



Agenda Date: 12/6/2005  
Agenda Placement: 8B  
Set Time: 9:30 AM PUBLIC HEARING  
Estimated Report Time: 1 Hour  
Continued From: November 1, 2005

## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**TO:** Board of Supervisors  
**FROM:** Hillary Gitelman - Director  
Conservation, Development & Planning  
**REPORT BY:** Heather McCollister, Principal Planner , 299-1348  
**SUBJECT:** Public Hearing - Appeal filed by V. Sattui Winery

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### **RECOMMENDATION**

Consideration and possible action regarding an appeal filed by V. Sattui Winery, Inc-Suzanne Vineyards, of a decision by the Zoning Administrator (ZA) on August 10, 2005, to deny the applicant's request for a Certificate to the Extent of Legal Conformity (CLN) P05-0185-CLN recognizing weddings and weddings receptions. The project is located on a 21.66 acre parcel on the east side of St. Helena Highway at its intersection with White Lane within an AP (Agricultural Preserve) / AW (Agricultural Watershed) split zoning district and an area designated Agriculture, Watershed & Open Space (AWOS) by the Napa County General Plan. (Assessor's Parcel No. 030-260-035; 1111 White Lane, St. Helena)

**ENVIRONMENTAL DETERMINATION:** The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable. State CEQA Guidelines Section 15270 provides: (a) CEQA does not apply to projects which a public agency rejects or disapproves; and (b) This section is intended to allow an initial screening of projects on the merits for quick disapprovals prior to the initialization of the CEQA process where the agency can determine that the project cannot be approved. A recommendation of denial is not subject to CEQA review. Should the Board uphold the appeal the project would be deemed Categorical Exempt Class 1 (Section 15301 State CEQA Guidelines and Napa County CEQA Guidelines, Appendix B.1) as the weddings would be deemed existing activities or operations.

**(CONTINUED FROM NOVEMBER 1, 2005)**

### **EXECUTIVE SUMMARY**

This hearing before the Board is to consider an appeal of the Zoning Administrator's August 10, 2005 decision to deny the applicants' request for a Certificate of the Extent of Legal Nonconformity (CLN) to recognize weddings and wedding receptions as a permitted use at this pre-WDO (Winery Definition Ordinance) winery.

In making this decision, the Zoning Administrator indicated that in order for a CLN to be approved, the activity in question must have been legal at the time it commenced. In this case, the ability of a winery to legally conduct weddings must have been an allowed use under the Napa County Code in 1983, which is the date that V. Sattui's

original winery use permit was approved. The applicant has presented no evidence that weddings (and their related receptions) have ever been an allowed use either at the commencement of the activity in 1983 or at the present time, either by right or with a use permit, in an AW (Agricultural Watershed) or AP (Agricultural Preserve) zoning district.

The appellant has argued that weddings and wedding receptions were permitted at pre-WDO (Winery Definition Ordinance of 1990) wineries since it wasn't until the WDO that marketing of wine and associated winery related activities were defined. The Zoning Administrator rejected the contention that weddings are necessarily a permitted accessory activity at pre-WDO wineries based on a review of the zoning ordinance in effect at that time.

### **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

### **ENVIRONMENTAL IMPACT**

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Should the Board uphold the appeal the project would be deemed Categorical Exempt Class 1 (Section 15301 State CEQA Guidelines and Napa County CEQA Guidelines, Appendix B.1) as the weddings would be deemed existing activities or operations.

### **BACKGROUND AND DISCUSSION**

**PROCEDURAL BACKGROUND:** On August 10, 2005, the Zoning Administrator denied this item based on the information contained in the application, documents in the project file, submittals from the applicant and neighbors, and public testimony heard at the ZA meeting of July 27, 2005.

**CURRENT STATUS AND ACTIONS REQUESTED BY THE BOARD OF SUPERVISORS:** The Department of Conservation, Development, and Planning recommends that the Board of Supervisors deny the appeal and uphold the Zoning Administrator's decisions to deny the project for the reasons contained in this staff report. As the ZA hearing was not recorded electronically or by a certified court reporter, the Board should conduct a de novo hearing on appeal pursuant to Code Section 2.88.090.A.

**STATED BASIS FOR THE APPEAL AND STAFF RESPONSE:** The following outlines the Basis of the Appeal as contained in the appellant's submittal. For convenience, staff has numbered each issue and provided a summary, but recommends the Board review the appeal for additional details.

**Appeal Ground 1: Weddings and wedding receptions were allowed marketing events prior to 1990.**

According to the appellant, "The Zoning Administrator's conclusion that the addition of the terms 'marketing event' and 'accessory uses' codified long standing practices of the Department with respect to allowed activities normally associated with, and clearly incidental to, the primary function of a winery 'provides no logical basis for concluding that winery marketing events were prohibited, but private marketing and hospitality events with indoor and outdoor music' were not. In fact, we believe it would be arbitrary and capricious to make any such distinction because the only difference between the weddings and the other previously listed types of marketing events is that everyone in attendance witnesses a marriage. Nonetheless, the wine and food service at the event is no different than would be served at a corporate retreat, a class reunion, or a family get-together hosted at the winery. These types of events might be limited since the adoption of the WDO, but they were not prohibited prior to that time as the County's own actions show. We do not believe that the Board should draw a distinction between the actual wedding ceremony, and the food and wine event that follows. If such a distinction were to be made, that would be the same thing as concluding that an awards ceremony at a corporate marketing event would be prohibited."

**Staff response:** The appellant has specified that prior to 1990 marketing events were not defined and therefore weddings are grandfathered as marketing events. The Winery Definition Ordinance which was adopted in 1990 defined marketing events. However, even before the WDO, wineries were cited for conducting weddings and wedding receptions because they were not allowed by county code.

The Zoning administrator rejected the contention that weddings are a component of a marketing event, tours and tastings, or an accessory use of wineries. These terms were first added to the Code in 1990 (See prior Code sections 12071, 12070, 12069 respectively). The addition of these terms codified long standing practices of the Department with respect to allowed activities normally associated with, and clearly incidental to, the primary function of a winery.

As of 1987, prior Code section 12047 (added 1980) defined a winery as "a building or portion thereof used for the crushing of grapes, the fermenting and processing of grape juice, or the aging, processing and storage of wines". Even a liberal interpretation of these terms leads to the conclusion that conducting up to 80 weddings a year (as testified to by Applicant's representative) is more akin to a separate "commercial use" (see prior Code section 12057, recodified presently in section 18.08.170), rather than an incidental winery activity.

This denial of a CLN for weddings was consistent with the code and longstanding department policies. Over the years staff has cited various wineries that were established prior to the WDO, like the Applicant's, on the basis that conducting weddings and related receptions is not an allowed use. Among these wineries are Andretti Winery, Clos Pegase Winery and Villa Mt. Eden Winery.

**Appeal Ground 2:** Weddings have continually been conducted as Pre-WDO marketing activities.

**Staff response:** The Zoning Administrator reviewed Napa County Code Chapter 18.132 for the procedures and criteria for the issuance of a CLN. In order for a CLN to be approved, the activity in question must have been legal at the time it commenced. In this case, the ability of a winery to legally conduct weddings must have been an allowed use under the Napa County Code in 1987. No evidence was presented that weddings (and their related receptions) have ever been an allowed use, at the commencement of the activity in 1987 or at the present time, either by right or with a use permit, in an AW (Agricultural Watershed) or AP (Agricultural Preserve) zoning district.

**Appeal Ground 3:** Weddings and wedding receptions held at the winery do not constitute a nuisance. The appellant has specified that no evidence was presented at the hearing to suggest that the weddings at the winery constitute a public nuisance.

**Staff response:** Section 18.132.030.B of the Code imposes an additional requirement for the issuance of a CLN, that being that the legal nonconformity is not conducted in such a manner as to constitute a public nuisance as defined in Penal Code §370. Testimony was received that provides information regarding the manner in which

weddings are conducted at the site, as well as their number (80 weddings in 2003). This testimony may well indicate presence of such a nuisance. However, as the Applicant is unable to meet the first prong of the criteria for the issuance of CLN (the activity was legal when first commenced), the ZA did not address the issue as to whether weddings are conducted in such a manner as to constitute a nuisance. The Board would need to address this issue should it desire to uphold the appeal.

**Based on the above, the Zoning Administrator determined weddings and related receptions at the Sattui Winery are not eligible for a Certificate of Legal Nonconformity.**

**RECOMMENDATIONS:** Staff recommends DENIAL of the appeal, upholding the Zoning Administrator's decision based on the conclusions in the above staff report staff, and information presented in the record.

### **SUPPORTING DOCUMENTS**

- A . Staff report for Zoning Administrator hearing
- B . Zoning Administrator's Denial Letter (findings)
- C . Appellant's Appeal Letter
- D . Appeal
- E . Clerk of the Board Letter dated September 9, 2005

CEO Recommendation: Approve

Reviewed By: Andrew Carey