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**Previous Planning Commission Staff
Report & Public Comments –
December 21, 2016**

PREVIOUS STAFF REPORT FROM PLANNING COMMISSION MEETING

PROJECT

**NAME: ADOPTION OF 2016
STANDARD CONDITIONS OF
APPROVAL**

PREVIOUS MEETING

DATE: DECEMBER 21, 2016

**FOR ATTACHMENTS OF THIS STAFF REPORT PLEASE
REFER TO THE PREVIOUS MEETING DATE ABOVE.**



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 12/21/2016

Agenda Placement: 8A

Continued From: 8/3/16

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission

FROM: Charlene Gallina for David Morrison - Director
Planning, Building and Environmental Services

REPORT BY: Charlene Gallina, SUPERVISING PLANNER - 299-1355

SUBJECT: Adoption of 2017 Standard Conditions of Approval

RECOMMENDATION

ADOPTION OF THE 2017 STANDARD CONDITIONS OF APPROVAL

CEQA Status: General Rule. It can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].

Request: Consideration of, and recommendation to, the Board of Supervisors regarding adoption of the updated 2017 Standard Conditions of Approval for: (1) Winery projects; (2) Other Non-Residential/Residential projects; and (3) Specific Plan Area (Napa Valley Business Park) projects. Upon adoption by the Board, the updated standard conditions will be applied to all new discretionary projects and to any future modifications in the County.

Staff Recommendation: Receive staff presentation on revised draft standard conditions of approval for Winery, Other NonResidential/Residential and Specific Plan Area (Napa Valley Business Park) projects, solicit any public comments, Commission discussion and final recommendation to the Board of Supervisors.

Staff Contact: Charlene Gallina, Supervising Planner, 299-1355 or charlene.gallina@countyofnapa.org

EXECUTIVE SUMMARY

Proposed Actions:

1. Receive staff presentation on revised draft Standard Conditions of Approval for Winery, Other NonResidential/Residential Projects, Specific Plan Area (Napa Valley Business Park) projects;
2. Solicit any public comments; and

3. Commission discussion and final recommendation to the Board of Supervisors - OR -
4. Commission discussion, direction on additional revisions and continue item to January 4, 2017.

Discussion:

On August 3, 2016, staff presented the following new set of proposed standard conditions for Commission consideration and recommendation to the Board of Supervisors: (1) Winery projects; (2) Other Non-Residential/Residential projects; and (3) Specific Plan Area (Napa Valley Business Park) projects in an effort to make the conditions more streamlined and triggered by project milestones. A copy of the staff report and prior public comments have been provided for your review. In response to the comments received by stakeholders, the general public and elected/appointed officials, staff requested a continuance of this item to allow additional time to address comments received to date before the Commission makes its final recommendation. Furthermore, staff presented a proposed outline of how the conditions would be reorganized in order to get consensus from the Commission and the public on the new format before updating the draft standard conditions and presentation to the Commission for final consideration. A copy of this outline is also attached for your review. It should be noted that staff was directed by the Commission to follow this outline when updating conditions.

Regarding modifications to use permits, staff presented two options in lieu of the existing process which has a condition that simply incorporates by reference all prior use permit conditions of approval (whether still applicable or not). As presented, the first option involved a "consolidation" of all previous project conditions into one document regardless of duplication, inconsistencies, and/or conflicting information. The second option involved implementing a pilot program for major modification applications only in which staff would "integrate" all applicable operational and/or non construction conditions eliminating any duplicative, inconsistencies and/or conflicting information. The Commission directed staff to provide a condition that simply consolidates (or lists) conditions into one document, since it was less labor intensive with respect to staff resources and based upon project workload.

As presented, the proposed wording of the Standard Conditions have been modified to standardize language, ensure consistency and clarity, and to avoid any duplication. Furthermore, staff has standardize project specific conditions that have been applied to projects over the years, and have added conditions from the Building Division and Fire Department to provide more information regarding the permitting process and expectations when applying for such permits.

It should be further noted that staff on December 6, 2016 forwarded the revised proposed changes in "tracked change" format to our Development Stakeholders in addition to the Planning Commission to solicit feedback prior to this meeting. To date, comments were received from the Napa Valley Vintners & Winegrowers of Napa County (See Attached).

Although this item is not a public hearing, staff is recommending that the Commission receive testimony from any interested member of the public prior to Commission discussion and final recommendation to the Board of Supervisors.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

General Rule. It can be seen with certainty that there is no possibility the proposed action may have a significant

effect on the environment and therefore CEQA is not applicable. [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].

BACKGROUND AND DISCUSSION

It is staff's intent that the Planning Commission recommend adoption and that the Board of Supervisors ultimately adopt a set of standard conditions that would apply to all winery related projects, as well as, all non-winery related projects located in the Specific Plan Area (Napa Valley Business Park) and other areas of the County such as: 1) a use permit for new or modified commercial, residential, institutional, and industrial development; 2) variance related requests; 3) conservation regulation exceptions; 4) viewshed projects; 5) road modifications in conjunction with use permits or a building permit; and 6) tentative parcel map applications. These standard conditions, once adopted by the Board, could not be changed on individual projects and would be applied on all future discretionary projects until such time as they are modified by the Board. Future modifications to the standard conditions except for project specific mitigation measures and/or conditions would only occur if adopted by the Board through a public process. Staff proposes that the conditions be reviewed every five (5) years or as needed by the Commission and Board. Once again, staff would appreciate feedback from the Commission regarding the frequency of this review period.

Proposed Format Changes:

As presented, the attached proposed Standard Conditions have been reorganized based upon the Proposed Outline presented on August 3rd (Attachment D). The major categories are as follows:

Introduction

Part 1

1. Project Scope
2. Statutory & Code References
3. Monitoring Costs

Part II

4. Operational Characteristics of the Project

Part III

5. Payment of Fees - Prerequisite for Issuance of Permits
6. Grading/Demolition/Environmental/Building Permit/Other Permit Prerequisites
7. Project Construction
8. Temporary Certificate of Occupancy - Prerequisites
9. Final Certificate of Occupancy - Prerequisites

As revised, this format presents the permittee with the project scope and operational requirements up front followed by the logical sequence of preconstruction, construction, temporary and final occupancy requirements for a project. Therefore, prior draft standard conditions (dated June 21, 2016) have been reorganized, rewritten in tracked format, and inserted into these various categories. (Attachments A, B, & C)

As for any significant changes, staff has proposed new language for the "Ground Water Management – Wells" in response to stakeholder comments, as well as, modified other conditions to respond to stakeholder/public comments with exception to those requested changes that would incorporate new policy direction for projects. With respect to recent (December 13, 2016) Board of Supervisors approval of and authorization on the submittal of the Napa Valley Groundwater Sustainability - A Basin Analysis Report for the Napa Valley Subbasin to the California

Department of Water Resources (DWR), the Public Works Department is requesting that staff's proposed standard condition on "Ground Water Management – Wells" be further modified to clarify implementation responsibilities of staff, as well as, the permittee/property owner in providing groundwater well monitoring information to the County. Attachment F represents the Public Works Department proposed changes. Please note that these changes are tracked changed and typed in all caps.

Lastly, staff modified the proposed condition and procedure that would carry over previous conditions of approval for Major Modification applications only at this time based upon Commission direction received on August 3rd. This condition has been revised to implement the concept of "consolidation", which simply means that all previous use permit conditions will be compiled into a single document as part of a new use permit modification action. This would essentially be a sequential list of past entitlements incorporated into the conditions of the new entitlement. Duplicated conditions would remain. This option was selected, since it was less labor intensive with respect to staff resources and based upon project workload.

Response to Comments and Next Steps:

Wording of the Standard Conditions has been modified to standardize the language, ensure consistency, provide clarity, and avoid duplication. Furthermore, they have been reorganized into project categories for ease of use by the property owner, the permittee, engineers/architects, contractors, and County staff. With regards to receipt of prior stakeholder and general public comments, staff has also revised conditions that provide more clarification. It should be noted that in instances where a comment requested a change in policy and/or Zoning Code regulation, such conditions were not revised and determined to be addressed through the processing of APAC recommendations. As for new comments received on December 13, 2016 in response to the updated draft conditions, staff will prepare an assessment of the requested changes and forward to the Commission before the meeting.

When the Commission has completed this review, the Commission's recommendation will be forwarded to the Board of Supervisors for final consideration and adoption. It is anticipated that the Board of Supervisors will consider this matter in January/February.

SUPPORTING DOCUMENTS

- A . Draft Winery Standard Conditions of Approval, Dated 12-6-16
- B . Draft Other Project Standard Conditions of Approval, Dated 12-6-16
- C . Draft Specific Plan Area-NonWineryStandard Conditions of Approval, Dated 12-6-16
- D . Proposed Outline for Standard Conditions of Approval, Dated August 3, 2016
- E . Public Comments - Napa Valley Vintners & Winegrowers of Napa County
- F . Public Works Dept Revised Ground Water Management -Wells Standard Condition
- G . Previous Planning Commission Staff Report - August 3, 2016
- H . Previous Public Comments - August 3, 2016
- I . Adopted 2012 Winery & Other Project Standard Conditions, Dated 12-5-12
- J . Public Comment Response Memo - 12-21-16 (Added after initial agenda posting)
- K . Correspondence received after packet mail out (Added after meeting)

Reviewed By: Charlene Gallina

Proposed Outline for Standard Conditions of Approval, Dated August 3, 2016

PROPOSED OUTLINE

AUG 03 2016

Agenda Item # 10A

(WINERY APPLICATIONS)

PLANNING COMMISSION HEARING – (DATE)
CONDITIONS OF APPROVAL

(Project Name)
(Application Number(s) PXX-XXXX)
(Project Address)
(APN #XXX-XXX-XXX)

This Permit encompasses and shall be limited to the project commonly known as *Project Name*, located at *(Project Address)*. Part I encompasses the Project Scope and general conditions pertaining to statutory and local code references, project monitoring and the process for any future changes or activities. Part II encompasses the ongoing conditions relevant to the operation of the project. Part III encompasses the conditions relevant to construction and the prerequisites for a final certificate of occupancy. It is the responsibility of the permittee to communicate the requirements of these conditions and mitigations (if any) to all designers, contractors, employees, and guests of the winery to ensure compliance is achieved.

PART I

- 1.0 PROJECT SCOPE
- 2.0 STATUTORY AND CODE SECTION REFERENCES (FORMER CONDITION 9.1)
- 3.0 MONITORING COSTS (FORMER CONDITION 9.2)

PART II

4.0 OPERATIONAL CHARACTERISTICS OF THE PROJECT

Permittee shall comply with the following during operation of the winery:

- 8.1 GENERAL PROVISIONS
- 8.2 TOURS AND TASTINGS/VISITATION
- 8.3 MARKETING
- 8.4 ON-PREMISES CONSUMPTION
- 8.5 RESIDENCE OR NON-WINERY STRUCTURES
- 8.6 GRAPE SOURCE
- 8.7 COMPLIANCE REVIEW
- 8.8 RENTAL/LEASING
- 8.9 GROUND WATER MANAGEMENT – WELLS
- 8.10 AMPLIFIED MUSIC
- 8.11 TRAFFIC
- 8.12 PARKING
- 8.13 BUILDING DIVISION – USE OR OCCUPANCY CHANGES

- 8.14 FIRE DEPARTMENT – TEMPORARY STRUCTURES
- 8.15 **(INSERT IF APPLICABLE)** NAPA COUNTY MOSQUITO ABATEMENT PROGRAM
- ADD GENERAL PROPERTY MAINTENANCE – LIGHTING, LANDSCAPING, PAINTING, OUTDOOR EQUIPMENT STORAGE
- ADD NO TEMPORARY SIGNS
- ADD COMPLIANCE WITH OTHER DEPARTMENTS AND AGENCIES - OPERATIONAL CONDITIONS (FORMER 2.0)
- ADD **(INSERT IF APPLICABLE)** OPERATIONAL MITIGATION MEASURES
- 8.16 **(INSERT IF APPLICABLE)** OTHER CONDITIONS APPLICABLE TO THE OPERATIONAL ASPECTS OF THE PROJECT
- 9.3 **[OPTIONAL TO BE USED ONLY IF A MAJOR MODIFICATION]** PREVIOUS CONDITIONS

PART III

5.0 PAYMENT OF FEES - PREREQUISITE FOR ISSUANCE OF PERMITS (FORMER CONDITIONS 3.0 AND 4.8)

No building, grading or sewage disposal permits shall be issued or other permits authorized until all accrued planning permit processing fees have been paid in full. This includes all fees associated with plan check and building inspections, associated development impact fees established by County Ordinance or Resolution, and the Napa County Affordable Housing Mitigation Fee in accordance with County Code.

6.0 GRADING/DEMOLITION/ENVIRONMENTAL/BUILDING PERMIT/OTHER PERMIT PREREQUISITES

Permittee shall comply with the following with the submittal of a grading, demolition environmental, building and/or other applicable permit applications:

- 2.0 COMPLIANCE WITH OTHER DEPARTMENTS AND AGENCIES - PLAN REVIEW, CONSTRUCTION AND PREOCCUPANCY CONDITIONS
- 4.0 PRIOR TO ISSUANCE OF A GRADING PERMIT AND/OR BUILDING PERMIT
 - 4.1 BUILDING DIVISION – GENERAL CONDITIONS
 - 4.2 LIGHTING – PLAN SUBMITTAL
 - 4.3 LANDSCAPING – PLAN SUBMITTAL
 - 4.4 COLORS
 - 4.5 OUTDOOR STORAGE/SCREENING/UTILITIES
 - 4.6 TRASH ENCLOSURES
 - 4.7 ADDRESSING
 - 4.9 **(INSERT IF APPLICABLE)** HISTORIC RESOURCES
 - 4.10 **(INSERT IF APPLICABLE)** DEMOLITION ACTIVITIES
 - 4.11 **(INSERT IF APPLICABLE)** VIEWSHED – EXECUTION OF USE RESTRICTION
 - 4.12 **(INSERT IF APPLICABLE)** MITIGATION MEASURES
 - 4.13 **(INSERT IF APPLICABLE)** PARCEL CHANGE REQUIREMENTS
 - a. PARCEL MERGER
 - b. LOT LINE ADJUSTMENTS
 - c. EASEMENTS
 - 4.14 **(INSERT IF APPLICABLE)** OTHER CONDITIONS APPLICABLE TO THE PROJECT PROPOSAL

7.0 PROJECT CONSTRUCTION

Permittee shall comply with the following during project construction

ADD General introduction statement regarding compliance with County Codes

5.1 SITE IMPROVEMENT

- a. GRADING & SPOILS
- b. DUST CONTROL
- c. AIR QUALITY
- d. STORM WATER CONTROL

5.2 ARCHEOLOGICAL FINDING

5.3 CONSTRUCTION NOISE

5.4 (INSERT IF APPLICABLE) CONSTRUCTION MITIGATION MEASURES

5.5 (INSERT IF APPLICABLE) OTHER CONSTRUCTION CONDITIONS APPLICABLE TO THE PROJECT PROPOSAL

8.0 TEMPORARY CERTIFICATE OF OCCUPANCY – PREREQUISITES (FORMER CONDITION 6.0)

9.0 FINAL CERTIFICATE OF OCCUPANCY – PREREQUISITES (FORMER CONDITION 7.0)

7.1 FINAL OCCUPANCY

7.2 SIGNS

7.3 GATE/ENTRY STRUCTURES

7.4 LANDSCAPING

7.5 (INSERT IF APPLICABLE) ROAD OR TRAFFIC IMPROVEMENT REQUIREMENTS

7.6 (INSERT IF APPLICABLE) DEMOLITION ACTIVITIES

7.7 (INSERT IF APPLICABLE) MITIGATION MEASURES APPLICABLE PRIOR TO ISSUANCE OF A FINAL CERTIFICATE OF OCCUPANCY

7.8 (INSERT IF APPLICABLE) OTHER CONDITIONS APPLICABLE PRIOR TO ISSUANCE OF A FINAL CERTIFICATE OF OCCUPANCY

Public Comments – Napa Valley Vintners & Winegrowers of Napa County



napa valley vintners



WINEGROWERS
of napa county

December 13, 2016

Mr. David Morrison, Director
Ms. Charlene Gallina, Supervising Planner
Planning, Building & Environmental Services Department
1195 Third Street, #210
Napa, CA 94559

Re: Updated Standard Conditions of Approval for Wineries

Dear Mr. Morrison and Ms. Gallina:

Napa Valley Vintners ("NVV") and Winegrowers of Napa County ("Winegrowers") jointly submit these comments on the most recently proposed revisions to the standard conditions of approval for wineries. We appreciate that staff have incorporated many of the suggestions that we offered in our July 20, 2016 letter. We believe that staff's reorganization of the conditions into general conditions, ongoing operational conditions, and construction conditions makes good sense. This letter will supplement and update the comments that we submitted on July 20.

Not all of the standard conditions apply to every winery project. We recommend that you add a preamble or recitals to that effect. For example, there are wineries in the industrial park that are not subject to the Winery Definition Ordinance ("WDO"). There are pre-WDO wineries to which some of the conditions, such as the required "Tours and Tastings by Prior Appointment Only" sign in section 9.2, do not apply. There also are winery modifications that do not impact certain subject areas of these conditions, such as a winery modification that involves no construction or landscaping, in which case the construction and landscaping conditions are inapplicable. Finally, the preamble or recitals should state that there may be issues of vested rights, nexus, rough proportionality, and/or legal nonconformities, so each situation has to be analyzed under its own facts.

1. The statement in section 4.1 is in error. The WDO, at Section 18.16.030(G)(5)(c) for AP zoning and 18.20.030(I)(5)(c) for AW zoning, authorizes the following retail wine sales, and the standard condition should track this same language:

"Retail sale of (1) wine fermented or refermented and bottled at the winery, irrespective of the county of origin of the grapes from which the wine was made, providing nothing herein shall excuse the application of subsections (B) and (C) of [Section 18.104.250](#) regulating the source of grapes; and (2) wine produced by or for the winery from grapes grown in Napa County;"

2. Section 4.2 regarding the wines that can be tasted at Tours and Tastings should be deleted. The WDO provision related to Tours and Tastings at section 18.08.620 of the County Code does not restrict what wines can be tasted at a winery. This subject is governed by state law,

specifically, Business and Professions Code Section 23356.1, which is attached to this letter along with all other cited code sections.

3. We urge the Commission to adopt in Section 4.3(d) our previous recommendation that wineries have a quiet cleanup period from 10 to 11 p.m. after approved marketing events. In that same section, we urge the Commission to add an explicit statement that Auction Napa Valley events need not be included in the participating wineries' marketing plan because they are covered by ANV's Category 5 Temporary Permit. We also suggest that any winery whose use permit includes an ANV event be allowed to use that authorized marketing event for any other charitable event.
4. Section 4.6 (Grape Source) should not summarize the 75% grape source rule but instead should cite to the actual code section (Section 18.104.250(B) and (C)) or copy the language verbatim. The first sentence of the proposed standard condition is inaccurate and misleading.
5. Section 4.9 (Ground Water Management – Wells): The reference to the Napa County Groundwater [Conservation] Ordinance as the legal basis for imposing new conditions on the permittee is incorrect. That ordinance specifically exempts projects requiring a use permit because the groundwater review occurs in conjunction with the use permit application (County Code Section 13.15.030(B)) and projects serving agriculture (Sections 13.15.030(A)(2) and 13.15.040). The condition should cite the proper legal authority for such action.
6. Section 4.21 (Previous Conditions): We would appreciate a clarification of whether the conditions listed will include all previous conditions or only certain of them. The latter would require the exercise of discretion on the county's part and vigilance on the applicant's part. Some prior conditions may have been superseded by changes in law or subsequent modifications or be internally inconsistent with other conditions. And some conditions may raise the subject of vested rights or legal nonconformities.
7. Section 4.16 (General Property Maintenance – Lighting, Landscaping, Painting, Outdoor Equipment Storage, and Trash Enclosure Areas): This section duplicates the more specific conditions at sections 6.3, 6.4, 6.5, 6.6, and 6.7.
8. Section 6.2(c): We recommend that this provision read as follows:

“All newly designed and newly constructed buildings, facilities, site improvements, and alterations or additions to existing buildings must comply with the applicable California Building Code accessibility requirements, as well as the applicable requirements of the American with Disabilities Act (ADA).”
9. Section 6.6(d) (Outdoor Storage/Screening/Utilities): We recommend that this provision read as follows:

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

10. Section 6.12 (Permit Prerequisite Mitigation Measures): The term “permit prerequisite mitigation measures” is unclear. It should be defined or otherwise clarified.
11. Section 6.14 (Final Maps). Neither Final Maps nor Conditions, Covenants, and Restrictions (“CC&Rs”) are applicable to winery use permits, so this section should be deleted.
12. Section 7.1(d) (Storm Water Control). The requirement to comply with construction and post-construction storm water pollution prevention protocols should not be imposed on winery use permit modifications that do not involve any construction-related activities. The County should clarify that, in the absence of any new construction, there is no legal nexus to require applicants to comply with such protocols.
13. Section 8.1 on Temporary Occupancy does not allow the use of Temporary Certificates of Occupancy (“TCOs”) for hospitality buildings or in excess of 180 days. While it would require an amendment to County Code Section 15.08.070(B) (limiting Temporary Occupancy permit to no more than 180 days), there should be provisions for extensions of time, particularly in instances where the project is required to obtain some other permit for the project from a state agency such as Caltrans, and the approval process exceeds 180 days. The tolling period for use permits in Section 18.124.090 has this language, and it should be included here. The 2012 condition on Temporary and Final Occupancy includes the following wording that has been proposed for deletion in the new condition: “Marketing and/or Tours and Tastings are not typically authorized until grant of Final Occupancy, but exceptions where extenuating circumstances exist and are subject to review and approval by the County Building Official, County Fire Marshall and the Director of Planning, Building and Environmental Services.” That language has been replaced by the following: “TCOs shall not be used for the occupancy of hospitality buildings.” We prefer the existing condition.

Thank you for this opportunity to comment. We reserve the right to raise additional issues in the future that are not included in this letter. The revised conditions were circulated on December 6, and neither NVV nor Winegrowers has had an opportunity to meet since that date.

Sincerely,



Emma Swain
Board Chair, Napa Valley Vintners



Chris Indelicato
President, Winegrowers of Napa County

Attachment: Cited Code Sections

13.15.030 - Classification of applications.

Applications described in Section 13.15.020 shall be classified as follows for the purpose of determining whether a groundwater permit is required by this chapter:

- A. Applications Exempt from Groundwater Permit Requirement.
 - 1. In the case of uses permitted without a use permit under any provision of this code, the applications or development set forth in Section 13.15.020 are exempt from the requirement that a groundwater permit must be obtained unless the application or development:
 - a. Is for a project located on a parcel included within those groundwater deficient areas depicted on Map 13-1 and is not otherwise specifically exempted;
 - b. Is to develop or improve an on-site or off-site water supply serving more than a single contiguous parcel; or
 - c. Where the development or improvement, regardless of the number of parcels served, is able to connect to a public water supply.
 - 2. Applications to develop or improve an on-site or off-site water source serving agriculture are also exempt from the requirement of a groundwater permit under this chapter to the extent provided in Section 13.15.040.
 - 3. Applications to construct or develop rainwater harvesting or graywater recycling systems when that is the sole purpose of the project and the resulting harvested or recycled water will be used to augment existing groundwater sources or as the sole source of water for use at that site.
 - 4. Minor improvements to a water system.
 - 5. Convenience improvements to a water system.
- B. Applications Requiring Use Permits. In the case of a proposed development requiring the issuance of a use permit pursuant to any provision of this code, applications which propose to develop, improve or utilize an on or off-parcel groundwater source in conjunction with such development are not required to obtain a groundwater permit under this chapter. Groundwater review of such applications shall occur in accordance with the county's procedures to obtain a use permit.
- C. Applications Involving a Ministerial Approval.
 - 1. Applications for a single-family dwelling unit and associated landscaping on parcels two acres in size or less, when such residence will be the only use on the parcel, shall be issued a groundwater permit providing they install a meter on the well serving the parcel, read the meter every six months, and report these meter readings to the public works department when requested by that department. If the parcel is greater than two acres, a ministerial permit shall be issued providing they meet the following requirements:
 - a. The permittee shall install a meter on the well serving the parcel to measure all groundwater used on the parcel. The configuration of the installation shall conform to a drawing prepared by the permittee and shall conform to the technical standards set forth by the director of public works.
 - b. On or near the first day of each month the permittee shall read the water meter and provide this data to the director of public works during the first week of April and October of each year. The permittee shall also grant to the director of public works the right to access and verify the operation and readings of the meters and well levels at any reasonable time during regular working hours.
 - c. The permittee shall be limited to 0.60 acre feet of water per year or such other amount as may be adopted by the board by resolution.

This groundwater permit shall not be available when other dwellings, accessory uses, agricultural development or other discretionary uses exist on the property or when water from an approved public water system is available to the property. In such cases, a groundwater permit must first be obtained pursuant to the procedures set forth in Section 13.15.060 et seq. Any permittee that qualifies for a groundwater permit issued pursuant to this section may instead apply for a groundwater permit pursuant to the procedures set forth in Section 13.15.060 et seq.
 - 2. Applications for agricultural land redevelopment that will utilize groundwater on parcels included within those groundwater deficient areas depicted on Map 13-1 shall be issued a groundwater permit without any additional requirements providing the size of the replant is two acres in size or less. If the replant is greater than two acres, a ministerial permit will be issued providing that they meet the following requirements:

- a. The permittee shall install a meter on all wells or water supply and distribution systems serving the parcel to measure all groundwater used on the parcel. The configuration of the installation shall conform to a drawing prepared by the permittee and shall conform to the technical standards set forth by the director of public works.
- b. On or near the first day of each month the permittee shall read the water meter and provide this data to the director of public works during the first week of April and October of each year. The permittee shall also grant to the director of public works the right to access and verify the operation and readings of the meters and well levels at any reasonable time during regular working hours.
- c. The permittee shall be limited to an average of 0.30 of acre feet of water per acre per year or such amount as may adopted by the board by resolution. This limitation shall be calculated as the average water used over a three-year period with no yearly use exceeding the acre foot of water per acre per year allotment by more than fifteen percent.

Any permittee that qualifies for a groundwater permit issued pursuant to this section may instead apply for a groundwater permit pursuant to the procedures set forth in Section 13.15.060 et seq.

- D. Applications for a minor modification or cancellation of an existing groundwater permit.
1. Applications for a minor modification or a cancellation of an existing groundwater permit shall be made through a ministerial permit process.
 2. Applications for a minor modification or cancellation of an existing groundwater permit shall be made to the department in writing on a form prescribed by the department. The application shall state the grounds for the application, the specific modification being requested and shall include any information or evidence needed to support the request. The application shall also demonstrate that the proposed use complies with the standards required for issuance of a groundwater permit as set forth in this chapter.
 3. An application for an administrative permit for a minor modification or cancellation of an existing groundwater permit shall be accompanied by a fee in the amount established by resolution of the board of supervisors.
 4. Issuance Prerequisites. An application for a minor modification or cancellation of an existing groundwater permit shall be considered only if the following standards are met:
 - a. Minor Modification. The proposed modification does not increase water use over the existing permitted use and the resultant water use request meets the fair share standard for the parcel as established in the Department of Public Works Water Availability Policy Report (even if the original permit allowed a higher water use) and the application does not request a modification to a ministerial permit that would have otherwise been processed through the groundwater permit process outlined in Section 13.15.060; or
 - b. Cancellation. The cancellation of a groundwater permit shall only be allowed if evidence is submitted that the project which triggered the groundwater permit has been cancelled and is no longer being pursued.

If the modification request is not able to meet the above standards, the applicant has the option of applying for a new groundwater permit pursuant to Section 13.15.060.

13.15.040 - Agricultural activities exempt from groundwater permitting requirements.

- A. Applications to develop or improve a water source serving agriculture, as defined in Section 18.08.040 of this code, shall be exempt from the requirement of a groundwater permit under this chapter where the water would only serve the property where the water source is located, or contiguous property. For purposes of this section only, "contiguous property" refers to property in common ownership that is joined at more than one common point to the property the water source is located, or connected in a pattern of parcels, each joined to another, that includes the property where the water supply system is located. If the contiguous property consists of more than one parcel, all parcels must be in agricultural production, in order to qualify for an exemption pursuant to this section. To qualify for the exemption in this section, in the case of parcels designated Agricultural Resource ("AR") or Agriculture, Watershed and Open Space ("AWOS") at least eighty percent of the allowable, plantable land of each parcel must be in agricultural production.

- B. Developments or improvements in water sources serving agriculture on any other properties, including adjacent property not qualifying as "contiguous" for purposes of this section, shall be subject to the same permitting criteria and standards identified in Sections 13.15.030 and 13.15.070.
- C. Notwithstanding subsection (A) of this section, developments or improvements in water sources located on parcels included within those groundwater deficient areas depicted on Map 13-1 shall be subject to those permitting criteria and standards identified in Sections 13.15.030 and 13.15.070.

18.08.620 - Tours and tastings.

"Tours and tastings" means tours of the winery and/or tastings of wine, where such tours and tastings are limited to persons who have made unsolicited prior appointments for tours or tastings. Tours and tastings may include food and wine pairings, where all such food service is provided without charge except to the extent of cost recovery and is incidental to the tasting of wine. Food service may not involve menu options and meal service such that the winery functions as a café or restaurant.

18.16.030 - Uses permitted upon grant of a use permit.

The following uses may be permitted in all AP districts, but only upon grant of a use permit pursuant to [Section 18.124.010](#):

- A. Farmworker housing and seasonal farmworker centers conforming to [Section 18.104.300](#) or [18.104.310](#), unless exempt from a use permit requirement under subsection (M) of [Section 18.16.020](#);
- B. Facilities, other than wineries, for the processing of agricultural products grown or raised on the same parcels or contiguous parcels under the same ownership;
- C. Kennels and veterinary facilities;
- D. Feed lots;
- E. Noncommercial wind energy and conversion systems;
- F. Wineries, as defined in [Section 18.08.640](#);
- G. The following uses in connection with a winery:
 - 1. Crushing of grapes outside or within a structure,
 - 2. On-site aboveground disposal of wastewater generated by the winery,
 - 3. Aging, processing and storage of wine in bulk,
 - 4. Bottling and storage of bottled wine and shipping and receiving of bulk and bottled wine, provided the wine bottled or received does not exceed the permitted production capacity,
 - 5. Any or all of the following uses provided that, in the aggregate, such uses are clearly incidental, related and subordinate to the primary operation of the winery as a production facility:
 - a. Office and laboratory uses,
 - b. Marketing of wine as defined in [Section 18.08.370](#),
 - c. Retail sale of (1) wine fermented or refermented and bottled at the winery, irrespective of the county of origin of the grapes from which the wine was made, providing nothing herein shall excuse the application of subsections (B) and (C) of [Section 18.104.250](#) regulating the source of grapes; and (2) wine produced by or for the winery from grapes grown in Napa County;
- H. The following uses, when accessory to a winery:
 - 1. Tours and tastings, as defined in [Section 18.08.620](#),
 - 2. Display, but not sale, of art,
 - 3. Display, but not sale, of items of historical, ecological or viticultural significance to the wine industry,
 - 4. Sale of wine-related products,
 - 5. Child day care centers limited to caring for children of employees of the winery;
- I. Telecommunication facilities, other than satellite earth stations, that do not meet one or more of the performance standards specified in [Section 18.119.200](#);
- J. Satellite earth stations that cannot, for demonstrated technical reasons acceptable to the director, be located in an Industrial (I), Industrial Park (IP), or General Industrial (GI) zoning district;
- K. Facilities, other than wineries, for the processing of agricultural products where the products are grown or raised within the county, provided that the facility is located on a parcel of ten or more acres, does not exceed five thousand gross square feet, and is not industrial in character. Only those agricultural products raised or processed on-site may be sold at the facility;
- L. Farm management uses not meeting one or more of the standards contained in subsections (E)(2), (E)(3), and (E)(4) of [Section 18.08.040](#).

18.20.030 - Uses permitted upon grant of a use permit.

The following uses may be permitted in all AW districts, but only upon grant of a use permit pursuant to [Section 18.124.010](#):

- A. Parks and rural recreation uses and facilities as defined in [Chapter 18.08](#), conforming to the standards in [Chapter 18.104](#);
- B. Farmworker housing and seasonal farmworker centers conforming to [Section 18.104.300](#) or [18.104.310](#), unless exempt from a use permit requirement under subsection (R) of [Section 18.20.020](#);
- C. Facilities, other than wineries, for the processing of agricultural products grown or raised on the same parcels or contiguous parcels under the same ownership;
- D. Kennels, horse boarding and/or training stables, veterinary facilities, and wildlife rescue centers;
- E. Feed lots;
- F. Sanitary landfill sites;
- G. Noncommercial wind energy and conversion systems;
- H. Wineries, as defined in [Section 18.08.640](#);
- I. The following uses in connection with a winery:
 - 1. Crushing of grapes outside or within a structure,
 - 2. On-site, aboveground disposal of wastewater generated by the winery,
 - 3. Aging, processing and storage of wine in bulk,
 - 4. Bottling and storage of bottled wine; shipping and receiving of bulk and bottled wine, provided the wine bottled or received does not exceed the permitted production capacity,
 - 5. Any or all of the following uses provided that, in the aggregate, such uses are clearly incidental, related and subordinate to the primary operation of the winery as a production facility:
 - a. Office and laboratory uses,
 - b. Marketing of wine as defined in [Section 18.08.370](#),
 - c. Retail sale of (1) wine fermented or refermented and bottled at the winery, irrespective of the county of origin of the grapes from which the wine was made, providing nothing herein shall excuse the application of subsections (B) and (C) of [Section 18.104.250](#) regulating the source of grapes; and (2) wine produced by or for the winery from grapes grown in Napa County;
- J. The following uses, when accessory to a winery:
 - 1. Tours and tastings, as defined in [Section 18.08.620](#),
 - 2. Display, but not sale, of art,
 - 3. Display, but not sale, of items of historical, ecological or viticultural significance to the wine industry,
 - 4. Sale of wine-related products,
 - 5. Child day care centers limited to caring for children of employees of the winery;
- K. Telecommunication facilities, other than satellite earth stations, that do not meet one or more of the performance standards specified in [Section 18.119.200](#);
- L. Satellite earth stations that cannot, for demonstrated technical reasons acceptable to the director, be located in an Industrial (I), Industrial Park (IP), or General Industrial (GI) zoning district;
- M. Campgrounds on public lands conforming to the standards in [Chapter 18.104](#);
- N. Hunting clubs (large) as defined in [Chapter 18.08](#) and subject to the standards in [Chapter 18.104](#);
- O. Facilities, other than wineries, for the processing of agricultural products where the products are grown or raised within the county, provided that the facility is located on a parcel of ten or more acres, does not exceed five thousand gross square feet, and is not industrial in character. Only those agricultural products raised or processed on-site may be sold at the facility; and
- P. Farm management uses not meeting one or more of the standards contained in subsections (E)(2), (E)(3), and (E)(4) of [Section 18.08.040](#).

18.104.250 - Wineries—Production capacity.

- A. Wineries located or operated on parcels zoned AP or AW are subject to the following maximum annual production capacities:
1. Wineries (commonly known as and hereafter referred to as "small wineries," the rules and regulations relating thereto having been adopted by the board by Resolution No. 80-21 and amended by Resolution No. 86-55) that were lawfully established subsequent to July 31, 1974 without first obtaining a use permit prior to the date of adoption of the ordinance codified in this section: the production limit established as a part of the issuance of the winery's certificate of exemption or twenty thousand gallons per year, whichever is less. Any expansion of production capacity of a small winery shall be prohibited unless a use permit is obtained;
 2. Wineries that were established prior to July 31, 1974 without obtaining a use permit because a use permit was not required, and which have not subsequently been issued a use permit specifying maximum annual production capacity: the production capacity existing as of July 31, 1974. Any expansion of the production capacity shall be prohibited unless a use permit is obtained;
 3. Wineries located on a single parcel which do not qualify under subsection (A)(1) or (2) of this section, but were established only after the issuance of a use permit and in conformance with all applicable county regulations prior to the effective date of the ordinance codified in this section: the production capacity authorized by the appropriate use permit. Any expansion of the production capacity shall be prohibited without the amendment of the use permit;
 4. Wineries that were established after the date of adoption of the ordinance codified in this section: maximum production capacity shall be as established by the applicable use permit.
- B. All wineries first established subsequent to the date of adoption of the ordinance codified in this section: at least seventy-five percent of the grapes used to make the winery's still wine, or the still wine used by the winery to make sparkling wine, shall be grown within the county of Napa.
- C. All existing wineries which expand beyond their winery development area shall be subject to the following additional limitations:
1. At least seventy-five percent of the grapes used to make that portion of the winery's still wine which is produced as a result of the expansion shall be grown within the county of Napa.
 2. At least seventy-five percent of the grapes used to make the still wine used to make the sparkling wine that is produced as a result of the expansion shall be grown within the county of Napa.

23356.1. (a) A winegrower's license also authorizes the person to whom issued to conduct winetastings of wine produced or bottled by, or produced and packaged for, the licensee, either on or off the winegrower's premises. When a winetasting is held off the winegrower's premises at an event sponsored by a private nonprofit organization, no wine may be sold, and no sales or orders solicited, except that orders for the sale of wine may be accepted by the winegrower if the sales transaction is completed at the winegrower's premises. For purposes of this subdivision, "private nonprofit organization" means an organization described in Section 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701i, 23701k, 23701l, 23701r, or 23701w of the Revenue and Taxation Code.

(b) Notwithstanding any other provisions of this division, a winegrower who, prior to July 1, 1970, had, at his or her premises of production, sold to consumers for consumption off the premises domestic wine other than wine which was produced or bottled by, or produced and packaged for, the licensee, and which was not sold under a brand or trade name owned by the licensee, and who had, prior to July 1, 1970, conducted winetastings of the domestic wine at his or her licensed premises, is authorized to continue to conduct the winetasting and selling activities at the licensed premises.

(c) A winegrower who was licensed as such prior to July 1, 1954, and who prior to July 1, 1970, had, at his or her licensed premises, sold to consumers for consumption off the premises, wine packaged for and imported by him or her, and who conducted winetastings of the wines at his or her licensed premises, may continue to conduct the winetasting and selling activities at the licensed premises.

(d) The department may adopt the rules as it determines to be necessary for the administration of this section.

(Amended by Stats. 2007, Ch. 246, Sec. 1. Effective January 1, 2008.)

From: [Michelle Benvenuto](#)
To: [Gallina, Charlene](#); [Morrison, David](#)
Cc: [Rex Stults](#); [Richard Mendelson](#)
Subject: COA Comments
Date: Tuesday, December 13, 2016 3:46:19 PM
Attachments: [Microsoft Word - NVV & Winegrowers - COA 12.13 DRAFT.docx.pdf](#)
[Cited Code Sections.pdf](#)

Hi Charlene and David,
Attached please find Napa Valley Vintners and Winegrowers of Napa County's comments regarding the proposed COA changes.

Thank you,

Michelle Benvenuto
Executive Director
Winegrowers of Napa County

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Napa, CA 94581
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**Public Works Department
Revised Ground Water Management –
Wells Standard Condition**

4.9 GROUND WATER MANAGEMENT – WELLS

~~Please contact the Planning Division~~ THIS CONDITION IS IMPLEMENTED JOINTLY BY THE PUBLIC WORKS AND PBES DEPARTMENTS ~~with any questions regarding the following:~~

~~a. The permittee shall (at the permittee's expense) maintain data regarding monthly well monitoring and the total annual groundwater pumped. Such data shall include water extraction volumes and static well levels of the well. All monitoring shall commence within six months of the issuance of this Permit, or immediately upon commencement of the expansion authorized by this Permit, whichever occurs first, and shall be submitted not later than January 31st every calendar year thereafter and available upon the County's request at any other time.~~

~~Water usage shall be minimized by use of best available control technology and best water management conservation practices.~~

~~b. No new on-site or off-site water sources (other than those evaluated or approved as part of this Permit) proposed to be used for the winery, including but not limited to wells, imported water, new or existing ponds/reservoir(s) or other surface water impoundments, to serve the winery, shall be allowed without additional environmental review, if necessary, and may be subject to a modification to this permit. A new Water Availability Analysis shall be required prior to approval of any new water source(s) on the property.~~

~~c. Permittee shall limit groundwater use for the winery to _____ acre-ft. per year. Any exceedance of this amount in a calendar year is a material breach of this permit.~~

~~d. If water use for the winery from the well exceeds _____ acre-ft. per year in a calendar year by 10% or more (a significant exceedance), the permittee shall both immediately notify the County and cease any activity causing the exceedance, shall begin daily well monitoring, and shall promptly prepare a report to be submitted to the PBES Director regarding the reasons for the significant exceedance and the measures immediately taken and to be taken to bring the significant exceedance into compliance with this condition.~~

~~The PBES Director may set this Permit for a revocation or modification hearing before the Planning Commission within 60 calendar days of discovery of the significant exceedance for possible modification, revocation, or suspension.~~

~~e. If the water use for the winery from the well exceeds _____ acre-ft. in a calendar year by less than 10%, the permittee shall notify the County, and promptly provide a report of the following:
_____ water volume used;
_____ the reason for exceedance;~~

~~the plan the winery has for reducing water use so as not to exceed the allocation the following year; and~~
~~other information that may be affecting water use.~~

~~If after two calendar years of reporting the monitoring shows that the annual water allocation identified above continues to be exceeded by less than 10%, the PBES Director shall schedule the Permit for review by this Planning Commission and possible modification, revocation or suspension.~~

f. ~~The permittee shall be required to include the well in the County's Groundwater Monitoring program upon the County's request.~~

The permittee shall be required (at the permittee's expense) to record well monitoring data (specifically, static water level no less than quarterly, and the volume of water withdrawn no less than monthly). Such data will be provided to the County, if the Director of Planning, Building, and Environmental Services (PBES Director) determines that substantial evidence¹ indicates that water usage at the winery is affecting, or would potentially affect, groundwater supplies or nearby wells. If data indicates the need for additional monitoring, and if the applicant is unable to secure monitoring access to neighboring wells, onsite monitoring wells may need to be established to gauge potential impacts on the groundwater resource utilized for the project.

IN ORDER TO SUPPORT THE COUNTY'S GROUNDWATER MONITORING PROGRAM, WELL MONITORING DATA AS DISCUSSED ABOVE WILL BE PROVIDED TO THE COUNTY IF THE DIRECTOR OF PUBLIC WORKS DETERMINES THAT SUCH DATA WILL BE USEFUL IN SUPPORTING THE COUNTY'S GROUNDWATER MONITORING PROGRAM. THE PROJECT WELL WILL ALSO MADE AVAILABLE FOR INCLUSION IN THE GROUNDWATER MONITORING NETWORK IF THE DIRECTOR OF PUBLIC WORKS DETERMINES THAT THE WELL COULD BE USEFUL IN SUPPORTING THE PROGRAM.

Water usage shall be minimized by use of best available control technology and best water management conservation practices.

In the event that changed circumstances or significant new information provide substantial evidence¹ that the groundwater system referenced in the this use permit would significantly affect the groundwater basin, the PBES Director of Planning, Building, and Environmental Services shall be authorized to recommend additional reasonable conditions on the permittee, or revocation of this permit, as necessary to meet the requirements of the Napa County Groundwater Ordinance and protect public health, safety, and welfare. That recommendation shall not become final unless and until the PBES Director has

¹ Substantial evidence is defined by case law as evidence that is of ponderable legal significance, reasonable in nature, credible and of solid value. The following constitute substantial evidence: facts, reasonable assumptions predicated on facts; and expert opinions supported by facts. Argument, speculation, unsubstantiated opinion or narrative, or clearly inaccurate or erroneous information do not constitute substantial evidence.

provided notice and the opportunity for hearing in compliance with the Napa County Code §Section 13.15.070 (G-K).

Public Comment Response Memorandum, Dated 12-21-16



A Tradition of Stewardship
A Commitment to Service

Planning, Building, & Environmental Services

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

David Morrison
Director

MEMORANDUM

To:	Planning Commission	From:	Charlene Gallina, Supervising Planner
Date:	December 21, 2016	Re:	Agenda Item: 8A – Responses to Public Comments on the Adoption of the 2017 Standard Conditions of Approval

In response to the public comments submitted by the Napa Valley Vintners and Winegrowers of Napa County on December 13, 2016 to the updated draft conditions, the following represents staff's assessment and recommendations of the requested changes to be reviewed and considered by the Commission at the meeting.

Introduction Statement – Second Paragraph

Not all of the standard conditions apply to every winery project. We recommend that you add a preamble or recitals to that effect. For example, there are wineries in the industrial park that are not subject to the Winery Definition Ordinance ("WDO"). There are pre-WDO wineries to which some of the conditions, such as the required "Tours and Tastings by Prior Appointment Only" sign in section 9.2, do not apply. There also are winery modifications that do not impact certain subject areas of these conditions, such as a winery modification that involves no construction or landscaping, in which case the construction and landscaping conditions are inapplicable. Finally, the preamble or recitals should state that there may be issues of vested rights, nexus, rough proportionality, and/or legal nonconformities, so each situation has to be analyzed under its own facts.

Staff Response: Once standard conditions are adopted by the Board of Supervisors, Planning staff would be given training on the application of conditions with respect to processing development application of all types to ensure consistency. In this case, should a standard condition not be applicable or relevant then such condition would be removed and notated as "Reserved". It should be further noted that a preamble or recital is not warranted within this document given that applicable or relevant standard conditions will be recommended on a case by case basis given the merits of the project, as well as, its legal standing under the County Code.

- 1. The statement in section 4.1 is in error. The WDO, at Section 18.16.030(G)(5)(c) for AP zoning and 18.20.030(I)(5)(c) for AW zoning, authorizes the following retail wine sales, and the standard condition should track this same language:*

"Retail sale of (1) wine fermented or refermented and bottled at the winery, irrespective of the county of origin of the grapes from which the wine was made, providing nothing herein shall excuse the application of subsections (B) and (C) of [Section 18.104.250](#) regulating the source of grapes; and (2) wine produced by or for the winery from grapes grown in Napa County;"

Staff Response: To avoid confusion between Pre-WDO and Post-WDO winery proposals, staff is recommending the following retraction of language and reference to the WDO provisions until clarification is provided by the Board of Supervisors regarding interpretation of the WDO.

~~Retail sales shall be limited to only those persons visiting by appointment or attending marketing events. No drop-in retail sales shall be permitted. [Statement Applies to Post WDO Wineries Only]~~ Retail sales of wines shall be limited to the winery's operational hours and to only those wines produced at the winery as set forth in the County Code.

2. *Section 4.2 regarding the wines that can be tasted at Tours and Tastings should be deleted. The WDO provision related to Tours and Tastings at section 18.08.620 of the County Code does not restrict what wines can be tasted at a winery. This subject is governed by state law, specifically, Business and Professions Code Section 23356.1, which is attached to this letter along with all other cited code sections.*

Staff Response: To avoid confusion between Pre-WDO and Post-WDO winery proposals, staff is recommending the following retraction of language and reference to the WDO provisions until clarification is provided by the Board of Supervisors regarding interpretation of the WDO.

Tours and Tastings shall be limited to those wines produced at the winery as set forth in the County Code. ~~Sections 18.16.030(C)(5)(c) –AP Zoning and 18.20.030(I)(5)(c) AW Zoning.~~

3. *We urge the Commission to adopt in Section 4.3(d) our previous recommendation that wineries have a quiet cleanup period from 10 to 11 p.m. after approved marketing events. In that same section, we urge the Commission to add an explicit statement that Auction Napa Valley events need not be included in the participating wineries' marketing plan because they are covered by ANV's Category 5 Temporary Permit. We also suggest that any winery whose use permit includes an ANV event be allowed to use that authorized marketing event for any other charitable event.*

Staff Response: It should be noted that not all winery applications request that marketing events end at 10 pm thereby allowing cleanup to go to 11 pm. Therefore, staff recommends that the ending times of a marketing event along with one (1) hour for a quiet clean up following the end of the event not to exceed 11 pm be evaluated on a case by case basis with a final recommendation to the Planning Commission. Staff has no concerns with adding the following language to clarify participation of Auction Napa Valley and how charitable events are to be addressed.

Add the following new paragraph to Condition 4.3 after the last paragraph addressing marketing event cleanup:

Auction Napa Valley events need not be included in the participating wineries' marketing plan because they are covered by ANV's Category 5 Temporary Permit. Any other charitable events shall be utilized out of the marketing event program authorized under this permit.

4. *Section 4.6 (Grape Source) should not summarize the 75% grape source rule but instead should cite to the actual code section (Section 18.104.250(B) and (C)) or copy the language verbatim. The first sentence of the proposed standard condition is inaccurate and misleading.*

Staff Response: It should be noted that the only change from the 2012 version of the condition has been the following: [ADD THE FOLLOWING STATEMENT IF A PRE-WDO WINERY: provided that this requirement does not apply to the winery's original _____ gallons of production that were approved prior to the adoption of the Winery Definition Ordinance.] This statement was added to ensure that pre-WDO wineries requesting a modification are acknowledged of their rights. The remaining change was to address minor language edits. It should be further noted that no prior comments had been made by the wine industry during the 2012 changes to the County's standard conditions.

For clarification purposes, staff has no concerns in making the following change:

At least 75% of the grapes used to make the ~~winery's~~ wine at the winery shall be grown within Napa County where required under the County Code. [ADD THE FOLLOWING STATEMENT IF A PRE-WDO WINERY: provided that this requirement does not apply to the winery's original _____ gallons of production that were approved prior to the adoption of the Winery Definition Ordinance.] The permittee shall keep records of annual production documenting the source of grapes to verify that 75% of the annual production is from Napa County grapes. The report shall recognize the Agricultural Commissioner's format for County of origin of grapes and juice used in the Winery Production Process. The report shall be provided to the PBES Department upon request, but shall be considered proprietary information and not available to the public.

5. *Section 4.9 (Ground Water Management – Wells): The reference to the Napa County Groundwater [Conservation] Ordinance as the legal basis for imposing new conditions on the permittee is incorrect. That ordinance specifically exempts projects requiring a use permit because the groundwater review occurs in conjunction with the use permit application (County Code Section 13.15.030(B)) and projects serving agriculture (Sections 13.15.030(A)(2) and 13.15.040). The condition should cite the proper legal authority for such action.*

Staff Response: The proposed changes recommended by the Public Works Department are in accordance with the Napa Valley Groundwater Sustainability - A Basin Analysis Report for the Napa Valley Subbasin, which was prepared in accordance with Sustainable Groundwater Management Act and approved by the Board of Supervisors on December 13, 2016.

6. *Section 4.21 (Previous Conditions): We would appreciate a clarification of whether the conditions listed will include all previous conditions or only certain of them. The latter would require the exercise of discretion on the county's part and vigilance on the applicant's part. Some prior conditions may have been superseded by changes in law or subsequent modifications or be internally inconsistent with other conditions. And some conditions may raise the subject of vested rights or legal nonconformities.*

Staff Response: As discussed in the staff report, this condition has been revised to implement the concept of "consolidation", which simply means that all previous use permit conditions will be compiled into a single document as part of a new use permit modification action. This would essentially be a sequential list of past entitlements incorporated into the conditions of the new entitlement. Duplicated conditions would remain unless revisions are specifically requested by the permittee/applicant. This option was selected, since it was less labor intensive with respect to staff resources and based upon project workload. To address any inconsistencies, staff recommends the incorporation of the following language into this condition:

4.21 [OPTIONAL TO BE USED ONLY IF A MAJOR MODIFICATION] PREVIOUS CONDITIONS

~~The permittee shall comply with the following previous conditions of approval, including revisions where so indicated, for the winery use. Original language to remain is shown unchanged, original language to be removed is shown in strikethrough, and proposed language is underlined:~~

- ~~a. [Carry over previous applicable non-construction and/or operational conditions. Reference Use Permit and/or Modification number, as well as, applicable condition number, and provide a brief explanation of any proposed changes to the condition.]~~

The permittee shall comply with the following previous conditions of approval for the winery use as consolidated into the attached document. To the extent there is a conflict between previous conditions of approval and these conditions of approval, these conditions shall control.

[List all previous conditions into a separate document. Reference Use Permit and/or Major, Minor, Very Minor

Modification number, as well as, condition number. No changes should be proposed to the previous condition.]

7. Section 4.16 (General Property Maintenance – Lighting, Landscaping, Painting, Outdoor Equipment Storage, and Trash Enclosure Areas): This section duplicates the more specific conditions at sections 6.3, 6.4, 6.5, 6.6, and 6.7.

Staff Response: Staff acknowledges comment. However, conditions of similar topic have been broken out into areas of operation, permitting, and construction characteristics to ensure that the permittee and their project development team understand their individual responsibilities within each step of the development process. Therefore, staff recommends no changes to these conditions.

8. Section 6.2(c): We recommend that this provision read as follows:

“All newly designed and newly constructed buildings, facilities, site improvements, and alterations or additions to existing buildings must comply with the applicable California Building Code accessibility requirements, as well as the applicable requirements of the American with Disabilities Act (ADA).”

Staff Response: In discussion with the Building Division, staff is recommending no further changes are necessary to this condition. Staff finds that the updated condition is sufficient.

9. Section 6.6(d) (Outdoor Storage/Screening/Utilities): We recommend that this provision read as follows:

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

Staff Response: Comment acknowledged. Staff has no concerns in making a change to this condition and removal of any redundant language as follows, since noise disturbance should be predicated on a set threshold:

d. Exterior winery equipment shall be ~~designed to be located,~~
enclosed, or muffled so as not to ~~create a noise disturbance~~
~~or exceed noise thresholds in accordance with the County~~
Code.

10. Section 6.12 (Permit Prerequisite Mitigation Measures): The term “permit prerequisite mitigation measures” is unclear. It should be defined or otherwise clarified.

Staff Response: Any proposed mitigation measures that would need to be incorporated in the construction plans during the processing of a grading/demolition/environmental/building permit or other permits would be identified under this condition category. No further clarification is recommended due the placement of this condition under COA 6.0.

11. *Section 6.14 (Final Maps). Neither Final Maps nor Conditions, Covenants, and Restrictions (“CC&Rs”) are applicable to winery use permits, so this section should be deleted.*

Staff Response: Comment noted. However, to ensure consistency amongst all standard condition document types, staff recommends that this condition remain. It should be further noted that such condition may be applicable to wineries located in the Napa Valley Business Park, as well as, in special cases where by a winery proposal consists of a single winery with multiple winemaking facilities.

12. *Section 7.1(d) (Storm Water Control). The requirement to comply with construction and post-construction storm water pollution prevention protocols should not be imposed on winery use permit modifications that do not involve any construction-related activities. The County should clarify that, in the absence of any new construction, there is no legal nexus to require applicants to comply with such protocols.*

Staff Response: Once standard conditions are adopted by the Board of Supervisors, Planning staff would be given training on the application of conditions with respect to processing development application of all types to ensure consistency. In this case, should a standard condition not be applicable or relevant then such condition would be removed and notated as “Reserved”.

13. *Section 8.1 on Temporary Occupancy does not allow the use of Temporary Certificates of Occupancy (“TCOs”) for hospitality buildings or in excess of 180 days. While it would require an amendment to County Code Section 15.08.070(B) (limiting Temporary Occupancy permit to no more than 180 days), there should be provisions for extensions of time, particularly in instances where the project is required to obtain some other permit for the project from a state agency such as Caltrans, and the approval process exceeds 180 days. The tolling period for use permits in Section 18.124.090 has this language, and it should be included here. The 2012 condition on Temporary and Final Occupancy includes the following wording that has been proposed for deletion in the new condition: “Marketing and/or Tours and Tastings are not typically authorized until grant of Final Occupancy, but exceptions where extenuating circumstances exist and are subject to review and approval by the County Building Official, County Fire Marshall and the Director of Planning, Building and Environmental Services.” That language has been replaced by the following: “TCOs shall not be used for the occupancy of hospitality buildings.” We prefer the existing condition.*

Staff Response: This statement was requested to be removed back in 2015 by the Building Official and the Code Enforcement Division in response to some wineries operating without a Final Certificate of Occupancy and to bring this standard condition into compliance with County Code. Any changes would require an amendment to the County by the Board of Supervisors.