



A Tradition of Stewardship  
A Commitment to Service

Agenda Date: 3/2/2016  
Agenda Placement: 10A  
Continued From: 11/18/15, 1/20/16 & 2/17/2016

## Napa County Planning Commission Board Agenda Letter

---

**TO:** Napa County Planning Commission  
**FROM:** Charlene Gallina for David Morrison - Director  
Planning, Building and Environmental Services  
**REPORT BY:** EMILY HEDGE, PLANNER II - 259-8226  
**SUBJECT:** Summers Estate Winery Use Permit Modification P14-00232 and Variance P14-00233

---

### RECOMMENDATION

#### **SUMMERS WINERY - USE PERMIT MAJOR MODIFICATION P14-00232 & VARIANCE P14-00233**

**CEQA Status:** Consideration and possible adoption of a Negative Declaration. According to the proposed negative declaration, the project would not have any potentially significant environmental impacts. The project site is not on any lists of hazardous waste sites enumerated under Government Code Section 65962.5.

**Request:** Approval to modify the previous approvals for an existing winery (#U-238384, #U-108586, #96408-UP, #03075-MOD) to allow the following activities: 1) Recognize the conversion of the existing 2,350 square foot residence to a tasting room; 2) Recognize the conversion of the existing 530 square foot tasting room within the winery into a storage room; 3) Expand the visitation program from maximum tours and tastings of 12 person per day to 20 persons per day; 4) Increase wine production from 50,000 to 100,000 gallons; 5) ~~Construct a new 5,400 square foot covered tank farm~~ **[Replaced with a proposal to add two 1,000 sq. ft. covered areas attached to the winery building on the existing paved area adjacent to the parking lot]** 6) On-premises consumption of the wines produced on-site, consistent with Business and Professionals Code Sections 23356, 23390, and 23396.5 also known as AB 2004 (Evans 2008, or the Picnic Bill) in the tasting room and on the adjacent patio; 7) Deletion of condition #10 of use permit #96408-UP that prohibits outside social activities; 8) Allow the sale of wine-related merchandise in compliance with Napa County Code Section 18.16.030(H)(4); 9) Update fire suppression facilities and install two additional 21,000 gallon water storage tanks and pump; 10) Install new domestic and process wastewater treatment and disposal with authorization for the use of a hold and haul system during the construction transition period and very extended wet weather periods; 11) Install storm water detention and conveyance facilities; 12) Increase the number of on-site parking spaces to 15; 13) Realign the existing parking and landscaped areas; 14) ~~Add one loading dock~~ **[Request withdrawn]**; and 15) Architectural modifications to the existing residential structure. ~~The project also includes an application for a variance for the construction of the covered tank farm within the required 600 foot winery setback from Tubbs Lane. The covered tank farm is proposed approximately 327 feet from the centerline of Tubbs Lane. [The variance request has been withdrawn].~~ The proposed project site is located at 1171 Tubbs Lane, Calistoga, on a 25.3-acre site, in the Agricultural Preserve

(AP) District. Assessor's Parcel No. 017-160-015.

**Staff Recommendation:** Adopt the Negative Declaration and approve the Use Permit Modification.

**Staff Contact:** Emily Hedge, Planner II, (707) 259-8226, or emily.hedge@countyofnapa.org

**Applicant Contact:** Jim and Beth Summers, Property Owners, (707) 942-5508

**Applicant's Representative:** Jeff Redding, Land Use Planning Services, (707) 255-7375 or jreddingaicp@comcast.net

***CONTINUED FROM THE NOVEMBER 18, 2015, JANUARY 20, 2016 & FEBRUARY 17, 2016 REGULAR MEETINGS.***

### **EXECUTIVE SUMMARY**

#### **Proposed Actions:**

That the Planning Commission:

- 1) Adopt the Summers Estate Winery Negative Declaration based on Findings 1-6 of Exhibit A; and
- 2) Approve Use Permit Major Modification P14-00232 based on Findings 7-11 of Exhibit A and subject to the recommended Conditions of Approval (Exhibit B).

#### **Discussion:**

On November 18, 2015, the Planning Commission held a public hearing to consider Use Permit Modification # P14-00232 to modify the existing winery Use Permit to increase production, construct a new covered tank farm, expand/recognize the visitation program, allow on premises consumption, and recognize the unpermitted conversion of the existing residence into a tasting room facility. The item was continued to January 20, 2016, to address questions and concerns raised by the public and members of the Commission. The proposed project was discussed at the January 20, 2016 hearing and was continued at the recommendation of the Commission in order to prepare a new design that would not require a variance and to address other items of concern raised by the public, staff, and members of the Commission.

Staff received an alternative design and a response to comments from the January hearing. Staff did not have sufficient time to complete the analysis of the submitted materials prior to the staff report publishing deadline for the February 17, 2016 hearing and the items was continued to the March 2, 2016 meeting.

Staff has reviewed the redesign and resubmittal materials. Staff believes that previously raised concerns have been addressed and recommends that the project be approved subject to the proposed conditions. See the Background section for additional discussion.

### **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

**ENVIRONMENTAL IMPACT**

A Negative Declaration was prepared. According to the proposed Negative Declaration, the proposed project would have no potentially significant environmental impacts. The project site is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5.

**BACKGROUND AND DISCUSSION**

See the November 18, 2015, and January 20, 2016, staff reports for analysis of the full modification request. This staff report only contains updates and discussion in response to questions and concerns raised during the January 20, 2016 hearing.

**Discussion Points:**

Winery Road Setback and Variance - At the January 20th hearing, it was determined that the correct road setback was applied and therefore a variance was required for the proposed location of the tank farm. Due to staff's position that the findings of the variance could not be made, the applicant has provided a redesigned location of the tank farm. The redesigned location does not require a variance; therefore application P14-00233 has been withdrawn.

The residence can be converted to a winery structure within the setback per Napa County Code Section 18.104.230.C. It should be further noted that the code section states that "the winery may not encompass or expand beyond the legally established footprint of the structure as it existed on the above stated date. Any expansion of such structure beyond the footprint that legally existed on the above date shall comply with the setback provisions of subsection A of this section". Upon approval of the conversion of the residence to the winery tasting room, the footprint of the building may not expand or be modified.

Proposed New Tank Farm Location and Design - The new design consists of two covered areas, approximately 1,000 square feet each, attached to the winery building, on the existing paved area adjacent to the parking lot. The new design will meet the requirements of Napa County Code Section 18.104.230.B, which allows an existing winery, approved prior to the adoption of the Winery Definition Ordinance (Winery Setbacks), to expand within the minimum setback area provided the expansion is placed no closer to the centerline of the right-of-way than the nearest point of the existing structure to which the expansion is attached. Therefore, a variance is not required. Additionally, relocating the tanks will reduce overall site coverage from the original design, pose limited visual impacts from Tubbs Lane, and require less vineyard removal. Staff is in support of the redesign.

Visitation and Proposed Tasting Room - At the January 20th hearing, there were still questions regarding the physical size and capacity of the areas proposed to be used for the winery tasting area. The applicant stated that they are not exceeding their approved visitation levels and have since modified their website to remove language and promotional offers that were in conflict with their approved uses. Since the meeting, the applicant has provided staff with updated plans and evidence of changes to the physical design of the tasting room and outdoor space, which reduces the total area available for visitors to utilize at one time. Staff believes this will decrease the potential for over-visitation, lessening the previously raised concern.

The applicant has stated that they are removing the bar within the proposed tasting room, which accommodated approximately 20 people, and are replacing it with one table with 8 chairs. The applicant has removed 4 of the existing outdoor tables and 10 chairs from the patio. The applicant has purchased two additional signs, stating the winery is open by appointment only. The applicant is no longer promoting picnicking on site, as noted on one of the

new signs.

Construction Schedule – Use of Proposed Tasting Room - The applicant has prepared a preliminary construction schedule for the improvements to the existing winery building and proposed tasting room following Commission approval of the project:

Existing Winery (improvements required following Building inspection):

- 2/17/16 - Building permit plans submitted.
- 5/1/16 - Permits issued.
- 8/1/16 - Construction completed.

Tasting Room Compliance and New Tank Pad

- 6/1/16 – Building permit plans submitted.
- 12/1/16 – Building permits issued (dependent on staff workload, review timelines, and applicant response to comments).
- 6/1/16 – Construction completed.

The applicant has requested to continue to use the residence/proposed tasting room until building permits are approved (approximately December 2016) and construction is ready to begin.

Building and Code Enforcement Division staff prepared a memo itemizing the code deficiencies (observed during the 1/19/16 inspection) that need to be addressed. The memo references the California Uniform Building Code Section 111 – Certificate of Occupancy, which states in part “No building or structure shall be used or occupied, and no change in the existing occupancy classification of a building or structure or portion thereof shall be made, until the building official has issued a certificate of occupancy therefore as provided herein”. Because the structure was originally constructed and inspected as a residence, it does not have a certificate of occupancy to be occupied as a commercial structure. Staff is, therefore, recommending a condition of approval that prohibits use of the proposed tasting room until the construction on the structure is complete and a final certificate of occupancy has been issued. Until the construction is complete, the applicant could use the permitted 500 square foot tasting room within the existing winery building. Pending approval from the Commission, the applicant could also use the outdoor area for visitation and tasting, provided access to this area is or has received permits to ensure ADA compliance. Staff has provided a condition of approval to ensure ADA compliance prior to use of the patio.

Future Dwelling - A concern was raised that a residence could be built in the future without staff review of water use and removal of vineyards. A single family residence is allowed by right on a parcel zoned Agricultural Preserve, subject to approval of a building permit. If the existing residence is permitted to be converted to the tasting room a new residence could be developed on the property at a later date. Staff does not evaluate the removal of vineyards or water usage as part of building permit applications. At this time, there is no indication that a residence is proposed; therefore it is not reasonably foreseeable and is speculative to require additional review. A future building permit would be reviewed by all divisions. The Environmental Health Division will review the water supply at this time. No further analysis is required. The applicant would like to preserve the right to build a residence, as allowed under the zoning.

CEQA Determination - The proposed change in design has been reviewed and staff has determined that the Initial Study/Negative Declaration previously prepared for the project, encompasses any impacts from the new proposed design and the conclusions reached in the Initial Study do not change with the modified location. The new covered areas will be located on the existing paved area behind the winery building. The new design will reduce overall site coverage from the original design, pose limited visual impacts from Tubbs Lane, and require less vineyard removal. The project as proposed will not have a significant impact on the environment.

Staff Recommendation - Based on the discussion above, staff has prepared a summary of the proposed approval

as follows:

- a) Recognize the conversion of the existing 2,350 square foot residence to a tasting room; **Recommend approval as conditioned**
- b) Recognize the conversion of the existing 530 square foot tasting room within the winery into a storage room; **Recommend approval**
- c) Expand the visitation program from maximum tours and tastings of 12 person per day to 20 persons per day; **Recommend approval as conditioned**
- d) Increase wine production from 50,000 to 100,000 gallons; **Recommend approval**
- e) Add two 1,000 sq. ft. covered areas attached to the winery building on the existing paved area adjacent to the parking lot; **Recommend approval**
- f) On-premises consumption of the wines produced on-site, consistent with Business and Professionals Code Sections 23356, 23390, and 23396.5 also known as AB 2004 (Evans 2008, or the Picnic Bill) in the tasting room and on the adjacent patio; **Recommend approval**
- g) Deletion of condition #10 of use permit #96408-UP that prohibits outside social activities; **Recommend approval**
- h) Allow the sale of wine related merchandise in compliance with Napa County Code Section 18.16.030(H)(4); **Recommend approval**
- i) Update fire suppression facilities and install two additional 21,000 gallon water storage tanks and pump; **Recommend approval**
- j) Install new domestic and process wastewater treatment and disposal with authorization for the use of a hold and haul system during the construction transition period and very extended wet weather periods; **Recommend approval as conditioned**
- k) Install storm water detention and conveyance facilities; **Recommend approval**
- l) Reduce the number of on-site parking spaces to 14; **Recommend approval**
- m) Realign the existing parking and landscaped areas; **Recommend approval**
- o) Architectural modifications the existing residential structure. **Recommend approval**

Additionally, staff recommends:

- p) Removal of bocce ball court (bocce courts are not accessory to wineries and there is no longer a residential use) to be replaced as a landscape feature.

#### **SUPPORTING DOCUMENTS**

- A . Exhibit A Findings
- B . Exhibit B Conditions of Approval
- C . Additional Reviewing Agency Comments
- D . Applicant Resubmittal Materials
- E . Applicant Updated Plan Set
- F . Previous Staff Reports

Napa County Planning Commission: Approve

Reviewed By: Charlene Gallina