistance, please let me know and I will try to get back to you as soon as possible.

Thank you for your continued interest.

Respectfully,

David Morrison, Director  
Napa County Planning, Building, and Environmental Services

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**From:** Tittel/Caloyannidis [<mailto:calti@comcast.net>]  
**Sent:** Friday, June 26, 2015 2:15 PM  
**To:** Morrison, David  
**Subject:** FW: AUDITS

Dear David,  
I would appreciate your response unless you prefer me to contact Linda.  
Thank you,

George

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**From:** McDowell, John [<mailto:John.McDowell@countyofnapa.org>]  
**Sent:** Thursday, June 25, 2015 11:29 AM  
**To:** 'Tittel/Caloyannidis'  
**Cc:** C/ 2050 Dan Mufson; C/ 2050 Kathy Felch; Morrison, David; St. Claire, Linda  
**Subject:** RE: AUDITS

George,

The winery audit program has evolved considerably since it was started several years back. A good resource for understanding its evolution is to review the staff reports prepared annually for the Planning Commission. It initially only looked at total wine production but it has expanded to include (but not limited to) 75% rule compliance and visitation/marketing compliance. The program is administered by the Code Enforcement Section of this department (Planning, Building and Environmental Services). Linda St. Claire, cc'd, has been managing the program for the last several years and is without doubt the best person to respond to your questions below. She has taken lead in developing the program enhancements that have occurred in the last few years.

I've cc'd Director Morrison as well since organizationally Linda's management of the program is directly reportable to him. My division, current planning, is involved solely in assisting Linda with the report to the Planning Commission and processing of any use permit applications filed by property owners.

Thank you,

John

John McDowell  
Deputy Planning Director  
Napa County Planning, Building and Environmental Services Department  
(707) 299-1354

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**From:** Tittel/Caloyannidis [<mailto:calti@comcast.net>]  
**Sent:** Thursday, June 25, 2015 10:21 AM  
**To:** McDowell, John  
**Cc:** C/ 2050 Dan Mufson; C/ 2050 Kathy Felch  
**Subject:** AUDITS

Dear John,

There has been much discussion involving the nature of winery audits and the information we have received seems to be conflicting. In the interest of avoiding arguments or recommendations based on inaccurate information and since from what we understand, it is the Planning Department which conducts winery audits rather than the Auditor Controller, I would appreciate if you could help set the record straight on the issues below:

- 1) Is there a department head who leads the audit section? Who is in charge of it within the Planning Department?
- 2) Audits are performed on a "voluntary basis". What does this actually mean?
- 3) Audits consist of requesting questioners filed by wineries. Is this correct?
- 4) If this is correct (the equivalent of a tax return), how are winery statements compared against actual conditions so as to assure their accuracy (which is what the public understands under the word "audit")?

According to the May 12, 2015 Grand Jury Report Lines 247-250, auditors: "Review tours and tasting log books and marketing events...determine how the information was recorded and whether they were in compliance with the use permit conditions regarding visitations". Lacking more specific methodology information, the word "how" does not give us enough assurance that the audit result reflects reality.

5) How is "recorded information" compared against reality, which is what auditing for compliance commonly implies?

The Grand Jury Report Lines 267, 270-271 state that "audits review the following activities":

"Are the number of tours and tasting events within permit requirements?" and

"Are the number of marketing events within permit limits?"

While Line 250 states that the audits include compliance to "visitations", lines 270 and 271 include only tasting events and marketing events compliance but no visitations as a whole.

6) By what method are all visitations being accounted for by an audit?

I would appreciate your enlightenment or your directing me to the appropriate person within the County so that the issue is hopefully settled.

George

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## 4.4 TRANSPORTATION

### Observations of Results

- As shown in Table 4.4-14, for the 2030 network without proposed General Plan Update Circulation Element Improvements, there are 25 segments that would experience significant congestion impacts under all alternatives when compared to existing conditions, and six that would experience significant congestion impacts under some, but not all, alternatives. In most cases, the impacts would occur whether or not General Plan policies are update. There are also 10 instances where existing road segments operate at LOS E or F under existing conditions and a significant impact would occur in the future due to increases in the Volume to Capacity (v/c) ratio of greater than 5% (e.g., segments of SR 12, 121, and 29). Traffic is projected to improve in the future at only one location: SR 121 at the Sonoma County line due to ongoing improvements in that area.
- The vast majority of the significant impacts would occur regardless of whether or not the General Plan is updated, since they result from projected traffic from the cities in the County as well as regional traffic volume increases.
- Some of the significant congestion impacts that are projected to occur could be resolved by constructing network improvements. For example, on State Route 128 between the Napa/Yolo County Line and State Route 121, the congestion projected under Alternative A and Alternatives B and C without network improvements would be improved under Alternatives B and C if network improvements are implemented. This can be attributed to improved capacity. In other locations, the network improvements would have no impact (e.g. on American Canyon Road between I-80 and Flosden Road), or would indirectly increase congestion (e.g. segments of Silverado Trail).
- In addition to traffic impacts in the unincorporated portion of the County, the projected increases in traffic by 2030 would also be significant on roadways within and adjacent to the cities of American Canyon, St. Helena, Calistoga, Napa and the Town of Yountville as well as Yolo, Solano, Lake and Sonoma counties (under both roadway improvement assumptions).
- For the scenarios where the 2030 network without the General Plan Circulation Element improvements is used, Alternatives A, B and C result in nearly identical impacts. A few locations occur where one alternative is better than the other. These include:
  - Deer Park Road - Sanitarium Road to Silverado Trail where Alternative A is better than B and C. (Alt A, B and C = LOS E, F and F)
  - Deer Park Road – Silverado Trail to St. Helena Highway where Alternative B and C are better than A. (Alt A, B and C = LOS F, D and D)
  - Flosden Road – American Canyon Road to Napa/Solano County Line where Alternative B is better than A and C. (Alt A, B and C = LOS E, D and F)
  - Silverado Trail – Oak Knoll Avenue to Hardman Avenue where Alternatives A and B are better than C. (Alt A, B and C = LOS E, E and F)
  - Silverado Trail - Sage Canyon Road to Yountville Cross Road where Alternatives A and B are better than C. (Alt A, B and C = LOS E, F and F)



- Silverado Trail - Calistoga City Limits to Lincoln Avenue where Alternatives A and B are better than C. (Alt A, B and C = LOS E, E and F)
- State Route 128 – Napa/Yolo County Line to SR 121 where Alternatives A and B are better than C (Alt A, B and C = LOS D, D, and E)
- Tubbs Lane – State Route 29 to State Route 128 where Alternative B is better than A and C. (Alt A, B and C = LOS E, D and E)
- For the scenarios where the improved (2030) network is used, Alternatives B and C results are also nearly identical impacts. A few locations occur where one alternative is better than the other. These include:
  - Deer Park Road - Sanitarium Road to Silverado Trail where Alternative B is better than C. (Alt B and C = LOS D and F)
  - SR 128 - Tubbs Lane to Petrified Forest Road where Alternative B is better than C. (Alt B and C = LOS D and E)
  - Tubbs Lane - State Route 29 to State Route 128 where Alternative B is better than C. (Alt B and C = LOS D and E)
- **SR 29 within American Canyon** - Within American Canyon all of the alternatives result in similar impacts. The traffic along the SR 29 corridor south of SR 12 is composed of local traffic from American Canyon and regional traffic between the Vallejo area to the south including other regional facilities such as SR 37 and Interstate 80 and the northerly portions of Napa County. Further, significant development has occurred along SR 29 within American Canyon that has direct access to this corridor. These conditions reduce the capacity of SR 29 through American Canyon and have resulted in the installation of traffic signals to allow side street traffic to enter and exit the corridor.
- **Traffic originating from Napa Pipe and Boca/Pacific Coast Areas** - Development on the Napa Pipe and Boca sites under Alternatives B and C south of the City of Napa would result in traffic changes that would have the greatest potential to impact the Napa Valley Highway, since this is the regional corridor closest to the sites. As shown in tables 4.4-14 and 4.4-15, traffic congestion along the segment of the Napa Valley Highway between Kaiser Road and SR29 is expected to be significant in the future under all alternatives – even Alternative A, which proposes continued industrial use of the Napa Pipe and Boca/Pacific Coast sites. Significant congestion would also occur whether or not the network improvements analyzed for Alternatives B and C were implemented. Localized impacts on Kaiser Road, Napa Valley Corporate Drive and Syar Industrial Way may also be significant, however a comprehensive assessment of impacts on secondary streets serving these sites cannot be accomplished without further data, specific project proposals, and site-specific analysis.
- **Traffic originating from Angwin** - Increased development in the Angwin area would result in traffic changes that would have the greatest potential to impact Howell Mountain Road, Deer Park Road, and Silverado Trail, since these are the regional corridors closest to the community. As shown in tables 4.4-14 and 4.4-15, traffic congestion along Howell Mountain Road is expected to increase under all alternatives, but would not reach LOS E or F. However Deer Park Road would experience significant congestion (LOS E or F) in one direction under all but one alternative, and Silverado Trail would experience

## 4.4 TRANSPORTATION

congestion along some segments in all alternatives. Local segments of Howell Mountain Road, White Cottage Road and other roadways in the Angwin area may also experience increases in traffic, however a comprehensive assessment of impacts on secondary streets serving the area cannot be accomplished without further data, a specific project proposal, and site-specific analysis.

- Some roadway segments operate at a better LOS under the without the certain proposed General Plan Update Circulation Element roadway improvements than the with the certain proposed General Plan Update Circulation Element roadway improvements. This condition is the result of the dynamic nature of the travel demand project. When State Route 12 (Jamieson Canyon Road) is widened from 2 to 4 lanes, the model assigns more traffic to this corridor. At the same time, parallel corridors such as American Canyon Road, Wooden Valley Road and Sage Canyon Road experience reductions in traffic.

### Weekend Traffic

A comparison of the amount of weekend versus weekday traffic for selected segments shown in **Figure 4.4-2** was evaluated for the PM peak hours. It was found that six out of the 34 segments for which data was provided had higher weekend than weekday traffic. For those segments the 2030 forecasted traffic was factored using the existing ratio of weekend to weekday traffic to estimate the future weekend traffic on these roadways. **Table 4.4-15** show the impacts for the seven segments where either the LOS worsens on the weekend or the change in v/c ratio is greater than five (5) percent.

**TABLE 4.4-15**  
**WEEKEND TRAFFIC IMPACTS – SELECTED ROADWAY SEGMENTS - IMPROVED NETWORK**

Segment	Dir.	2030 Network Without GP Improvements						2030 Network With GP Improvements			
		2030 A Change in LOS	2030 B Change in LOS	2030 C Change in LOS	2030 A Change in V/C	2030 B Change in V/C	2030 C Change in V/C	2030 B Change in LOS	2030 C Change in LOS	2030 B Change in V/C	2030 C Change in V/C
Pope Canyon Road (Berryessa-Knoxville Road to Chiles Pope Valley Road)	EB	C to F	C to F	C to F	1.37	1.74	1.75	C to F	C to F	1.36	1.48
Silverado Trail (Oak Knoll Avenue to Harden Road)	NB	E to F	E to F	F to F	0.10	0.09	0.10	E to F	E to F	0.10	0.09
SR 12 (Lynch Road to Kelly Road)	WB	E to F	E to F	F to F	0.52	0.52	0.55	D to F	D to F	0.47	0.48
SR 29 (Oakville Grade to Madison Street)	NB	F to F	F to F	F to F	0.62	0.63	0.65	F to F	F to F	2.36	2.33
SR 29 (Chaix Lane to Zinfandel Lane)	NB	F to F	F to F	F to F	0.36	0.36	0.36	F to F	F to F	0.37	0.37
SR 29 (Chaix Lane to Zinfandel Lane)	SB	F to F	F to F	F to F	0.26	0.25	0.29	F to F	F to F	0.27	0.29

Source: Dowling Associates 2006

The two locations where the weekday LOS goes from an acceptable to unacceptable level are:

- 1) Pope Canyon Road from Berryessa-Knoxville Road to Chiles Pope Valley Road; and

- 2) SR 12 from Lynch Road to Kelly Road.

For all of the other segments, the LOS is already E or F, but the change in v/c ratio is greater than five (5) percent.

### Summary of Model Results by Alternative

#### Alternative A

As shown in **Table 4.4-13**, Alternative A and associated growth of the incorporated cities and regional traffic growth would result in traffic increases in peak hour v/c ratio and LOS, with many road segments going from acceptable LOS (A, B or C) to failing (E or F). In addition to traffic impacts to the unincorporated portion of the County, this increase in traffic would also be significant on roadways within and adjacent to the cities of American Canyon, St. Helena, Calistoga, Napa and the Town of Yountville as well as Yolo, Solano, Lake and Sonoma counties. This alternative would significantly impact 39 roadway segments. Emergency response times and emergency access could also be affected, due to increase in road congestion from raised LOS levels. Pre-existing fire regulations currently address this particular impact as described in Section 4.9 (Human Health/Risk of Upset) and 4.13 (Public Services and Utilities). In addition, State Public Resource Code (PRC) 4290 requires local jurisdictions to implement fire safe standards for roads, bridges, driveways, and entrances that would disallow construction of residential housing on dead-end streets. While mitigation measures are proposed below to reduce this impact, the impact remains **significant and unavoidable**.

#### Alternative B

**Table 4.4-13** and **Table 4.4-14** identify traffic impacts associated with Alternative B with and without certain proposed General Plan Update Circulation Element roadway improvements. Similar to Alternative A, the anticipated traffic increase would raise LOS levels from acceptable levels to failing (E or F) on county roadways over existing conditions. **Table 4.4-13** and **Table 4.4-14** identify that Alternative B (along with associated growth of the incorporated cities and regional traffic growth) would significantly impact 37 roadway segments without the proposed General Plan Update Circulation Element roadway improvements and 36 roadway segments with these improvements. In addition to traffic impacts to the unincorporated portion of the County, this increase in traffic LOS levels would also be significant on roadways within and adjacent to the cities of American Canyon, St. Helena, Calistoga, Napa and the Town of Yountville as well as Yolo, Solano, Lake and Sonoma counties (under both roadway improvement assumptions). Emergency response times and emergency access could also be affected, due to increase in road congestion from raised LOS levels. Pre-existing fire regulations currently address this particular impact as described in Section 4.9 (Human Health/Risk of Upset) and 4.13 (Public Services and Utilities). In addition, State Public Resource Code (PRC) 4290 requires local jurisdictions to implement fire safe standards for roads, bridges, driveways, and entrances that would disallow construction of residential housing on dead-end streets. While mitigation measures are proposed below to reduce this impact, the impact remains **significant and unavoidable**.

#### Alternative C

**Table 4.4-13** and **Table 4.4-14** identify traffic LOS impacts associated with Alternative C with and without proposed General Plan Update Circulation Element roadway improvement. Similar to Alternative A, the anticipated traffic LOS increases would go from acceptable (A, B, C) to unacceptable (E and F) on County roadways over existing conditions. **Table 4.4-13** and **Table**

## 4.4 TRANSPORTATION

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4.4-14 identifies that Alternative C (along with associated growth of the incorporated cities and regional traffic growth) would significantly impact 39 roadway segments without the proposed General Plan Update Circulation Element roadway improvements and 42 roadway segments with these improvements (which could be the highest of any of the alternatives evaluated). In addition to traffic LOS impacts to the unincorporated portion of the County, this increase in traffic LOS levels would also be significant on roadways within and adjacent to the cities of American Canyon, St. Helena, Calistoga, Napa and the Town of Yountville as well as Yolo, Solano, Lake and Sonoma counties (under both roadway improvement assumptions). Emergency response times and emergency access could also be affected, due to increase in road congestion from raised LOS levels. Pre-existing fire regulations currently address this particular impact as described in Section 4.9 (Human Health/Risk of Upset) and 4.13 (Public Services and Utilities). In addition, State Public Resource Code (PRC) 4290 requires local jurisdictions to implement fire safe standards for roads, bridges, driveways, and entrances that would disallow construction of residential housing on dead-end streets. While mitigation measures are proposed below to reduce this impact, the impact remains **significant and unavoidable**.

### Mitigation Measure

The following mitigation measures would apply to all the alternatives.

- |                  |  |
|------------------|--|
| <b>MM 4.4.1a</b> | The County shall provide a policy in the General Plan establishing a standard for adequate level of service on roads and intersections to be applied to all discretionary projects reviewed by the County  |
| <b>MM 4.4.1b</b> | The County shall include a policy in the General Plan that requires new developments with the potential to significantly affect traffic operations to prepare a traffic analysis prior to discretionary approval of the project.   |
| <b>MM 4.4.1c</b> | The County shall include a policy in the General Plan that requires new development projects to mitigate their impacts and to pay their fair share of countywide traffic improvements they contribute the need for, including improvements identified in DEIR Table 4.4-20. A countywide traffic impact fee shall be developed in cooperation with NCTPA.  |
| <b>MM 4.4.1d</b> | The County shall include a policy in the General Plan that requires new residential and commercial development to be concentrated within already developed areas and areas planned for development where sufficient densities can support transit services and development of pedestrian and bicycle facilities.   |
| <b>MM 4.4.1e</b> | The County shall include a policy to the General Plan that supports programs to reduce single-occupant vehicle use and encourage carpooling, transit use, and alternative modes such as bicycling, walking, and telecommuting. In addition, the County shall seek to maintain total trips in the County using travel modes other than private vehicles (transit, walking, bicycling, public transit, etc.) at 2006 levels. |
| <b>MM 4.4.1f</b> | The County shall provide a policy in the General Plan that requires the County of Napa to demonstrate leadership in implementation of programs encouraging the use of alternative modes of transportation by its employees, as well as the use of alternative fuels. Example programs shall include:   |

- Preferential carpool parking and other ridesharing incentives,
- Flexible working hours,
- A purchasing program that favors hybrid, electric or other non-gasoline vehicles,
- Secure bicycle parking,
- Transit incentives

**MM 4.4.1g** The County shall include a policy in the General Plan that requires all developments along fixed transit routes to provide amenities designed to encourage carpooling, bicycle, and transit use in coordination with NCTPA. Typical features would include bus turnouts/access, bicycle lockers, and carpool/vanpool parking.

**MM 4.4.1h** The County shall include a policy in the General Plan that states where sufficient right of way is available, bicycle lanes shall be added to county roadways when repaving or upgrading of the roadway occurs as feasible.

**MM 4.4.1i** The County shall provide a policy in the General Plan that requires that abandoned rail right-of-way shall be used for alternative uses such as public transit routes, bicycle paths, or pedestrian/hiking routes when feasible.

**MM 4.4.1j** The County shall provide a policy in the General Plan that requires that pedestrian and bicycle access shall be integrated into all parking lots and considered in the evaluation of development proposals and public projects.

**Table 4.4.15** details the necessary roadway improvements that when applied to the 2030 network would mitigate the significant traffic operation impacts at the locations specified to LOS D or better conditions. **Table 4.4-16** details those roadway improvements, which are included in the General Plan Circulation Element.

**TABLE 4.4-15**  
**ROADWAY IMPROVEMENTS TO IMPROVED 2030 NETWORK (NOT INCLUDED IN GENERAL PLAN)**

Roadway Segment	Improvements
American Canyon Road - I-80 to Flosden Road	Widen this roadway from a two (2) lane rural highway to a four (4)-lane rural highway.
Deer Park Road – Sanitarium Road to Silverado Trail	Widen this roadway from a two (2) lane collector to a four (4) lane collector.
Deer Park Road - Silverado Trail to SR 29/128	Widen this roadway from a two (2)-lane collector to a four (4) lane collector.
Flosden Road – American Canyon Road to Solano/Napa County Line	Widen this roadway from a four (4) lane urban arterial to a six (6) lane urban arterial.
Napa Valley Highway - Kaiser Road to SR 29	Widen this roadway from a four (4) lane urban arterial to a six (6) lane urban arterial.
Petrified Forest Road - Foothill Boulevard to Franz Valley School Road	Widen this roadway from a two (2) lane rural arterial to a four (4) lane rural arterial.
Silverado Trail – Oak Knoll Avenue to Hardman Avenue	Widen this roadway from a two (2) lane rural arterial to a four (4) lane rural arterial.

#### 4.4 TRANSPORTATION

Roadway Segment	Improvements
Silverado Trail - Sage Canyon Road to Yountville Cross Road	Widen this roadway from a two (2) lane rural arterial to a four (4) lane rural arterial.
Silverado Trail - Pope Street to Zinfandel Lane	Widen this roadway from a two (2) lane rural arterial to a four (4) lane rural arterial.
Silverado Trail - Calistoga City Limits to Lincoln Avenue	Widen this roadway from a two (2) lane rural arterial to a four (4) lane rural arterial.
Soscol Avenue - First Street to Silverado Trail	Widen this roadway from a four (4) lane urban arterial to a six (6) lane urban arterial.
SR 12 - Cuttings Wharf Road to Stanly Lane	Widen this roadway from a two (2) lane Rural Highway to a four (4) lane Rural Highway.
SR 12 - Lynch Road to Kelly Road	Widen this roadway from a four (4) lane Rural Highway to a six (6) lane Rural Highway.
SR 128 - Napa/Sonoma County Line to Tubbs Lane	Widen this roadway from a two (2) lane rural arterial to a four (4) lane rural arterial.
SR 128 - Tubbs Lane to Petrified Forest Road	Widen this roadway from a two (2) lane rural arterial to a four (4) lane rural arterial.
SR 128 - Petrified Forest Road to Lincoln Avenue	Widen this roadway from a two (2) lane rural arterial to a four (4) lane rural arterial.
SR 128 - Chiles-Pope Valley Road to Silverado Trail	Widen this roadway from a two (2) lane rural arterial to a four (4) lane rural arterial.
SR 29 - Green Island Road to American Canyon Road	Widen this roadway from a four (4) lane rural highway to a six (6) lane rural highway.
SR 29 - Oakville Grade to Madison Street	Widen this roadway from a two (2) lane rural highway to a four (4) lane rural highway.
SR 29 - Rutherford Cross Road to Oakville Grade	Widen this roadway from a four (4) lane rural arterial to a six (6) lane rural arterial.
SR 29 - Chaix Lane to Zinfandel Lane	Widen this roadway from a four (4) lane rural arterial to a six (6) lane rural arterial.
SR 29 - Lodi Lane to Deer Creek Road	Widen this roadway from a four (4) lane rural arterial to a six (6) lane rural arterial.
SR 29 - Kelly Road to Jamieson Canyon Road (SR 12)	Widen this roadway from a four (4) lane rural arterial to a six (6) lane rural arterial.
SR 29 - Napa Valley Highway to Kelly Road	Widen this roadway from a four (4) lane rural highway to a six (6) lane rural highway.
SR 29 - Napa Valley Highway to Carneros Highway	Widen this roadway from a six (6) lane freeway to an eight (8) lane freeway.
Tubbs Lane - SR 29 to SR 128	Widen this roadway from a two (2) lane rural highway to a four (4) lane rural highway.

Source: Dowling Associates 2006

**TABLE 4.4-16**  
**SPECIFIC ROADWAY IMPROVEMENTS UNDER THE PROPOSED GENERAL PLAN UPDATE CIRCULATION ELEMENT**

Roadway Segment	Summary of Improvements
SR 29 - Green Island Road to American Canyon Road	Widen this roadway.
SR 29 – SR 221 and Green Island Road	Widen this roadway
SR 12 – Airport Boulevard and SR 29	Construct an interchange
SR 12 (Jamieson Canyon)	Widen this roadway by adding one travel lane in each direction, provision of a safety median barrier and room for a class II bike lane
SR 221/SR 12/SR 29	Improve intersection
Flosden Road/Newell Road – American Canyon Road to Green Island Road	Extend this roadway
Devlin Road – Soscol Ferry Road and American Canyon	Complete this road
SR 29 and Rutherford Crossroad Intersection and Yountville Crossroad and Silverado Trail Intersection	Intersection improvements to improve safety and traffic flow.
SR 29 – between Oakville and St. Helena	Safety and flow improvements.
Countywide	Install safety improvements on rural roads and highways throughout County.

Source: Dowling Associates 2006, Napa County

While the above roadway improvements in **Table 4.4-15** would reduce the peak hour and daily levels of service to acceptable levels, roadway improvements beyond those listed in Policy CIR-2.3 are not considered feasible given the environmental effects associated with the roadway widening and that these improvements would be inconsistent with the vision set forth in the General Plan Update. The following statement from the Summary and Vision section of the proposed General Plan Update summarizes the County's provisions: "This General Plan will preserve and improve the quality of life and the rural character of the County by proactively addressing land use, traffic, and safety concerns in addition to sustaining the agricultural industry." Widening of these roadways would result in more severe environmental impacts (beyond what is addressed in this DEIR) associated with visual resources, water quality, noise, air quality, and growth inducement.

Additionally, roadway widening of several roadway segments such as SR 128 and Tubbs Lane would be infeasible due to lack of right-of-way and proximity to existing commercial and/or residential developments. For roads where right-of-way exists for widening, impacts would include increased traffic noise to existing commercial and/or residential uses.

Although mitigation measures **MM 4.4.1a** through **MM 4.4.1j** may reduce this impact, some VMT and LOS increases would still remain, therefore, this is considered a **significant** and **unavoidable** impact for Alternatives A, B and C.



A Tradition of Stewardship  
A Commitment to Service

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Main: (707) 253-4421  
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**Nancy Watt**  
County Executive Officer

July 17, 2015

Ms. Kathy Felch  
Adkins Felch LLP  
980 Ninth Street, 16<sup>th</sup> Floor  
Sacramento, CA 95814

RE: Appeal of Decision by Napa County Planning Commission  
Reverie on Diamond Mountain Winery - Use Permit Major Mod. No. P13-00027  
and Use Permit Exception to Conservation Regulations No. P15-00141  
(Assessor's Parcel No. 020-440-005)

Dear Ms. Felch:

The Office of the Clerk of the Board received the Notice of Intent to Appeal on June 29, 2015 and the Appeal Packet on July 14, 2015 that George Caloyannidis filed for the above-referenced project. The appeal contains the information required pursuant to Section 2.88.050 of the Napa County Code (Code). We are also in receipt of Check Nos. 13505 and 13514 for a total amount of \$960.42 as payment for the appeal filing fees.

The public hearing has been scheduled for Tuesday, **October 6, 2015 at 9:30 a.m.** and will be held in the Board of Supervisors' Meeting Room located at 1195 Third Street, Suite 305, Napa.

Any additional information in support of your appeal must be submitted to the Clerk of the Board's office no later than September 16, 2015 only for purposes of being included in County's staff report. The decision to allow any additional new information or evidence not considered by the approving authority shall be made pursuant to Section 2.88.090 upon a showing of good cause that any new information could not have been presented at the time of the decision appealed from. Submission of new material may be provided at any time, therefore, check with the Clerk of the Board's office prior to the hearing for any new appeal related documents.

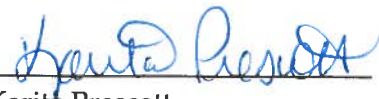


Ms. Kathy Felch  
July 17, 2015  
Page 2

The staff report and corresponding attachments should be available online after 5:00 p.m. on October 2, 2015 on the County's website. A hard copy of the staff report may also be picked up at the Clerk of the Board's office. The staff report, agendas, minutes and video recordings of Board meetings can be found at: [http://napa.granicus.com/ViewPublisher.php?view\\_id=2](http://napa.granicus.com/ViewPublisher.php?view_id=2).

Regards,

Gladys I. Coil  
Clerk of the Board of Supervisors

By   
Karita Prescott  
Deputy Clerk of the Board

cc: S. Altman, County Counsel  
L. Anderson, County Counsel  
C. Apallas, County Counsel  
J. McDowell, Planning, Building & Environmental Services  
C. Gallina, Planning, Building & Environmental Services  
L. Habkirk, County Executive Office

Applicant's Rep:

Scott Greenwood-Meinert  
Dickenson, Peatman & Fogarty  
1455 First Street, Suite 301  
Napa, CA 94559

**RECEIVED****AUG 04 2015****NAPA COUNTY  
EXECUTIVE OFFICE**

George Caloyannidis  
2202 Diamond Mountain Road  
Calistoga, CA 94515  
Tel : (707) 942-0904  
Fax: (707) 942-0908  
calti@comcast.net

*Called 8/4 12:55p  
not call 8/5 9:30a*

Gladys I. Coil  
Clerk of the Board of Supervisors  
1195 Third Street, Suite 310  
Napa, CA 94559

August 4, 2015

RE: Appeal Hearing Date - Reverie Winery Use Permit Major Mod. No. P13-00027

SENT PER FAX: (707) 253-4176

Dear Ms. Coil:

I am in receipt of your letter dated July 31, 2015 advising me that my request to move the hearing date on any date other than October 6, 2015 because I will be absent on that date will be presented to the Board by Staff on October 6, 2015 recommending that the hearing date be continued to October 13, 2015.

This does not provide me with definitive assurance that the Supervisors will honor said recommendation especially considering the fact that October 13 is beyond the 90 day period by which the appeal is supposed to be heard.

I would appreciate written confirmation to that effect as you had provided me during our telephone conversation of last week.

Thank you,



George Caloyannidis