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Agenda Date: 1/20/2021  
Agenda Placement: 7A  
Continued From: 12/2/20

## Napa County Planning Commission Board Agenda Letter

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**TO:** Napa County Planning Commission  
**FROM:** Charlene Gallina for David Morrison - Director  
Planning, Building and Environmental Services  
**REPORT BY:** Emily Hedge, Planner III - 259-8226  
**SUBJECT:** Robert Sinskey Vineyards Major Modification P19-00161-MOD

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### **RECOMMENDATION**

#### **SINSKEY VINEYARDS INC. / ROBERT SINSKEY VINEYARDS / USE PERMIT MAJOR MODIFICATION NO. P19-00161-MOD**

**CEQA Status:** Consideration and possible adoption of a Categorical Exemption Class 1. It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act (CEQA). See Section 15301 [Class 1 Minor Alterations to Existing Facilities] which may be found in the guidelines for the implementation of the CEQA at 14 CCR §15301. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

**Request as Revised:** Approval of a Use Permit Major Modification to an existing 143,000 gallon per year winery to allow the following: **COMPONENTS NECESSARY TO REMEDY EXISTING VIOLATIONS:** 1) Recognition of daily by-appointment tastings of ~~425~~ 75 persons per day. Currently authorized for 132 "Public" visitors a day, allowed to occur without prior appointment. The by-appointment visitation would be an addition to the currently authorized visitation and would result in a total of 207 visitors per day; 2) Recognition of 36 full-time employees and six part-time employees. Currently authorized for 10 full-time employees and five part-time employees; 3) Recognition of use of portions of the cave for visitation and marketing activities. Currently authorized for production related uses only; 4) Recognition of on-premises consumption of wines in areas used for hospitality. Currently not an authorized activity; and 5) Modify an existing condition to allow by-appointment visitation to occur on the same day as an event. **OTHER COMPONENTS REQUESTED:** 1) Modify the existing marketing plan to reduce the total number of events. The project is located on an approximately 11.82 acre site within the AW (Agricultural Watershed) zoning district with a General Plan land use designation of AWOS (Agriculture, Watershed & Open Space) at 6320 Silverado Trail, Napa, CA; APN: 031-230-017.

**Staff Recommendation:** Find the project Categorically Exempt from CEQA and approve the Use Permit Major Modification, as modified and conditioned.

**Staff Contact:** Charlene Gallina, Supervising Planner, (707) 299-1355 or [charlene.gallina@countyofnapa.org](mailto:charlene.gallina@countyofnapa.org)

**Applicant Contact:** Robert Sinskey, 6320 Silverado Trail, Napa, CA 94558; (707) 944-9090, [pinot@robertsinskey.com](mailto:pinot@robertsinskey.com)

**Applicant Representative Contact:** Richard Tooker, Farella Braun + Martel LLP; 899 Adams Street, Suite G, St. Helena, CA 94575; (707) 967-4152; [rtooker@fbm.com](mailto:rtooker@fbm.com)

**CONTINUED FROM THE DECEMBER 2, 2020 COMMISSION MEETING.**

**EXECUTIVE SUMMARY**

**Proposed Actions:**

That the Planning Commission:

1. Find the project to be Categorically Exempt from CEQA, as set forth in Findings 1 - 3 of Attachment A; and
2. Approve Use Permit Major Modification Application P19-00161 based on Findings 4 through 8 of Attachment A, and subject to the revised recommended conditions of approval in Attachment B.

**Discussion:**

On December 2, 2020, the Planning Commission held a public hearing regarding the Applicant's application for a Major Modification to the existing Robert Sinskey Winery. Staff presented to the Commission information and an assessment on the request for recognition of visitation employee levels occurring outside of their permitted levels, as determined by the associated status determination P19-00137-SD, and remedy any Code Compliance issues. The December 2, 2020 Staff Report is available at:

<http://services.countyofnapa.org/AgendaNet/GranicusMeetingDocuments.aspx?id=6005>

During the hearing the applicant requested to make clarifications to the project description, proposed scope, and recommended Conditions of Approval. The item was continued so the applicant could submit their clarifications and proposal to staff for review.

The applicant submitted a modified proposal to staff, which has been reviewed and evaluated. The modified proposal represents an overall reduction in what was originally evaluated, therefore the original supporting documentation, including the water availability analysis, water feasibility, and wastewater feasibility, can continue to be relied on. Those reports demonstrated that the winery has sufficient water availability and wastewater processing capacity to handle the existing visitation and employment, and that the current levels will not impact the existing onsite infrastructure or water supply.

This staff report details the proposed changes from the last staff report and notes those items that staff is supportive of after the additional analysis. The Recommended Conditions of Approval (Attachment B) have been updated as well as the winery comparison chart (Attachment #F). Documents submitted by the applicant are included in Attachment #E.

Staff has reviewed the components necessary to remedy existing violations and found them to be consistent with the Zoning Ordinance and applicable General Plan policies. The modification to the marketing plan would reduce existing weekly and annual visitation levels and would not have an impact relative to existing conditions. Based on the reasons stated above, staff recommends approval of the project, subject to the recommended conditions of approval.

**FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact? No

County Strategic Plan pillar addressed:

**ENVIRONMENTAL IMPACT**

Consideration and possible adoption of a Categorical Exemption Class 1. It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act (CEQA). See Section 15301 [Class 1 Minor Alterations to Existing Facilities] which may be found in the guidelines for the implementation of the CEQA at 14 CCR §15301. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

**BACKGROUND AND DISCUSSION**

During the December 2, 2020 hearing the applicant requested to make clarifications to the project description, proposed scope, and recommended Conditions of Approval. The December 2, 2020 Staff Report, which contains the complete background information, is available at:

<http://services.countyofnapa.org/AgendaNet/GranicusMeetingDocuments.aspx?id=6005>. This staff report details the applicant's proposed changes, focusing on the changes from the last staff report and noting those items that staff is supportive of after the additional review and analysis. The Revised Recommended Conditions of Approval include track changes showing the edits to the proposed conditions.

**Discussion Points:**

Visitation - The applicant provided staff with an updated request in order to clarify their existing operations and propose a reduction in overall weekly and annual visitation. The proposal from the applicant results in four changes to Condition of Approval 4.2, which are outlined below.

Changes 1 and 2. The original application requested the recognition of 125 daily by-appointment visitors in addition to the permitted 132 (pre-WDO) public visitors. During the Planning Commission hearing the applicant explained that the number of daily visitors listed in their application was inclusive of the existing Type 1 marketing event guests, which currently permit an event for up to 50 guests, and may occur once a day for up to five days a week. The scope has been updated to request recognition of 75 daily by appointment visitors, in addition to the permitted 132 public visitors, removing the 50 Type 1 marketing event guests from the 75 daily by-appointment visitation count and placing them back in the marketing plan. Based on the applicant's initial submitted project description, staff had evaluated and prepared the staff report based on the higher value of 125 daily by-appointment visitors.

Condition of Approval No 4.2 has been revised as follows:

- COA No. 4.2.c - Maximum number of persons per day: 75
- COA No. 4.2.d - Maximum number of persons per week: 525

Change 3. The applicant requested modification to Condition of Approval No. 4.2.e which restricted by-appointment visitation from occurring on the same day as a marketing or temporary event. Given this was not requested as part

of the original request, this language was carried forward from Use Permit Modification P09-00480. However, the applicant has acknowledged that they had previously conducted by-appointment visitation on the same day as holding a marketing event. This overlap generally occurred with the Type 1 event (up to 50 guests, up to five days a week). Therefore, this request has been added to the components necessary to remedy existing violations.

Staff reviewed the Water Availability Analysis and Wastewater Feasibility Study that were submitted under the previous project scope. Although the number of visitors are described and grouped differently, the reports do take into account the potential total visitation inclusive of public visitation, by appointment visitation, and a marketing event taking place on the same day, and therefore continues to be adequate and can be relied on for an evaluation of the modified proposal. The reports show that the winery has sufficient water availability and wastewater processing capacity to accommodate the visitation and employment, and that the current and proposed levels will not impact the existing infrastructure or water supply. The applicant has further proposed to institute daily and weekly maximums on the total visitation occurring during a day or week when a marketing event is held. If a certain day of the week reached the maximum number, other days of the week may have to have reduced visitation in order to stay within the weekly maximum. These changes are identified in Condition of Approval No. 4.2.e. and No. 4.3.e. Based on review of the existing reports and with the inclusion of the applicant's additional limitations on daily and weekly maximums, staff is supportive of this requested recognition and resulting change in the condition.

Condition of Approval Nos 4.2.e and 4.3.e has been revised as follows:

- COA Nos. 4.2.e and 4.3.e - In any day/week in which marketing events are held, total guests at the winery, including public visitation, by-appointment visitation, and marketing event guests, shall not exceed a daily maximum of 257 and a total weekly maximum of 1,449.

Change 4. The applicant also proposed modifying the timing of their approved Pre-WDO tastings to begin at 10:00 am, whereas it was previously approved to begin at 7:00 a.m. This change represents the existing visitation operations. Staff is supportive of this change.

Condition of Approval No. 4.2.g has been revised as follows:

- COA No. 4.2.g - Hours of visitation: 10:00 AM to 6:00 PM

Modification to Existing Marketing Plan - The applicant proposed changes to the marketing plan that would reduce the overall number of weekly and annual events, clarify food service options, and revise a previous condition regarding events occurring on the same day as by-appointment visitation. The updated request from the applicant results in four changes to Condition of Approval 4.3, which are outlined below.

Change 1. Type 1 Event with up to 50 Guests – The event is currently permitted to occur up to five times per week. As part of the resubmittal, the applicant has reduced the number of Type 1 events from five to three times per week. Staff is supportive of the reduced frequency of the event. Additionally the applicant has requested to extend the event hours from the current end time of 5:00 PM to 10:00 PM. The original application did not request any changes to the marketing plan. With this continuance, the applicant's resubmittal did not include any additional information or analysis to support a finding of no impact. Therefore, staff was unable to analyze potential impacts, in particular those related to traffic, noise and wastewater. In terms of potential noise impacts on neighboring residence related to the increase in duration of the Type 1 events into evening hours, there are existing residence in relative close proximity to the winery. One is located approximately 200 feet to the east, which the applicant has stated is owner and control by Sinskey, one located approximately 400 feet to the south, and one located approximately 300 feet to the east. Absent a noise analysis evaluating potential impacts to these offsite residences, staff is not in a position to analyze and support this aspect of the resubmittal.

Condition of Approval No 4.3 has been revised as follows:

- COA No. 4.3.a -

a. Event Type 1

1. Frequency: 3 times per week (no more than once per day)
2. Maximum number of persons: 50 maximum
3. Time of Day: 9:00 AM to 5:00 PM
4. Days per Week: 7

Changes 2 and 3. Food Service at Events – Type 2 and Type 3 events previous noted “catered dinners”. The applicant has requested to remove the reference to catered dinners, because there is a commercial kitchen on site that is capable of preparing food service for events and they do not want to be limited to catering. Staff is supportive of this change.

Conditions of Approval No. 4.3.b Event Type 2 and 4.3.c Event Type 3 have been revised to remove reference to events being “catered”.

Change 4. As discussed in the Visitation section regarding COA No. 4.2.e, the applicant requested modification to 4.3.e which restricted by appointment visitation from occurring on the same day as a marketing or temporary events. As stated above, staff is supportive of this requested recognition and resulting change in the condition.

COA No. 4.3.e - In any day/week in which marketing events are held, total guests at the winery, including public visitation, by-appointment visitation, and marketing event guests, shall not exceed a daily maximum of 257 and a total weekly maximum of 1,449.

Other Conditions of Approval - Staff is recommending modifying four other conditions and adding one new one. These modifications result from the proposed changes discussed above, items discussed during the December hearing, and general calcification of wording.

Change 1. Condition of Approval No. 4.20.a – The language in this conditions has been modified to clarify that all improvements required by the other divisions, including the building code compliance items, must be completed prior to execution of any new entitlement or **prior the continuation of the recognized levels of operation approved under this permit**. This is in order to ensure the applicant not only applies for and get the necessary permits, but completes the associated work prior to benefiting from the entitlements granted by this permit.

Change 2. Condition of Approval No. 4.20.a.1 - The applicant has submitted the building permit that was required under this condition. At the time of preparation of this staff report, Building Permit BC20-02368-ALT has been approved and is ready to issue. This condition has been modified to ensure completion of the improvements prior to execution of any new entitlement or implementation of the recognized levels of operation approved under this Major Modification.

Change 3. Condition of Approval No. 4.20.b has been added - Travel Demand Management Plan. As explained in the December staff report and discussed at the meeting, because the project is part of the Code Compliance Program and met the necessary deadlines (Resolution No. 2018-164), the County may use the winery’s existing operations as the environmental baseline for the CEQA analysis related to this application. No expansion of current operations is requested as part of this application, therefore a trip generation and vehicle miles traveled analysis were not completed for the project. However, at the December 2, 2020, meeting, the Planning Commission directed staff to include a condition of approval regarding preparation of a Travel Demand Management Plan, in order to demonstrate the winery’s efforts to reduce potential transportation impacts. It should be noted the applicant had not submitted any suggested measures as requested by the Commission as of preparation of this staff report.

Condition of Approval No. 4.20.b has been added.

- COA 4.20.b - Within 30 days of permit approval, the permittee shall submit a Traffic Demand Management Plan to the Planning Division and the Public Works Department for review and approval which includes, but not limited to

measures that will reduce peak-hour vehicle trips program (for example - encouraging guests to carpool or use a shuttle or van measures, promoting employee carpooling, implementing Guaranteed Ride Home (GHR) program, and providing lunch on-site). The final measures listed in the TDM program, or equally effective alternative trip reduction measures proposed by the permittee and approved by the PBES Director or the Director's designee, shall be implemented for the life of the project. These measures shall be implemented upon County authorization and an ongoing Monitoring and Reporting Statement shall be made available to the Planning Division upon request, on January 15 of each year. The TDM Plan may be subject to further submittal of annual reporting requirements upon request in response to the County development and adoption of a Vehicle Mile Traveled (VMT) Reduction Program.

Change 4. Exhibit A "Previous Conditions" - 4.21.B. Major Modification No: U-90-7 COA No. 12. This has been updated to reflect the applicant's later start time for public visitation.

Change 5. Exhibit A "Previous Condition" - 4.21.E. Major Modification No: P09-00480, COA No. 2. Since the applicant is now requesting changes related to the marketing plan, the note has been updated to state that the marketing plan is revised by current Condition of Approval Number 4.3 Marketing.

Visitation and Marketing Comparison - The proposed clarification to the visitation and changes to the Marketing program discussed above would reduce the total winery visitation. The original application submittal asked for recognition of 125 daily by-appointment visitors in addition to the permitted 132 public visitors. During the Planning Commission hearing the applicant explained that the number of daily visitors listed in their application was inclusive of the existing Type 1 marketing event guests, which currently permit events for up to 50 guests. The scope has been updated to request recognition of 75 daily by appointment visitors, in addition to the permitted 132 public visitors. This clarification ensures the 50 guests from a marketing event are not double counted as by-appointment visitation. The applicant's proposed reduction of the Type 1 events to three days a week would reduce guests at the winery by up to 100 guests per week by removing two 50-person events per week.

As shown in the updated Winery Comparison Chart (Attachment #), with the clarified daily visitation number and the reduced frequency of Type 1 events, the visitation and marketing event levels are still higher than the averages of the compared wineries producing between 150,000 gallons and 175,000 gallons. It is the standard practice for staff to prepare the winery comparison chart based on production.

At the December 2, 2020, hearing the applicant submitted a winery comparison chart based on a Production to Visitation Ratio (Attachment #). The seven wineries ranged in production from 40,000 gallons to 210,000 gallons and had daily visitation ranging from 100 visitors to 2,625. Based on the applicant's analysis, the winery has a lower Production to Visitor Ratio than the compared wineries.

Transportation - As discussed above, the modified proposal represents an overall decrease in visitation which staff is supportive of, but staff is not supportive of the applicant's request to modify the end time of Type 1 events. The applicant has confirmed that they have held marketing events, generally Type 1, on the same day as conducting by-appointment visitation, therefore modifying the two conditions (4.2.e and 4.3.e) to allow by appointment visitation to occur on the same day as marketing events falls into the category of recognition of existing activities. Because this action represents an existing condition and part of the baseline, the modified proposal will not negatively impact the winery's existing transportation operations.

At the hearing, the Planning Commission requested information from the applicant on their current and proposed Travel Demand Management plan to participate in the County's overall goal of reducing trips and lessening impacts during peak travel times. It should be noted the applicant had not submitted any suggested measures as requested by the Commission as of preparation of this staff report.

Groundwater and Wastewater - Staff reviewed the Water Availability Analysis and Wastewater Feasibility Study that

were submitted with the previous project scope. Although the number of visitors are described and grouped differently, the reports do take into account the potential total visitation and therefore can still be relied on for an evaluation of the modified proposal. The reports show that the winery has sufficient capacity to handle the visitation and employment, and that the current and proposed levels will not impact the infrastructure or water supply.

Public Comments - At the time of staff report preparation, one public comment letter has been received (Attachment #).

### **Decision Making Options Regarding Remediating Existing Violations:**

BOS Resolution No. 2018-164, provides for Staff to prepare separate decision-making options for the components of the project necessary to remedy existing violations and the new expansions or changes to existing entitlements. This modification requests recognition of existing operational components to remedy the existing violations and proposes a reduction in frequency of marketing events. Because the only "new" change to existing entitlements is a reduction in events, staff has included it in the overall request and is not listing it out as a separate category of request.

#### Option 1 - Approve Applicant's Proposal

Disposition - This option would result in approval of recognition of the existing employees and visitation levels at the winery, permit on premises consumption of wine produced at the winery, and allow use of portions of the cave for hospitality activities, pending completion of the Building and Fire Code updates. It would also reduce the frequency of Type 1 events, allow by appointment visitation to occur on the same day as a marketing event, and modify end times of Event Type 1 to 10:00 PM. Staff is not supportive of all components of this request, because sufficient analysis was not provided by the applicant. See Option 2 for Staff's Recommendation.

Action Required - Direct the applicant to provide additional analysis supporting the later end time for Type 1 Events, in order to demonstrate no environmental impacts. Continue the item until this can be completed and staff can perform a review of the materials.

#### Option 2 – Approve Components of Applicant's Proposal as Revised (Staff's Recommendation)

Disposition - This option would result in approval of the recognition of existing employees and visitation levels at the winery, permit on premises consumption of wine produced at the winery, and allow use of portions of the cave for hospitality activities, pending completion of the Building and Fire Code updates. It would also reduce the frequency of Type 1 events and allow by appointment visitation to occur on the same day as a marketing event. Staff recommends this option as the request is consistent with the Zoning Ordinance and applicable General Plan policies. Further, staff recommends recognition of the existing visitation levels based upon the project's location adjacent to the valley floor and located on Silverado Trail, sufficient access, and availability of adequate infrastructure and water supplies. The employee levels expanded over the years and the winery feels they are necessary to operate at the current levels.

Action Required - Follow the proposed action listed in Executive Summary. If conditions of approval are to be amended, specify conditions to be amended at the time the motion is made. This option has been analyzed for its environmental impacts, and the project was found to be categorically exempt from CEQA.

#### Option 3 - Reduced Visitation and/or Employees Alternative

Disposition - Given that the County may use the winery's existing operations as the environmental baseline for the CEQA analysis related to this application, no potential environmental impacts have been identified with this project proposal. Staff recommends no changes to the existing visitation and employee numbers. However, this option

allows the Planning Commission the ability to further reduce impacts by reducing the winery's existing maximum daily visitation numbers and/or the number of employees. As noted above, the existing visitation requested for recognition is higher than the average calculations of similar production capacity wineries. If the Planning Commission elects to pursue this option, the recommended conditions of approval would need to be continued to reflect the revised visitation and employee numbers.

Action Required – Follow proposed actions listed in the Executive Summary and amend scope and project specific conditions of approval and required conditions of approval to reduce the maximum daily visitation and/or employee levels. The item will need to be continued to a future date if significant revisions to the recommended conditions of approval are desired.

#### Option 4 - Deny Applicant's Proposal

Disposition - In the event the Commission determines that the project does not, or cannot meet the required findings for the granting of a Use Permit modification, Commissioners should identify what aspect or aspects of the project are in conflict with the required findings. State Law requires the Commission to adopt findings, based on the General Plan and County Code, setting forth why the proposed Use Permit modification is not being approved.

Action Required - Commission would take tentative motion to deny the project and remand the matter to staff for preparation of required findings to return to the Commission on a specific date.

#### Option 5 - Continuance Option

The Commission may continue an item to a future hearing date at its own discretion.

### **SUPPORTING DOCUMENTS**

- A . Recommended Findings
- B . Revised Recommended Conditions of Approval and Final Agency Memos
- C . Previous Project Conditions
- D . CEQA Memorandum
- E . Use Permit Major Modification Application Packet Resubmittal Materials
- F . Revised Winery Comparison Analysis and Summary of Changes
- G . Planning Commission Staff Report December 2, 2020
- H . Public Comments

Napa County Planning Commission: Approve

Reviewed By: Brian Bordona