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Hillary Gitelman
Planning Director

June 10, 2013

David B. Gilbreth, Attorney at Law
1152 Hardman Avenue
Napa, CA 94558
Via Electronic Delivery to: dbgilbreth@sbcglobal.net

RE: Application for Use Determination #P12-00334; Domaine Carneros Winery Visitation
APN: 047-070-007; located at 1240 Duhig Road, Napa, California

Dear Mr. Gilbreth,

Your request for the County to determine the approved level of public without appointment visitation for the Domaine Carneros Winery was received by this office on February 13, 2013. Your request has been reviewed by the Planning Division and County Counsel and below is a historic summary and assessment of your uses previously approved for the above referenced property, followed by an analysis of your request, and a conclusion based on the information submitted and on file.

Historic Assessment of Project Approvals:

Exhibit 1(attached) provides a historical accounting of the property to assist staff in the determination of the amount of public tours and tastings consistent with the scope of the original Use Permit approval. It should be noted that this information is not an extensive list of all permits on file for the above referenced property.

The original Use Permit for the construction and operation of the Domaine Carneros Winery was authorized in August of 1987, prior to the effective date, February 22, 1990 of the Winery Definition Ordinance (WDO). Under the terms of the WDO, Napa County Code Section 18.104.255, wineries in operation prior to the adoption of the WDO are permitted to conduct drop-in public visitation without a prior appointment.

The existing Domaine Carneros Winery received approval for public tours and tastings in the 1987 U-668687 Use Permit approval. The application materials for that use permit, the staff report provided to the Planning Commission and the subsequent approval of the action did not provide the proposed visitation level; it only referenced the missing Exhibit A. The approval of the permit did however include a 50 space visitor parking space and separate area designated for employee parking and a domestic waste water system designed to treat and dispose of 1,200 gallons of wastewater per day. However, there were no calculations provided in the file. The Environmental Health Division has confirmed that based on the standards at that time, the system was designed to serve about 360 visitors and 15 employees per day. Based on this limited information, Staff believes that the Use Permit entitled U-668684 included no more than 360 tasting room visitors per day.

Visitations levels were not addressed in any other subsequent use permit entitlement actions until the 2001 modification #00170 for the new barrel building and to increase the number of employees by 15 full time and 10 part time employees. The application materials described a decrease in visitor parking (from 50 to 37 spaces) and an increase of employee parking (from 15 to 40) for a total increase of 12 new parking spaces (from 65 to 77 spaces). The important element on this application is the number of visitors filled out on the Use Permit Application form and described to have “an anticipated number of 300 visitors on the busiest day and an average of 700 visitors per week”. Further, the application confirmed the 1,200 per day domestic wastewater system as the maximum amount approved regardless of the revisions to the wastewater system in 2000.

In June of 2000 (four months before the modification #00170 was submitted), an application was approved to replace the failing septic system. According to Kim Withrow, Senior Environmental Health Specialist, the plans that were approved included a maximum of 1,688 gallons of wastewater per day. The file included design calculations for 54 employees and 790 tasting room visitors per day to determine peak flow rate. The average daily visitation number used for design purposes was 350 people per day. There was not a use permit modification associated with this replacement. Furthermore, Environmental Management’s recommended Conditions of Approval included with the 2001 Use Permit Modification #00170 described that that the recent replacement system was installed and sized for more visitors and employees than requested in the use permit modification and specified that the actual visitation and employee numbers be dictated by the use permit and not the septic design.

The most recent use permit modification occurred in 2012. The initial request associated with this application included recognizing historic tasting for up to 900 visitors on the weekend. Staff determined that the baseline public tasting was 300 people per day based on the 2001 Modification and anything beyond that required a use permit compliant with County Code Section 18.104.255 for an increase in visitation by appointment for a total of 400 visitors on the weekdays and 900 on the weekend and would require prior appointments. In addition, the original request included a revision to the marketing plan to allow for six additional 50 person events and eight additional 25 person events. In concert with the additional visitation and marketing, the applicant requested to construct an additional 23 parking spaces and recognize 43 parking spaces reconfigured without permits, for a total of 144 spaces. At the Planning Commission hearing, the applicant requested to remove the request for the additional tasting, marketing and parking spaces from the Use Permit Modification in order to work out issues with staff.

Staff Analysis:

Included with this use determination request are winery operator declarations and winery documents stating that the level of visitation occurring in 1989 was approximately 40,000 visitors for a third of the year and 95,000 visitors for the year 1990. On average, this would equate to approximately 1,800 visitors a week in the year 1990 not accounting for seasonal fluctuation and 2,380 maximum visitors per week from the 1989 visitation numbers. The applicant provided a reasonable estimate for seasonal pre-WDO visitation (see attached); the average for the peak season (May – July) were estimated at 2,234 people per week, with 2,948 people per week being the busiest week. Assuming that the largest week included some sort of large marketing event, staff feels that this seasonal information provided supports and further validates the 2,520

maximum people per week conclusion described below. No information was provided by the applicant regarding current visitation levels, nor volume of business conducted in the 1980's as compared to current times. Therefore, no conclusion can be reached whether the purported visitation levels of 95,000 persons per year has remained a constant from the day this business opened as is apparently being suggested from the evidence provided, or if sales and commensurate visitation has increased as is suggested by the increase parking at the site.

Conclusion:

Based on your submitted authenticated documentation and declarations, and the evidence on file at the County, we have concluded that your annual baseline pre-1990 visitation was 95,000 people per year, not to exceed 2,520 visitors per week or 360 visitors per day in the peak season. Current County standards regulate the maximum number of visitors per day and per week. Staff finds this conclusion is consistent with the application signed by Ms. Crane on the 2001 Use Permit Modification application (00170-MOD) which referenced an average of 300 visitors per day and was consistent with the submitted declarations., It is also consistent with the original/pre-1990 number of parking spaces (56 spaces/2.6 people per vehicle equals 145 people could be there at one time) and the size of the original wastewater system. Past County practice determining baseline numbers for wineries adopted prior to the adoption of the WDO referenced the original application, letter of intent, parking availability, septic capacity, receipt of sales, or independent declarations. Staff finds that this conclusion is also consistent with past practices and with the original 1988 septic permit that approved 1,200 gallons per day of wastewater treatment, which allowed up to approximately 360 visitors per day as dictated by the standards at that time.

Recent County practices include an approval for a maximum amount of visitation, rather than average amount of visitation as analyzed in the past. Therefore, it has been determined that any increases to the number of pre-WDO visitation beyond 360 visitors per day and 2,520 visitors per week and marketing activities beyond two 300 person events per year, and/or construction of parking spaces will require an application for a Major Modification to the Use Permit consistent with WDO provisions, and in compliance with the requirements Section 18.124 of the County Code. Please note that this determination includes the pre-WDO visitation of a maximum of 360 visitors per day considered for your "public tours and tastings" as per the original Use Permit #U668687, and any additional visitation requested as part of a future modification will be required to comply with current requirements, such as tasting by prior appointment.

Therefore, based on the evidence in the use permit history, documentation and testimonials provided with this application, and the requirements of Napa County Code, the Director of Planning, Building, and Environmental Services has determined that the pre-WDO level of visitation and marketing is as follows:

Frequency: Seven Days per week

Maximum number of persons: 360 people per day not to exceed 2,520 per week

The determination becomes effective immediately unless an appeal is filed to the Napa County Board of Supervisors pursuant to Chapter 2.88.030 of the Napa County Code, including payment of applicable fees.

Environmental Analysis:

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, (refer to guidelines for the implementation of the California Environmental Quality Act, 14 CCR 15061 (b)(3). This action recognizes existing activities and therefore has no potential to result in a significant change to the existing environmental setting.

Should you have any questions, please contact Kirsty Shelton at (707) 299-1377 or by email to kirsty.shelton@countyofnapa.org.

Sincerely,

Hillary Gitelman, Director

by: Kirsty Shelton, Planner

Attachments:

Request for Use Determination submitted by David B. Gilbreth received February 13, 2013
Memorandum dated April 13, 2011 from the Environmental Health Division

cc: Laura Anderson, Deputy County Counsel
John McDowell, Deputy Planning Director
Charlene Gallina, Supervising Planner

EXHIBIT 1
USE PERMITS* ASSOCIATED WITH THE PROPERTY

Date	Reference Number	Scope
8-1987	U-668687	Approval of the construction of a 49,060 sq. ft. winery facility with a 432,000 production capacity with public tours and tastings. The application referenced a document labeled Exhibit A; however this document is missing from all County files.
9-1991	U-91-11	Use Permit modification to adopt a marketing plan to allow two annual benefit events with up to 300 guests per event. There was no mention of an existing marketing plan, a modification to the Marketing Plan, nor the missing Exhibit A; it described approval of a new marketing plan.
10-1997	96642- VAR	Approval of an antique gate.
6-2001	00170-MOD	Approval of the construction of a 22,366 sq.ft. barrel storage facility and increase the number of employees to 30 full-time and 15 part-time.
1-2002	01284-MOD	Administrative approval to allow the barrel building to be attached with a wall.
10-2007	P07-00627 VMM	Administrative approval to replace the existing process wastewater active sludge ponds with an aerated lagoon process wastewater pond. No visitation levels were approved or referenced.
11-2011	P11-00450- VMM	Administrative approval for one 10'x20' and one 20' x 100' tents for temporary weather protection for winter special events.
3-2012	P10-00384	Approval of 2,400 sq. ft. of interior modifications to change the building use from barrel storage to marketing space, allow food and wine pairing and on-site bottle consumption and retail sales pursuant to AB2004.

*The above is a summary of Use Permits, and is not an extensive list of all permits on file for the above referenced property. Please refer to the attached memorandum dated April 13, 2011 from the previous Environmental Health Division detailing the history of sanitary septic system permits.