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Agenda Date: 12/2/2009

Agenda Placement: 9B

## Napa County Planning Commission Board Agenda Letter

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**TO:** Napa County Planning Commission

**FROM:** Melissa Gray for Hillary Gitelman - Director  
Conservation, Development & Planning

**REPORT BY:** Trish Hornisher, PLANNER III - 299-1349

**SUBJECT:** Venge Winery Use Permit and Exception to Napa County Road and Street Standards

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### **RECOMMENDATION**

#### **VENGE WINERY / DIANNA & KIRK VENGE & ERIKA PHILLIPS – USE PERMIT REQUEST - #P08-00647-UP**

**CEQA STATUS:** Mitigated Negative Declaration Prepared. According to the Mitigated Negative Declaration, the proposed project would have, if mitigation measures are not included, potentially significant environmental impacts in the following areas: Hydrology and Water Quality. This project site is not on any of the lists of hazardous waste sites enumerated under Government code section 65962.5.

**REQUEST:** Approval of a Use Permit to establish a 20,000 gallon per year winery to include: (1) conversion of an existing 2,800 square foot residence to an administrative office / hospitality building; (2) construction of a 3,600 square foot barn-style production and fermentation building; (3) construction of up to 9,000 square feet of barrel storage either within a cave system or by expanding the production building to accommodate the barrel storage for a winery totaling a maximum of 15,400 square feet; (4) construction of 3,324 square feet of outdoor work areas; (5) two full-time & two part-time employees; (6) six parking spaces (incl. one ADA); (7) tours and tasting by prior appointment only with 20 visitors per day and a maximum of 140 visitors per week; (8) a marketing plan with: three private food and wine tasting events per year with 10 persons per event; five private food and wine tasting events per year with 30 persons per event; and participation in the Napa Valley Wine Auction Event as a Category 5 Temporary Event; (9) installation of one water tank totalling 12,000 gallons for fire protection; (10) improvements to the existing standard septic system for process and sanitary winery wastewater; (11) civil improvements to widen the existing private road to the winery site; and, (12) approval of an Exception to the Napa County Road and Street Standards to allow: a reduction in the road width to the existing 10± foot wide paved road with 1± foot shoulders (20 ft road width required). The winery project is located on a 12.63 acre parcel off a private road on the northeast side of Silverado Trail approximately 1,188 feet northwest of its intersection from Dunawee Lane within the Agricultural Preserve (AP) zoning district. (Assessor Parcel #: 020-350-038) 4708 Silverado Trail, Calistoga. The proposed location of the Exception to the Napa County Road and Street Standards is the existing private road serving the proposed project site and four other parcels from Silverado Trail (Assessor

Parcel #'s: 020-350-003,020-350-005,020-350-006, 020-350-037, and 020-350-038).

**Staff Recommendation:** Adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program and approve the Exception to Napa County Road and Street Standards and Use Permit as proposed with conditions of approval.

**Staff Contact:** Patricia Hornisher 299-1349 or thornish@co.napa.ca.us

### **EXECUTIVE SUMMARY**

#### **Project Action:**

1. That the Planning Commission adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Venge Winery, based on findings 1-6 of Exhibit A;
2. That the Planning Commission approve the requested Exception to the Napa County Road and Street Standards based on findings 7-9 of Exhibit A; and,
3. That the Planning Commission approve Use Permit P08-00647-UP based on findings 10-14 of Exhibit A and subject to the recommended Conditions of Approval (Exhibit B).

#### **Discussion:**

The applicant requests Planning Commission approval of a new 20,000 gallon per year winery to be located on a 12.63 acre parcel off a private road on the northeast side of Silverado Trail. The site, which is about one-quarter mile north of Dunaweal Lane and a half a mile south of the City of Calistoga, contains a primary residence and eleven acres of estate vineyards. The applicant proposes to locate a 15,400 square foot winery at the rear of the property approximately 1,400 feet from Silverado Trail. The existing 2,800 square foot residence will be converted and utilized as an Administrative/Hospitality Building. A new 3,600 square foot production/fermentation building will be constructed approximately 100 feet east of the converted residence. Both will be designed in the Napa Valley country barn vernacular and finished with board and batten siding and standing seam metal roofing.

Staff believes required findings can be made in support of the requested Exception to the Napa County Road and Street Standards and Use Permit and recommends approval as conditioned.

### **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

### **ENVIRONMENTAL IMPACT**

#### **ENVIRONMENTAL DETERMINATION:**

Mitigated Negative Declaration Prepared. According to the proposed mitigated negative declaration, if mitigation measures are not included, the proposed project would have potentially significant environmental impacts in the following area: Hydrology and Water Quality. The project is not on any of the lists of hazardous waste sites enumerated under Government Code section 65962.5

**BACKGROUND AND DISCUSSION**

**Owner:** Dianna Venge, Kirk Venge and Erika Phillips (Tenants in Common)

**Applicant:** Venge Vineyards, Inc., Kirk Venge

**Representative (Project Manager):** Kirk Venge

**Zoning:** AP (Agricultural Preserve)

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

**Filed:** December 5, 2008 and **Resubmitted:** July 10, 2009

**Building Sizes:** An existing 2,800 square foot residence to be converted to an administrative office/hospitality building; a new 3,600 square foot barn-style production/fermentation building with construction of up to 9,000 square feet of barrel storage either within a cave system or by expanding the production/fermentation building to accommodate the barrel storage for a winery totaling a maximum of 15,400 square feet.

**Accessory Structures:** 12,000 gallon water tank for fire protection.

**Cave Size:** 9,000 square feet

**Production Capacity:** 20,000 gallons per year

**Visitation:** A maximum of 20 visitors per day with a maximum of 140 visitors per week

**Marketing:** Three 10-person private food and wine tasting events per year; five 30-person private food and wine tasting events per year; and, participation in the annual Napa Valley Wine Auction. All events to be catered with food prepared off-site.

**Number of Employees:** Two full-time and two part-time employees

**Hours of Operation:** 9:00 AM to 5:00 PM, seven days a week

**Parking:** 6 parking spaces, including one ADA-accessible space

**Parcel Size:** 12.6 Acres

**Accessory/Production Ratio:** 16% (40% allowed)

**Winery Coverage:** 7.6 utilizing caves; 10.3 with expanded building

**Setbacks:** 1,400' front (600' required); 190' West side (20' required); 140' East side (20' required); 40' Rear (20' required)

**Cave Setback:** 5' from rear property line

**Adjacent Zoning / Land Use:**

North

AW/AP & AP - Vineyard/Winery/Rural Residential/Open Space - two parcels of 162 & 6 acres; each include a residence, vineyard and open space; one with a winery

South

AP - Vineyard - a 10 acre vineyard parcel

East

AW - Open Space/Rural Residential - a 32 acre parcel with a mixed oak woodland and coniferous forest and one residential unit

West

AP - Vineyard/Rural Residential - a 21 acre vineyard with two residential units and open space

Nearby Wineries (within one mile of the project site):

Araujo Estates Wines - 2155 Pickett Rd; Approved July 1988; 20,000 gal/yr; 24,000 Sq Ft; By Appt  
Fisher Winery - 4771 Silverado Trail; Approved Oct. 2009; 30,000 gal/yr; 16,186 Sq Ft; By Appt  
Clos Pegase Inc.- 1060 Dunaweal Ln; Approved Nov.1984; 200,000 gal/yr; 43,100 Sq Ft; Open to Public  
Sterling Vineyards - 1111 Dunaweal Ln; Established Sept.1969; 150,000 gal/yr; 160,252 Sq Ft; Open to Public  
Paoletti Estates Winery - 4501 Silverado Trail; Approved Jan.1993;16,000 gal/yr; 10,000 Sq Ft; By Appt  
Cuvaision Winery - 4550 Silverado Trail; Established Sept.1970; 155,048 gal/yr; 46,026 Sq Ft; Open to Public  
Pavitt Winery - 4660 Silverado Trail; Approved 2009 but not production; 10,000 gal/yr; 3,360 Sq Ft; By Appt

**Property History:**

October 1982 - Building permit issued to demolish existing dwelling.

October 1982 - Building permit issued to construct a single family residence.

October 1982 - Zoning Administrator approved Temporary Trailer Use Permit #T-78283 for a one year period.

June 1983 - Building Inspection granted extension of time relative to building permit.

December 1983 - Zoning Administrator approved Temporary Trailer Use Permit #T-68384 for a four month period to allow applicant to vacate property.

August 1986 - Conditional Certificate of Compliance PS-78586 (B) recorded.

October 1988 - Certificate of Compatibility CC-118889 approved for installation of a manufactured home permanent foundation.

November 1988 - Building permit final for manufactured home permanent foundation.

March 1996 - Erosion Control Plan approved for Residential development.

December 1996 - Building permit final for main dwelling unit replacement.

**Code Compliance History:**

Based on a review of Planning and Building files, there have been no complaints or code compliance issues filed against this property.

**Discussion Points:**

1. The Winery Proposal - The Venge's propose to remodel an existing 2,800 square foot, single-story residence for use as their administrative office/hospitality building and construct a new 3,600 square foot barn-style

production building approximately 100 feet east of the converted structure. The winery structures will be clad with board and batten wood siding and have a standing seam metal roof with sky lights accenting the roof peak on the north and south elevations. Their "county barn-style" design will convey a strong sense that Napa Valley viticulture is the primary focus of business at this site.

They also propose to construct up to 9,000 square feet of barrel storage in one of two locations - either within a cave system or as an addition to the proposed production building. The preferred location for barrel storage is within a cave system. It would be constructed within the existing hillside knoll located immediately behind the converted residence at the far northwest corner of the property. However, since a substandard septic system exists on an adjacent parcel to the north, no approval for any cave construction will be granted until compliance with applicable setbacks to surrounding septic systems as stated in Environmental Management's memorandum dated November 9, 2009, have been satisfactorily demonstrated to the Department. Should an acceptable resolution to setbacks to surrounding septic systems not be found, the cave will not be allowed.

The alternative barrel storage location is proposed within the production building. It would be expanded along the east elevation to accommodate the additional storage needs. This area is currently planted in vines on virtually level ground. While the production building would become larger in size and massing, its design would remain in the country barn-style vernacular and blend well with its immediate and local surroundings.

2. Visitation and Marketing - The Venge's proposal for visitation and marketing is minimal. It includes a maximum of 20-By appoint tours and tasting visitors per day; three marketing events per year with 10 visitors per event; and, five marketing events per year with 30 visitors per event. Participation in two Napa Valley Wine Auction events with a maximum of 30 visitors is also requested. All events will be catered with food brought to the site by outside vendors approved through the Department of Environmental Management. Normal business hours are from 9:00 am – 5 pm Monday through Sunday; operating with two full-time and two part-time employees.

3. Traffic Impacts - The project is estimated to generate 4 vehicles during peak hour. Silverado Trail operates at Level of Service (LOS) B - C with an estimated 2007 traffic count north of Dunaweal Lane of 5,217 average daily traffic (ADT). The traffic supporting calculations report an additional 8.8 visitor vehicles during peak hour per day. Since the the project will be conditioned for visitation and marketing to occur outside of peak traffic periods, visitor vehicles were not calculated in the increase over existing volumes in the peak hour of a regular business day. The submitted traffic information (including a Sight Distance Report - see attachment) were evaluated by the County Transportation Engineer and determined that with the inclusion of Public Works conditions of approval for the project, a left turn lane was not warranted due to the limited production capacity and limits proposed for visitation and marketing. (See Initial Study and Traffic Studies attached and discussion #4 below for further Traffic analysis and/or Traffic related project improvement details.)

4. Civil Improvements and Exception to Napa County Road and Street Standards - Civil improvements consist of the following: installation of a Napa County Road Standard deceleration taper on the northbound side of Silverado Trail at the entrance to the private easement; widening the existing private easement entrance at Silverado Trail for safety purposes to a width of 20 feet for a distance of 60 feet gradually necking down for an additional 25 feet to the current width of 10 feet (plus 1 foot shoulders) and finally, constructing a County standard turn-out planned on the northeast side of the roadway approximately 400 feet east of the entrance from Silverado Trail.

The road widening will require the acquisition of land from the adjacent property owner for the additional right-of-way. The Venge's have received a letter of agreement from the adjacent property owner dated July 8, 2009, for the road widening to occur on their property contingent upon final agreement of compensation from the owners of the Venge property. (See Attachment G of this report.)

Public Works and Napa County Fire support a Road Exception with the inclusion of their conditions of approval for the following reasons: First, the access road to the proposed winery is encumbered by four other parcels served

by the private easement and is thus legally constrained. Second, it will protect and preserve three large, heritage Valley oak trees ranging in size from 48 to 60 inches in diameter at breast height (DBH) as well as a number of mature walnut trees of approximately 18 inches DBH that are growing adjacent to the road. These trees are unique features of the natural environment deserving preservation. Third, the Exception will not adversely effect the life, safety and welfare of the public or persons coming to the property because the Department of Public Works and the County Fire Marshall have imposed conditions of approval that provide equivalent standards of construction, maintenance and fire protection as those required by the County Road Standards. The remaining 1,300 feet of roadway, which is the private driveway to the winery site, will be improved to the full County standards (20 foot width).

5. Hydrology and Water Quality - The project's preliminary septic design found soil on the property to be adequate to support the sanitary and process wastewater improvements proposed. The Department of Environmental Management reviewed the proposal and recommended approval provided all conditions of approval as stated in their memo dated November 9, 2009, were met by the applicant. One of the conditions precludes construction of the cave system until such time as the property owner can comply with applicable setbacks to surrounding septic systems. Due to the substandard condition of the septic system on the higher adjacent property, it is the policy of Environmental Management to impose a 1,500 ft. septic setback on the subject property. The setback would remain in force until such time as the condition is remedied to the satisfaction of the Department.

Mr. Venge spent several months negotiating an offer to repair and/or relocate the affecting neighbor's septic system but was eventually turned down by the property owner. The applicant then approached Environmental Management with a mitigation proposal to protect the cave from septic infiltration. On October 19, 2009, Mr. Shook, the applicant's cave contractor, submitted a report entitled, "Proposed Protocols for Mitigating the Potential Effects of Adjacent Leach Field on Cave Construction". This report outlines how potential waste infiltration into the cave can be mitigated. The Department of Environmental Management reviewed the report, but ultimately did not approve it. A revised proposal was not submitted by the applicant.

Staff believes the situation of the substandard septic system may be remedied in the future to the satisfaction of the Department of Environmental Management. Consequently, the cave barrel storage was not removed from the project description and a mitigation measure was added to the project requiring approval from Environmental Management prior to any cave construction. As stated in the Use Permit Conditions of Approval, only one barrel storage area of up to 9,000 square feet is recommended for approval – either within a cave system or within an expanded production building with the total square footage for the winery not to exceed 15,400.

6. Biological Resources - Two reports were submitted by Dr. Stephen Rae of MUSCI Natural Resources Assessment reviewing the potential for the presence of County documented special status CNPS List 1B plants, wildlife and fish. Both reports concluded that given the lack of habitat, the development activities posed no significant impact on these resources. (See Initial Study and Biological Assessments attached for further details.)

7. Water Availability - Water for the proposed winery and existing vineyards will be supplied by four existing on-site wells, a water storage tanks totaling 10,000 gallons for vineyard irrigation and a proposed additional 12,000 gallon water storage tank for fire protection. The Phase 1 Water Availability Analysis indicates that existing water demand for the site is 2.95 af/yr including: 2.20 af/yr for existing vineyard; and, 0.75 af/yr for domestic use and landscaping. The proposed total water demand for the site (including visitation and marketing) is estimated at 2.61 af/yr with the cave system (2.54 af/yr with the expanded production building). The proposed includes: 0.53 af/yr for winery related uses and landscaping with caves (0.53 af/yr expanded production bldg); 2.04 af/yr for remaining vineyard with cave system (1.97 expanded production bldg.); and, 0.04 af/yr for winery office use with either caves or expanded building. This represents a decrease in water use totaling: 0.34 af/yr with the cave system over existing uses (0.41 with the expanded production building). The decrease is a result of the proposed removal of 0.8 acres of vineyard with the cave system (1.14 vineyard acres with the expanded wine storage/production building) requested for winery development and the conversion of the existing residential use to winery office/hospitality use.

The County has not received any comments or complaints that existing ground water use from the property has affected any neighboring wells during the prior history of the property's residential and vineyard water use.

8. City of Calistoga April 9, 2009 Letter - As with other recent projects, the County received comments from the City of Calistoga Planning and Building Department requesting five items be addressed as conditions of approval for the project as follows:

A. Notice/Agreement Wastewater Treatment Plant – The indemnification agreement is attached to this report. The City's letter and agreement were sent to the applicant. The applicant met with the County to discuss the matter and responded that they did not wish to enter into the City's agreement. Further discussion with the Deputy Director and County Counsel indicated it does not appear the City has jurisdiction over the project even though the project is within the City's planning area. They indicated the City does not have the ability to apply conditions of approval to the project, nor can they mandate the County apply conditions on their behalf because no nexus exists between the winery project and the potential for significant odors and noise to harm or annoy the winery property owner or its customers. This is due to the fact that the City is required by State law to operate the facility in accordance with certain health and safety requirements which include best management practices to reduce odors and noise at the facility. County staff has concluded that this results in a less than significant amount of off-site odor or noise impacts. In conclusion, Staff advised the applicant the issue was a private matter between the property owner and the City of Calistoga and was separate from the Use Permit process.

B. Erosion Control – All County approved projects now include pre and post construction runoff management requirements. The Planning Department has received the final comments for this project from the County's Public Works Department who have provided all appropriate site design Best Management Practices as required by the Napa County Manual for Post-Construction Runoff Management Requirements for inclusion into the project's standard conditions of approval.

C. Traffic Impacts – The City requested a traffic study for the project to address its potential impacts to the City's intersection of Silverado Trail and St. Highway 29. The Napa County Public Works Transportation engineer has reviewed traffic conditions in the area and the traffic impacts associated with the proposed project. Based on this review and the low traffic volumes anticipated as a result of this project, widening of Silverado Trail for a left-turn pocket will not be warranted. Since left-turn warrants will not be met at the driveway intersection with Silverado Trail, project impacts at nearby public road intersections such as Dunaweal Lane and St. Highway 29 would be negligible due to project traffic being dispersed around the traffic network. While our transportation engineer anticipates that the project would not have a significant impact on traffic and circulation, he has concerns about the configuration of the driveway connection from Silverado Trail to the winery itself. These have been addressed by the applicant's representative by way of civil improvements to widen the entrance and create a turn-out to improve ingress and egress.

D. Employee Housing Needs Mitigation - The City expressed concern that the County include a mitigation for housing needs associated with the employees generated by the project. The facility is anticipated to employ a maximum of up to 2 full-time and two part-time employees. This increase in the number of jobs in the area is small compared to the other winery operations and nearby community businesses and would not meaningfully change the balance of housing and jobs in the Calistoga vicinity.

Housing demand associated with the projected increase in employment would also be insignificant however, a development impact fee (included as a project condition of approval) would provide funds for constructing affordable housing to help address the need for affordable housing in the County. This fee is charged to all new non-residential developments based on the gross square footage of nonresidential space. The resulting Affordable Housing Fund is made available for affordable housing projects throughout the County, including projects in Calistoga.

E. Fire Safety and Access Road Compliance with 2007 California Fire Code – Final comment from the Napa County Fire Marshall is attached to this report. Their comments are based on the use and occupancy as described in the project's use permit application as it applies to current regulations required by the California Fire Code, 2007 edition and the National Fire Protection Standards. The County Fire Marshall indicated the City Fire Marshall did not comment on the project but indicated the County Fire Marshall must rely on the same standards and code requirements as the City Fire Marshall.

9. Neighbor Comments - An adjacent property owner to the East has voiced a number of concerns about traffic and fire issues. His letters and emails are attached to this report for Commissioner's review. He is concerned that if the applicant is granted an Exception to Road and Street Standards, it will have a detrimental affect on the overall traffic safety with regard to ingress and egress from the private road at Silverado Trail.

The applicant has sent a letter of introduction to all the surrounding neighbors regarding the project. His letter is attached to this report. According to the applicant, he has also kept in constant touch with these neighbors to update them on the project status and has met with them on several occasions to work out any concerns. As of the date of this report, no further inquiries from the public have been received from staff.

### **Consistency with Standards:**

Zoning - The project is consistent with AP (Agricultural Preserve) zoning district regulations. A winery (as defined in Napa County Code Section 18.08.640) and uses in connection with a winery (see Napa County Code Section 18.16.030) are permitted in the AP district with an approved use permit. This application complies with the Winery Definition Ordinance and the setbacks and other requirements of the Zoning Code.

Building Division Requirements - The Building Division recommends approval with standard conditions. Please see their memo dated November 13, 2009.

Fire Department Requirements - The Fire Department recommends approval with standard conditions. Please see their revised memos of August 5, 2009 & November 13, 2009.

Public Works Department Requirements - The Public Works Department recommends approval with conditions of approval as stated in their memo dated November 6, 2009 and revised memo for Groundwater dated November 9, 2009.

Environmental Management Department Requirements - The Department recommends approval provided all conditions of approval are satisfied. Please see their revised memo dated November 9, 2009.

Sheriff's Department Requirements - The Sheriff's Department has reviewed this application and has no comment.

### **SUPPORTING DOCUMENTS**

- A . Exhibit A - Findings
- B . Exhibit B - Proposed Conditions of Approval
- C . Department Comments
- D . Initial Study / Mitigated Negative Declaration/Project Revision Stmt & MMRP
- E . Traffic Studies



- F . Biological Assessments
- G . Road Exception Request & Neighbor Agreement Letter
- H . Phase One Water Use & Wastewater Feasibility Reports
- I . Cave Excavation Studies and Env Mgmt Setback Memo
- J . Application Materials
- K . City of Calistoga Letter / County Reponse Letter
- L . Neighbor Comments & Venge Outreach Letter
- M . Report Graphics

Napa County Planning Commission: Approve

Reviewed By: Melissa Gray