



A Tradition of Stewardship  
A Commitment to Service

Agenda Date: 11/17/2010  
Agenda Placement: 9A  
Continued From: October 20, 2010

## 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:** Kirsty Shelton, Planner - 707 253 4417  
**SUBJECT:** Kelham Winery - Use Permit Modification # P10-00177 UP

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### **RECOMMENDATION**

#### **SUSANNA ROGERS KELHAM TR/ KELHAM VINEYARDS - KELHAM VINEYARDS WINERY USE PERMIT MODIFICATION #P010-00177-MOD**

**CEQA Status:** Negative Declaration has been prepared. According to the proposed Negative Declaration, the proposed project would not have any potentially significant environmental impacts. The project site is not on any of the the lists of hazardous waste sites enumerated under Government Code Section 65962.5

**Request:** Approval of a major modification to Use Permit # 98372-UP to 1) convert an existing 1,576 sq. ft. residence to be used for wine tasting, sales, and marketing; 2) convert 1,641 sq. ft. of second floor area of the existing winery to be used as a residence; 3) include a 1,254 sq. ft. outdoor trellised area for wine tasting and marketing; and 4) adoption of a marketing plan that proposes ten additional visitors per day, for a maximum of 20 per day/140 per week for food and wine pairing, and six events per year for up to 80 people. The project site is located on a 10.9 acre parcel on the north side of Zinfandel Lane, approximately 0.75 of a mile east of its intersection with State Route 29 within an Agricultural Preserve (AP) Zoning District (Assessor's Parcel Number 030-260-029) 360 Zinfandel Lane, St. Helena.

**Staff Recommendation:** Adopt the Negative Declaration and approve the Use Permit Modification with the recommended conditions of approval.

**Staff Contact:** Kirsty Shelton, Project Planner, 707-299-1377, or [kirsty.shelton@countyofnapa.org](mailto:kirsty.shelton@countyofnapa.org)

***CONTINUED FROM THE OCTOBER 20, 2010 AND NOVEMBER 3, 2010 REGULAR MEETINGS***

### **EXECUTIVE SUMMARY**

**Proposed Action:**

That the Planning Commission:

1. Adopt the Negative Declaration for Use Permit # P10-00177 based on findings 1-6 of attached Exhibit A - Findings.
2. Approve Use Permit # P10-00177 based on Use Permit findings 7-16 of attached Exhibit A - Findings, and subject to attached Exhibit B - Revised Conditions of Approval.

**Discussion:**

The public hearing on this item commenced on October 20, 2010. At that hearing, the applicant expressed interest in modifying the visitation numbers from what was contained in the original application. In addition, representatives of a neighboring property owner expressed concerns over the scope of the proposal. At the conclusion of the day's testimony, the Commission voted to leave the public hearing open and continue the item to November 3, 2010 to provide the applicant an opportunity to work with staff on evaluating feasibility of the project changes suggested during testimony. The continuance was also an opportunity for the applicant to engage the neighbor.

On November 3, 2010, the item was continued without further public testimony to the November 17, 2010 regular meeting, as the applicant had not completed working with affected County departments responsible for evaluating the project changes. Since November 3, review of the suggested project changes has been completed, and the applicant has decided to scale back the scope of those changes to a level commensurate with what was originally evaluated and presented at the October 20, 2010 hearing. The Background section of this report contains a reprint of the Background section of the October 20, 2010 staff report which has been annotated to reflect the full scope of changes. In addition, all affected attachments, including proposed conditions of approval have been revised to reflect the project changes.

The project changes are minor and consist of the following: (1) Remove the offering of food and wine pairing as part of the wine tasting experience; (2) Change the second floor of the existing winery/barn building from residential to "storage"; (3) Allow on-site wine consumption as per AB 2004 (Evans) within the trellised area; (4) Planting six, 15-gallon evergreen trees on the east property line.

Since this proposal was continued the applicant and the applicant's representative have determined that any increase of daily visitors would require improvements to the existing water system (new well seal and annual water quality monitoring) and to the septic system. The decision to remove the offering of food/cheese pairing with the wine tasting resulted from the requirement of the Environmental Management department requiring a "low-risk food handling permit", the applicant withdrew that aspect of the application. The request to designate a location for on site wine consumption as per the recently adopted state law was requested within the trellised area to comply with both our code and the state law. The applicant has also requested to withdraw the second floor area of the existing winery/barn to be converted to a residence due to the fire separation requirements that would be required at the building permit stage. After negotiations between the neighbor and the applicant, the applicant has agreed to plant six 15-gallon trees along the east property line and has designated the location on the submitted site plan.

Because the Initial Study evaluated a higher impact project, there is no requirement to revise and redistribute the environmental document.

**FISCAL IMPACT**

Is there a Fiscal Impact?            No

### **ENVIRONMENTAL IMPACT**

Negative Declaration Prepared. According to the proposed Negative Declaration, the proposed project will not have any potentially significant environmental impacts. The public review period for the proposed Negative Declaration occurred between September 30 and October 20, 2010. The project site is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5.

### **BACKGROUND AND DISCUSSION**

\*Items modified from the October 20, 2010 staff report are in **underlined bold italics** and/or **strikethrough italics**.

**Owner:** Susanna Rogers Kelham Trust dba Kelham Vineyards Winery

**Applicant:** Kelham Vineyards

**Representative:** Ron Nichol森, Proprietor and Owner (707) 963-2000

**General Plan Designation:** Agricultural Resource (AR)

**Zoning:** AP (Agricultural Preserve) District

**Filed:** May 17, 2010

**Declared Complete:** September 30, 2010

**Winery Size (Existing):** 18,157 square feet (structures) + 1,576 square foot residence

**Winery Size (Proposed):** 18,718 square feet (structures) **with no residence on site**

**Production Capacity (Existing):** 75,000 gallons/year

**Production Capacity (Proposed):** no change

**Visitation / Marketing (Existing):**

**Visitation:** By appointment ten people per day up to 70 per week

**Events:** Two events per month with a maximum of 10 people (240 people per year)

**Visitation / Marketing (Proposed):**

**Visitation:** Daily private tours/tasting/food pairing with a maximum of 20 persons; up to 140 per week

**Events:** 6 events per year with a maximum of 80 persons (480 people per year)

**Number of employees (Previously Approved):** 4 full-time and 3 part-time

**Number of employees (Proposed):** No change

**Hours of operation (Previously Approved by Shadowbrook Small Winery Permit):** 8 am to 5 pm; 7 days per week.

**Hours of operation (Proposed):** No Change

**Parking (Previously Approved):** 10 visitor and 8 employee spaces

**Parking (Proposed):** No Change

**Adjacent Zoning / Land Uses:**

This property is bordered by nine properties which is pretty rare in this area of Napa, this is primarily because of the flagstem shape of the property. Besides the vineyard property to the north the majority of the properties are under five acres with rural residential uses.

All bordering properties are within the Agricultural Preserve Zoning (AP) and Agriculture Resource (AR) General Plan Designation.

**North** 54.7 acres of vineyard and residential uses.

**East** Three properties border the eastern border of the property and flagstem driveway.  
From north to south:

- (1) 5.63 acres of vineyard
- (2) 5.24 acres of vineyard and a rural residential use
- (3) 4.65 acres of vineyard

**South** Three properties border the winery use on the south side and one south east.  
From west to east:

- (1) 1.28 acres of vineyard
- (2) 2.35 acres rural residential uses
- (3) 4.3 acres of vineyard and rural residential uses  
(directly west of the driveway) 1.03 acre residential use

**West** 9.9 acres of vineyard

**Nearby Wineries (within 0.5 mile of the project site):**

- The Ranch Winery, 105 Zinfandel Lane, Approved: 1985, Producing: 12,500,000 gallons/year, No tours/tasting;

- Raymond Vineyard and Cellar, 849 Zinfandel Lane, Approved: 1985, Producing: 750,000 gallons/year, Public Tours and Tasting with 25 marketing events per year.

**Property History**

Shadow Brook Winery was originally established at this location by converting an existing barn to a winery in 1984 with a small winery permit authorizing with a maximum production of 20,000 gallons per year and not open to the public. In 1999, the Kelhams modified the small winery permit to expand the production to 75,000 gallons per year, construct a combined 14,050 square foot production and barrel storage facility, and include a maximum of ten visitors per day and up to 2 events for up to 10 people per month.

**Code Compliance History**

In May of this year, a building permit compliance audit was performed and prompted this current application.

The subject new use proposed in the existing dwelling was a use that the proprietor thought was legitimate because of how it historically operated as a family business. It was brought to their attention that their current use permit didn't authorize commercial activity within the house. They immediately filed for this use permit modification to bring the use into compliance and has been working diligently with the various departments.

The structures from the 1999 modification were authorized a Temporary Conditional Occupancy (TCO) in 2000, however no final building permit was acquired. Therefore, the existing fermentation, storage, and winery buildings were operating under expired building permits. A TCO grants the general safety and welfare of the occupants, but doesn't allow public within those structures so business didn't need to be stopped. The current status as of writing this report is that they have active building permits, the barrel storage building Building Permit # B99-00597 is pending a final building inspection on the hot and cold water service, the fermentation building permit # B01-00444 is pending a final building inspection for the construction of a new ADA compliant restroom. Both of these buildings are anticipated to be brought up to compliance with a final permit authorized by the end of the year.

The existing winery (converted barn) building permit #B99-01389 is currently in plan review for the new residence on the second floor and for improvements that were completed without building permits. The existing conditions of the barn includes an expanded footprint, the applicant has submitted plans and have a current building permit for the unpermitted expansion. This application authorizes the floor area of the expansion and pending building permit approvals for the second floor to be used as a studio residence.

#### Discussion:

1. The current Major Modification request would: a) convert an existing 1,576 sq. ft. residence to be used for wine tasting, sales, and marketing; ~~b) convert 1,641 sq. ft. of second floor area of the existing winery to be used as a residence~~; c) include a 1,254 sq. ft. outdoor trellised area for wine tasting, marketing, and a designated location for on site wine consumption as per AB 2004 (Evans); and d) adoption of a marketing plan that proposes ten additional visitors per day, for a maximum of 20 per day/140 per week for wine tasting ~~food and wine pairing~~, and six events per year for up to 80 people.

Staff is supporting the conversion of the residence to winery operation. The dwelling was built circa 1960 and it clearly served as a residence until recently. With the evolution of the past and current family winery operations and with it's location, the facility serves as the first point of contact with the public and it makes sense for it to be related to the winery relations.

The trellis is built and upon approval of this use permit modification, a final building permit will authorize the use. Staff supports the use of the outdoor area and sees it as subordinate and accessory to the winery use.

The additional daily visitations are modest in comparison to other wineries of similar production size. The request to have six medium sized events per year is also consistent with other wineries of similar scale. Furthermore, the facility will have fewer events per year than allowed by the existing permit (24 per year).

#### Similar Production marketing plans-

- Prager Family Estate Winery has a production of 75,000 g/yr. with 12 events for up to a maximum of 75

people events and 2 events for over 75 people per year, for a total of 14 marketing events per year.

- Koves-Newlan Vineyards has a production of 72,000 g/yr. with 12 events for up to 75 people and 6 events for over 75 people, for a total of 18 events per year.

- Hagafen Cellars has a production of 50,000 g/yr. with 10 events up to 75 people and 2 events for over 75 people, for a total of 12 events per year.

2. The subject property is located on the north side of Zinfandel Lane, about .5 miles east of Highway 29, within the AP (Agricultural Preserve) zoning district and the Agricultural Resource land use designation of the 2008 Napa County General Plan. The parcel is majorally surrounded by eight very small one acre residential properties besides the one large parcel to the north. As detailed below, the proposed winery use modification complies with all requirements of Use Permit Findings and 2008 Napa County General Plan policies. There is no existing Napa County Agricultural Preserve Contract on the property.

3. The attached Initial Study/Negative Declaration did not identify any potentially significant environmental effects of the project and no mitigation measures are required. There were no mitigation measures included as part of the earlier Mitigated Negative Declaration for Use Permit # U-98372-UP.

4. All reviewing departments/agencies have found the project as proposed to be consistent with their respective requirements and regulations. The proposed project is consistent with applicable standards as set forth in the attached Findings and Conditions of Approval.

#### **SUPPORTING DOCUMENTS**

- A . Exhibit B - Revised Conditions of Approval
- B . Revised Public Works Comments 11.5.10
- C . Revised Environmental Management Comments 11.8.10
- D . Revised Application 11.5.10
- E . Additional Information provided for 11.17 hearing
- F . Governing 1999 Conditions of Use Permit #98372 Approval

Napa County Planning Commission: Approve

Reviewed By: John McDowell