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Agenda Date: 1/7/2009

Agenda Placement: 9C

## Napa County Planning Commission Board Agenda Letter

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**TO:** Napa County Planning Commission  
**FROM:** John McDowell for Hillary Gitelman - Director  
Conservation, Development & Planning  
**REPORT BY:** Chris Cahill, Planner - 707.253.4847  
**SUBJECT:** Saviez Winery Use Permit Minor Modification P07-00436-MOD

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### **RECOMMENDATION**

#### **PAUL SAVIEZ / SAVIEZ VINEYARDS WINERY - USE PERMIT MINOR MODIFICATION REQUEST P07-00436-MOD**

**CEQA Status:** Categorically Exempt, Section 15303 of the CEQA Guidelines (Class 3 - New Construction or Conversion of Small Structures) and Napa County's Local CEQA Procedures, Appendix B, Section 3 (Class 1 - Minor Modifications to Existing Wineries).

**Request:** Approval of Use Permit Minor Modification No. P07-00436-MOD, modifying Use Permit No. 01099-UP, to allow: 1) the conversion of approximately 836 square feet of an existing residence to winery office and tasting room use and 2) conversion of approximately 2,700 square feet of approved (but yet to be completed) winery office, laboratory, and tasting room space to winery storage use. The project is located on a 114.3 acre parcel on the east side of the Silverado Trail, approximately 600 feet south of its intersection with Larkmead Lane, within an Agricultural Watershed (AW) zoning district. Assessor's Parcel No. 021-010-003, 4060 Silverado Trail, Calistoga.

**Staff Recommendation:** Find the project categorically exempt from CEQA and approve the requested minor modification as conditioned.

**Staff Contact:** John McDowell, 299-1354 or [jmcdowel@co.napa.ca.us](mailto:jmcdowel@co.napa.ca.us)  
Chris Cahill, 253-4847 or [ccahill@co.napa.ca.us](mailto:ccahill@co.napa.ca.us)

### **EXECUTIVE SUMMARY**

#### **Proposed Action:**

1. That the Planning Commission find the project **Categorically Exempt from CEQA**, based on **finding 1 of Exhibit A**; and
2. That the Planning Commission approve **Use Permit Minor Modification P07-00436** based on **findings 2-7 of Exhibit A** and subject to the recommended conditions of approval (Exhibit B).

**Discussion:**

This application proposes a modification to a winery use permit which was initially approved in August 2002. The approved 20,000 gallon per year Saviez Vineyards winery remains unconstructed, but was deemed used in early 2004 following the installation of a winery process waste system. The minor modification currently before the Commission would relocate approved, but as yet unbuilt, winery office and tasting room facilities out of the second floor of a historic barn and into an existing residence on the property. The approved 2,700 square foot second floor space within the barn is proposed to be converted to winery storage and 836 square feet of the existing, approximately 1,740 square foot, residence would become winery office and tasting room space.

While minor modifications of the type proposed here are generally handled either at an administrative level or by the Zoning Administrator, this application has been referred to the Commission because there is some indication that a tasting room may have begun operating in the residence without required County approval.

**FISCAL IMPACT**

Is there a Fiscal Impact?                      No

**ENVIRONMENTAL IMPACT****Environmental Determination:**

This project is Categorically Exempt from the application of the California Environmental Quality Act pursuant to Section 15303 of the State CEQA Guidelines (Class 3 – New Construction or Conversion of Small Structures) and Napa County's Local CEQA Implementation Procedures, Appendix B, Section 3 (Class 1 - Minor Modifications to Existing Wineries).

**BACKGROUND AND DISCUSSION**

**Owner:** Paul Saviez

**Representative (Attorney):** Tom Carey of Dickenson, Peatman & Fogarty

**Zoning:** AW (Agricultural Watershed)

**General Plan Designation:** AWOS (Agriculture, Watershed, and Open Space)

**Initially Submitted:** June 18, 2007                      **Determined Complete:** October 1, 2008

**Winery Size (approved):** 5,676 square feet plus an uncovered crush pad

**Winery Size (proposed):** 6,512 square feet plus an uncovered crush pad

**Production Capacity:** 20,000 gallons per year (no change)

**Visitation:** Retail sales and tours and tasting by appointment only, 10 visitors maximum per day (no change)

**Marketing:** Two 40-person marketing events annually (no change)

**Number of Employees:** Two full-time and one part-time employees (no change)

**Hours of Operation:** 7:00 AM to 5:00 PM daily (no change)

**Parking:** Three parking spaces (no change)

**Adjacent Zoning / Land Use:**

North

AW - Open Space/Rural Residential - including a 9 acre undeveloped parcel (JPCR Enterprises), a 41 acre rural residential parcel (Gleason), a 41 acre undeveloped parcel (Stanton), and a 70 acre parcel being developed residentially (Abbett);

South

AW - Vineyard/Open Space/Rural Residential - including a 4 acre rural residential parcel (Villa Montagne LLC), a 4 acre vineyard and open space parcel (11 Daughters CF LLC), an 8 acre rural residential parcel (Hoadley), a 9 acre rural residential parcel (Vukic), a 7 acre winery parcel (Wermuth Winery), and a 9 acre rural residential parcel (Wrubel);

East

AW - Vineyard/Open Space/Rural Residential - an 88 acre rural residential parcel with vineyards (Jones); and

West

AP - Vineyard/Rural Residential - including a 39 acre vineyard and rural residential parcel (JPCR Enterprises) and a 43 acre vineyard parcel (Duckhorn Wine Co.).

Nearby Wineries (within one mile of the project site)

Wermuth Winery - 3942 Silverado Trail - 20,000 gallons per year - open to the public

Hourglass Winery - 817 Lommel Road - 30,000 gallons per year (not yet producing) - tours and tasting by appointment

Dutch Henry Winery - 4310 Silverado Trail - 20,000 gallons per year - open to the public

Frank Family Vineyards- 1091 Larkmead Lane - 564,500 gallons per year - open to the public

Larkmead Vineyards - 1100 Larkmead Lane - 36,000 gallons per year - tours and tasting by appointment

**History and Evolution of this Application:**

August 2002

The Conservation, Development, and Planning Commission **approved use permit No. 01099-UP**, allowing a 20,000 gallon per year winery located in and adjacent to a historic two story barn on the Saviez property.

August 2003

The Conservation, Development, and Planning Department **approved use permit extension No. 03251-X**, extending the window to act on, or "use" **use permit No. 01099-UP** to August 2004.

January 2004

The Conservation, Development, and Planning Department deemed **use permit No. 01099-UP** "used" as a result of the installation of the winery wastewater treatment system. As no other winery facilities were completed at the time, "the sewer line was stubbed out for future connection to the winery building." (12.15.2003 email of K. Withrow, inspector for the Department of Environmental Management)

March-May 2007

Contractors, acting on behalf of the property owner, filed for and received a number of building permits for renovations to the residence, including the addition of a deck, electrical upgrades, and remodeling of the living room (the space now proposed to become a tasting room).

June 2007

Tom Carey submitted **use permit modification application P07-00436-MOD** on behalf of his client, Paul Saviez. This is the application currently before the Commission.

July 2007

Planning staff formally determined **use permit modification application P07-00436-MOD** to be incomplete for processing due to missing or inadequate information (please see Attachment H).

A review of the winery's website unearthed the following information regarding the tasting room;

*Our tasting room until recently was the home of our CEO Paul Saviez, and was the original site and footprint of our founder Francois's home back in 1900. Demolition is well behind, and construction has been long under way by Krueger Bros. Construction. The goal was to keep the down home country charm, with all of the modern amenities. Walls have been built, doors removed, and new entryways created. Thankfully, the stone fireplace, as well as the wood floors and beamed ceiling still remain, as does the great front porch. The kitchen is being completely revamped, and should be a real joy to work in. (www.saviezvineyards.com/wines/tasting-room/, retrieved on 7.31.07)*

November 2007

After several months of application inactivity, and following repeated attempts by Planning staff to schedule a site visit with the applicant and/or his attorney, staff issued a second letter (please see Attachment H). The letter questions claims made in submitted application materials that, "the property is already developed with a 5,676 square foot winery with a production capacity of 20,000 gallons" and that, "the winery building was converted from an existing historic barn," in light of the absence of any building permits for renovations to the barn. Additionally, staff questioned whether, "wine (was) currently being made commercially on the property (and) if so, where is that production actually taking place?"

No response from the applicant or his attorney was forthcoming.

September 2008

The applicant re-initiated the long-dormant application. Planning staff met with Mr. Carey at the Saviez property and confirmed that the barn had not yet been converted into a winery facility as approved by **use permit No. 01099-UP**.

As of the September 2008 site visit, the living room area of the residence appeared to have been renovated in the style of a tasting room, but there was no evidence of wine tasting actually taking place in the space. Staff preliminarily agreed to process the application at the administrative or Zoning Administrator level with the condition that no wine tasting or sales could occur until wine was actually made on the property.

October 2008

A review of the winery's website unearthed the following information;

*To visit Saviez Vineyards is to step into over 100 years of wine making history. Our newly revamped tasting room is beautiful, and maintains the comfortable rustic charm that Saviez Vineyards is known for. Enjoy the scenic vistas that three generations of grape growers and winemakers have woken up to from our beautiful new deck and patio. Listen to the sounds of song birds, and spot Wild Turkeys, Jackrabbits, and soaring Redtail Hawks. Feel the*

warmth of an old stone fireplace on chilly winter days. Smell the aromas of quality, and taste the great wine that emerges from experience and knowledge. To arrange a tasting or to make Saviez Vineyards the setting for your next intimate event, email Mike Saviez at [mike@saviezvineyards.com](mailto:mike@saviezvineyards.com). ([www.saviezvineyards.com/about/visitus/](http://www.saviezvineyards.com/about/visitus/), retrieved on 10.24.08)

and;

**2007-** Saviez Vineyards tasting room is constructed on the very sight (sic) of Francois and Marie Louise's original home. ([www.saviezvineyards.com/wines/history/](http://www.saviezvineyards.com/wines/history/), retrieved on 10.24.08 and again on 12.08.2008)

As a result of the above discovery, which indicated that Saviez Vineyards was potentially operating a tasting room without a permit, this item was scheduled for a hearing before the Planning Commission.

### **Code Compliance History:**

There is some evidence the applicant may have been operating a tasting room in the residence without required County approvals and in conflict with the terms and conditions of their use permit. If wine has been produced on the property, it was made in violation of the approved use permit, which envisions wine production within a renovated barn structure connected to the approved wastewater treatment system (again, no building permits have been issued to convert the barn into a wine production facility). If wine has been produced off-site and marketed through an unpermitted on-site tasting room, it would represent a violation of the Winery Definition Ordinance, which allows tasting rooms only on properties on which legitimate wine production is actually taking place.

### **Discussion Point(s):**

The residential-to-tasting room conversion proposed here is the sort of modification staff would usually support, and would, in fact, generally be considered at the Zoning Administrator level. However, the Zoning Administrator expressed concerns about handling the item when it appears code violations may be occurring based on by the above-quoted Saviez Vineyards website. Although we believe this application merits approval as conditioned, if the applicant has been operating a tasting room in violation of their use permit conditions of approval and (potentially) of the Winery Definition Ordinance, grounds for revocation or suspension of the underlying use permit may exist.

### **Consistency with Standards:**

#### Zoning

A winery (as defined in Napa County Code § 18.08.640) and uses in connection with a winery (see Napa County Code § Section 18.16.030) are permitted in the AW district with an approved use permit. As conditioned, and provided that no wine tasting or wine sales occur on the property before wine is actually made on the property in commercial quantities, this application complies with the Winery Definition Ordinance.

#### Building Division Requirements

The Building Division recommends approval with standard conditions. Please see their August 5, 2007 memo (attached).

#### Fire Department Requirements

The Fire Marshall recommends approval with standard conditions. Please see Mike Wilson's January 23, 2008 memo (attached).

#### Public Works Department Requirements

The Public Works Department recommends approval with no new conditions. Please see their June 27, 2007

memo (attached).

Environmental Management Department Requirements

The Department of Environmental Management recommends approval with standard conditions. Please see their July 19, 2007 memo (attached).

**SUPPORTING DOCUMENTS**

- A . Exhibit A - Proposed Findings
- B . Exhibit B - Scope and Conditions of Approval
- C . Public Works Comments
- D . Fire Comments
- E . Environmental Management Comments
- F . Building Division Comments
- G . Submitted Application Materials
- H . Staff Correspondence
- I . Saviez Vineyards Webpage Printouts
- J . Use Permit No. 01099 Plans
- K . Use Permit No. 01099 Approval Letter, Conditions, and Deemed Used Letter
- L . Presentation Graphics

Napa County Planning Commission: Approve

Reviewed By: John McDowell