



A Tradition of Stewardship  
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Agenda Date: 3/3/2010

Agenda Placement: 9A

## 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:** Joseph Cellars Winery Use Permit Application P09-00174-UP

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### **RECOMMENDATION**

#### **J CELLARS WINERY / J CELLARS INVESTMENTS, LLC - USE PERMIT P09-00174-UP**

**CEQA Status:** 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 areas: Biological Resources and Transportation/Traffic. The project site is not on any of the lists of hazardous waste sites enumerated under Government Code section 65962.5.

**Request:** Use Permit No. P09-00174UP to establish a new 30,000 gallon per year winery with: 1) a 4,702 sq. ft. two-story winery building with a 2,009 sq. ft. exterior deck; 2) 15,798 sq. ft. of caves ; 3) a new left turn lane on State Route 29 at the approach to Quail Mountain Lane; 4) four full-time and four part-time employees; 5) 28 parking spaces; 6) tours and tastings by prior appointment only with a maximum of 75 visitors per day and 525 per week open 10 am - 6 pm; 7) a marketing plan with 104, 40-person marketing events, one 200-person release event, and participation in Auction Napa Valley; 8) improvement of an existing access driveway to winery road standards; 9) new domestic and process wastewater treatment systems with subsurface disposal; and, 10) installation of a 40,000 gallon fire protection water tank and associated water line. The project is located on a 25.96 acre parcel located on the west side of State Route 29 at its intersection with Diamond Mountain Road, within the AW (Agricultural Watershed) zoning district. APN: 020-180-058. 4455 St. Helena Highway, Calistoga

**Staff Recommendation:** Adopt the mitigated negative declaration and mitigation monitoring and reporting plan and approve the requested use permit as conditioned.

**Staff Contact:** Kirsty Shelton, 299-1377 or kshelton@co.napa.ca.us

***CONTINUED FROM THE FEBRUARY 17, 2010 REGULAR MEETING***

### **EXECUTIVE SUMMARY**

**Proposed Action:**

That the Planning Commission:

1. Adopts the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the Joseph Cellars Winery, based on findings 1-6 of Exhibit A, and;
2. Approves Use Permit P09-00174 based on findings 7-11 of Exhibit A and subject to the attached conditions of approval (Exhibit B).

**Discussion:**

The applicant proposes a new 30,000 gallon per year winery to be located at the toe of a hill bordered by existing vineyards to the east located in the front of a 25.96 acre parcel about 600 feet west of State Route 29, just south of the intersection of Diamond Mountain Road. An existing single family residence that has an operating bed and breakfast license (BB38485) is proposed to continue in it's current use. The winery itself would be located in a 4,702 sq. ft. two-story structure with a 2,009 sq. ft. exterior deck, and 15,798 sq. ft. of caves. The proposed winery would have a maximum of 75 by-appointment visitors per day, no more than 525 per week, and a marketing program including two events per week with 40 visitors per event, participation in the wine auction, and a 200-person one-time release event. Staff believes required findings can be made in support of the requested use permit and we recommend 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 areas: Biological Resources and Transportaion/Traffic. The project site is not on any of the lists of hazardous waste sites enumerated under Government Code section 65962.5.

**BACKGROUND AND DISCUSSION**

**Owner:** J. Cellars Investments, LLC

**Applicant:** Joseph Bartholomew

**Representative (Planner):** Lynn Sletto, Esq. Attorney at Law, Chuck Meibeyer Law Office, St. Helena

**Zoning:** AW (Agricultural Watershed)

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

**Filed:** April 23, 2009    **Complete:** November 24, 2009

**Winery Size:** 4,702 sq. ft. winery, 2,009 sq. ft. exterior deck, and 15,798 sq. ft. of caves; for a total of 22,509 square feet

**Production Capacity:** 30,000 gallons per year

**Visitation:** By-appointment tours and tastings; 75 visitors per day and 525 per week maximum

**Number of Employees:** 4 full-time and 4 part-time

**Hours of Operation:** 10 am to 6 pm Monday through Sunday; longer during crush. Office hours Monday-Friday 8am - 6 pm

**Marketing:** Two 40-person private promotional tastings with meals per week, one 200-person release event annually, and participation in Auction Napa Valley (all figures are max).

**Parking:** 28 (sixteen unmarked) spaces

**Parcel Size:** 25.96 acres

**Accessory/Production Ratio:** PHASE ONE: 9.2%  
PHASE TWO: 25%; for a combined 34.2% (40% allowed)

**Winery Coverage:** PHASE ONE: approx. 2%  
PHASE TWO: 5%; for a combined total of 7% (25% allowed)

**Setbacks:** FRONT: 544' to property line, 600' to centerline of right of way (600' required from centerline of HWY 29)  
NORTH SIDE: 192' (20' required)  
EAST SIDE: <300' to easement and 295' to property line (300' to easement and 20' to property line)  
REAR: 838' (20' required)

#### **Adjacent General Plan Designation/ Zoning / Land Use:**

##### North

**Rural Residential** General Plan designation

**Residential Country (RC)** Zoning

Primarily smaller residential lots ranging from 1.8-2.87 acres adjacent to the north property line accessed from Diamond Mountain Road, across Diamond Mountain Road a 17.17 acre parcel planted with vineyards and a single family residence.

##### South

**Agriculture, Watershed, and Open Space** General Plan designation

**Agricultural Watershed (AW)** zoning

Three residential properties accessed from the easement/Quail Mountain Road (2.27, 3.81, and 18.06 acres)

##### East

**Agricultural Resource** General Plan designation

**Agricultural Preserve (AP)** zoning

Adjacent to the property to the east is State Route 29, across SR 29 is a 63.11 acre parcel planted with vineyards (Cooke)

West**Agriculture, Watershed, and Open Space** General Plan designation**Agricultural Watershed (AW)** zoning

An approximately 16 acre open space parcel accessed from Diamond Mountain Road.

**Nearby Wineries (located within one mile of the project):**

Azalea Springs Winery 4301 Azalea Springs Way, Calistoga, CA 94515 - Approved 2001 - 12,500 gal/yr - marketing plan includes 532 events per year.

Clos Pegase Inc. 1060 Dunaweal Lane, Calistoga, CA 94515 - Approved in 1984 - 200,000 gal/yr - public tours and tasting with no marketing plan on file.

Fisher Winery 4771 Silverado Trail, Calistoga, CA 94515 - Approved in 2009 - 30,000 gal/yr. - tours and tasting by appointment only with 23 marketing events per year.

Teachworth Winery 4451 St. Helena Hwy - Approved in 2000 - 5,000 gal/yr. - tours and tasting by appointment only, marketing plan includes 2 events with under 25 people at each event.

Twomey Cellars 1183 Dunaweal Lane, Calistoga, CA 94515 - 81,480 gal/yr - public tours and tasting with no marketing plan on file.

Villa Amorosa 4045 St. Helena Hwy - Approved in 1988 - 250,000 gal/yr. - public tours and tasting (average 600 per week) with no marketing plan on file.

Von Strasser Winery 1510 Diamond Mountain Road, Calistoga, CA 94515 - Approved in 1979 - 24,000 gal/yr - tours and tasting by appointment only (average 28 per week) with no marketing plan on file.

**Code Compliance History:**

Having discussed the application with Enforcement staff, toured the property, and reviewed the Department's files, staff is not aware of any code compliance issues on the subject parcel.

**Discussion Points:**Setting

This approximately 26 acre parcel is located on the southwest corner of Diamond Mountain Road and State Route 29 and is accessed via Quail Mountain Road. Although Quail Mountain Road is located on the winery parcel, it is an easement to many of the surrounding neighbors. About one third of the property consists of valley floor, less than 5% slope and is currently planted with vineyards, the other two thirds consist of 30-75% slopes that includes an existing single family residence that has a legal operating bed and breakfast permit, Quail Mountain Bed and Breakfast (<http://www.cjasper.com/websites/quailmtn/index.htm>).

Tree Removal and Mitigation

The proposal requires the removal of 47 trees larger than 10" DBH (diameter at breast height); 25 of them are Black Oak, eight Douglas Fir, seven Big Leaf Maple, and seven Pacific Madrone. Currently, the County of Napa does not have a tree protection ordinance, however General Policy CON-24 does support the preservation of oak woodlands. Although it is undetermined if this is a potential oak woodland because of the diversity of species, the

applicant has agreed to replant at approximately a 2:1 ratio of every tree that is proposed to be removed with a tree with similar size and caliber. To offset any potential impacts from removal of the unprotected trees, the applicant has proposed to plant 52 native Oak trees, 11 native Fire trees, 10 Madrone trees, and eight Maple trees, for a total of 81 new trees (see Landscape Plan as attached within the Graphics). Condition of Approval number eight requires that the Landscape Plan be installed prior to temporary occupancy or occupancy of Phase One (caves). Further, in the attached Mitigated Negative Declaration, Mitigation Measure number one requires that long term monitoring and maintenance plan be executed (see attached Monitoring and Mitigation Plan), to comply with Oak Woodlands Preservation Act, and to comply with the Federal Migratory Bird Treaty Act (see Mitigation Measure Number One and Two). Staff's opinion is that the applicant has satisfied the General Plan's intention and that the Conditions of Approval and the Mitigation Measures will ensure that the trees are planted as described above and maintained to ensure long term survival.

### The Proposed Winery

Joseph Cellars is proposing a 30,000 gallon per year winery to be located in a two story gravity fed winery with caves and an exterior viewing deck. The applicant is requesting this to be built in two phases. Phase One includes 15,798 square feet of caves, restrooms, circulation roads, septic system, and the left hand turn lane. The second phase includes the 4,702 sq ft winery and 2,009 sq ft viewing deck.

Access to the facility will be along an existing road which runs from the property's southern boundary; the road is to be paved and widened to 18 feet to meet the County's winery road standards. In addition, the applicants are proposing a new septic field to be located near the intersection of Quail Mountain Road and State Route 29, and a 14 car parking lot.

The tasting room facility will be accessed from the 14-space parking lot via a bridge to the reception and tasting room adjacent to the tasting room is the exterior deck (technically the second floor). Flanked on the northend of the deck is a private tasting room accessed from the deck. Also on the second floor level are two handicap accessible restrooms, a dishroom, and a prep kitchen (refer to Environmental Management conditions of approval in regards to this being a commercial kitchen.) Access to the caves are also on this level.

The first floor level will take advantage of gravity with the fermentation room located under the covered crush area. The bottom floor level proposed an office, laboratory, case goods storage, another reception, another private tasting, employee kitchen, restrooms and a shower.

The architecture proposed includes a craftsman type approach with a lower pitched (about 3.5:12") standing seam metal roof, exposed timbers, wood window trim, board and batten wood siding, and a natural stone stem wall.

### Visitation and Marketing

Tours and tastings visitation to the proposed Joseph Cellars Winery would be by-appointment, with a maximum of 75 visitors per day and no more than 525 per week. In addition, a moderately-sized marketing program is proposed for the facility, including two 40-person private promotional tastings with meals weekly (considered **"104 medium events per year"** in the below comparison), one 200-person release event, and participation in the wine auction; these events will most likely happen after business hours and during non-peak times. In the situation the events are during the day, it is the wineries intention (and a condition of approval) to offset the 75 "by appointment" visitors per day with the up to 40 "marketing" visitors. Normal hours of operation would be 10 am to 6:00 pm, seven days per week, the marketing events are proposed to end no later than 10 pm (clean up by 11 pm).

Out of the 485 wineries that are pending or operating, 14 of them have marketing plans with an excess of 100 per year; following is a breakdown (small events are less than 25 people, medium are between 25-75, and large are over 75 people, listed in ascending order).

Rocky Ridge Winery 35,000 gallon/year production (average of 40 tasting visitors per week) marketing plan includes 104 small marketing events and two medium events per year, for a total of 106.

Laird Family Estates 900,000 gallon/year production (**average of 500 tasting visitors per week**) marketing plan includes **108 small marketing events per year**.

Stags Leap Wine Cellars 330,000 gallon/year production (average of 700 tasting visitors per week) marketing plan includes **150 medium marketing events per year**.

Nickel and Nickel Winery 125,000 gallon/year production(average of 350 tasting visitors per week) marketing plan includes 159 small marketing events and four large events per year, for a total of 163.

Hall Winery 1,260,000 gallon/year production(average of 3,500 tasting visitors per week) marketing plan includes **156 medium marketing events** and fifteen large events per year; for a total of 171 events.

Leonardini Winery 125,000 gallon/year production (no average visitations on file) marketing plan includes 203 marketing events per year, 176 small events, 24 medium events, and three large events per year.

Suscol Creek Winery 600,000 gallon/year production (average of 100 tasting visitors per week) marketing plan includes 210 small marketing events per year.

Shutz Winery 20,000 gallon/year production (average of 2 tasting visitors per week) marketing plan includes 365 small marketing events and one large event per year, for a total of 366.

Joseph Phelps Winery 420,000 gallon/year production (average of 800 tasting visitors per week) marketing plan includes 365 small marketing events, six medium events, and four large events per year; for a total of 375.

Ohlney Winery 25,000 gallon/year production (average of 70 tasting visitors per week) marketing plan includes 365 small marketing events, 12 medium events, and for a total of 377.

Azalea Springs Winery 12,500 gallon/year production (average of 125 tasting visitors per week) marketing plan includes **532 small marketing events per year**.

Cakebread Cellars 500,000 gallon/year production(average of 1,100 tasting visitors per week) marketing plan includes 728 small marketing events, one medium events, and five large events per year; for a total of 734.

Paraduxx Vineyards 156,000 gallon/year production (average of 250 tasting visitors per week) marketing plan includes 834 small marketing events per year.

Etude Winery 150,000 gallon/year production (average of 740 tasting visitors per week) marketing plan includes 1,095 small marketing events, 104 medium events, and seven large events for a total of 1,206.

To put the marketing plan in perspective, the winery that has the most similar marketing plan is Stag's Leap Wine Cellars, their annual production is 330,000 gallons per year, 300,000 more than this proposal. However, Azalea Springs Winery, within a mile from this winery has 532 small marketing events per year with an annual production of 12,500; half of this proposal. The traffic, parking, and circulation plans can accommodate the visitors for both by-appointment tasting and for marketing events and have been evaluated in the environmental review. However unique to this size of winery, the "biweekly marketing events" could be considered/included as weekly visitations; if considered it would bring the weekly visitations from 525 to 612, which is very typical for this size of winery. Because the weekly marketing events have been evaluated as consistent visitation, staff feels the marketing plan as conditioned meets the intention of County Code for the marketing of wine.

Traffic Impacts and Caltrans and City of Calistoga Comments

Although the traffic study doesn't warrant the requirement of a left hand turn lane, the applicant has agreed to do it to offset any potential impact. The inclusion of the lane has been included in the environmental review and further conceptual review from CalTrans and the Public Works Department. The Joseph Cellars Winery would have 4 full-time employees, 4 part-time employees, 75 busiest-day tours and tasting visitors, and potentially 4 busiest day production truck pickups/deliveries. Assuming 1 occupant per car for employees and 2.8 occupants per car for visitors, the project would account for a maximum of 104 daily trips (including visitors, operations, existing bed and breakfast, and staff) to and from the property.

The project also includes a number of private marketing events, including 40-person special events biweekly and one 200-person release event. The biweekly events are proposed to happen outside of business hours (to commence after 6:30 pm) and when they are conducted during business hours they will limit the tasting appointments to accommodate no more than 75 people per day. The biweekly events will add an additional 24 day-of-event trips. The large event and the participation in the wine auction will utilize shuttles and off-site parking.

As analyzed both here and in the project mitigated negative declaration, project impacts on traffic and off-site circulation should be less than significant with the inclusion of the left-hand turn lane.

Caltrans has submitted comments (see their letters of July 15; September 3; and November 18, 2009, requesting: 1. Detailed traffic impact study 2. encroachment permit 3. traffic impact fees 4. Design of traffic operations and environmental impacts.) The County has addressed their concerns by requiring the applicant perform a detailed traffic impact study, design the left hand turn lane and evaluated the environmental impacts in the attached mitigated negative declaration, and required as a condition of approval to get an encroachment permit.

At the request of the City of Calistoga the traffic study included the intersection of SR 29 and Dunaweal Lane and include any "identified deficiencies be addressed as mitigation measures or conditions of approvals". Number three of the Summary of Findings (page 2) of the Traffic Impact Study does show that this intersection currently operates at an "unacceptable level of service F", however continues to explain that the total additional vehicle trips increases the background volume by under 1% and would therefore be less than a considerable contribution to a cumulative environmental impact. This was reviewed by the County of Napa's traffic engineer and it was concurred that the inclusion of a left hand turn lane is all that is necessary for mitigation of the additional traffic that would result from this project. Figure A-2 and Figure A-3 indicate that the 2012 (analyzed with a 2% growth rate) Base Case Friday and Saturday peak hour traffic with the project at total build out and full operations only adds 5 peak hour Friday trips and 6 peak hour Saturday trips, less than .5% of the overall 1172 anticipated peak hour trips.

As the Planning Commission surely remembers, cumulative traffic impacts on roadway segments throughout the County were analyzed in the 2008 General Plan Environmental Impact Report. Significant cumulative traffic impacts were found to exist at the 2030 General Plan horizon along much of Highway 29 as it runs up-Valley and a statement of overriding considerations was adopted as part of the General Plan approval process. Staff believes any that any cumulative traffic impacts were considered in, and subject to the statement of overriding considerations in, the 2008 General Plan EIR and that they are less than considerable in either case.

City of Calistoga comments

City of Calistoga submitted comments (see their letter of July 16, 2009) requesting that the project consider 1) an indemnification agreement acknowledging the city's waste water treatment plan; 2) post-development storm water retention; 3) traffic study to include SR 29/Dunaweal lane; 4) housing needs; 5) Fire Code; and 6-9) Building Code requirements. County staff considered the above requests. The applicant is aware of the City's request for an indemnification agreement and is in communication directly with the City of Calistoga. Staff does not believe that it

warrants a project condition of approval. The County as standard conditions of project approval already requests post-construction retention and the current plan does include the design for on-site detention within swales adjacent to the parking area. The traffic study was discussed above under the traffic analysis. In regards to the housing allocations for employees, the County has an adopted housing impact fee to provide funds for constructing affordable housing. This fee is charged to all new non residential development based on the gross square footage of building area multiplied by the applicable fee by type of use listed in Chapter 15.60.100 table A. In regards to the project complying with the fire and building code, of course this project will comply with current Fire and Building Codes this will be analyzed in full detail prior to the release of the building permit.

### **Consistency with Standards:**

#### Zoning

The project is consistent with AW (Agricultural Watershed) zoning district regulations. A winery (as defined in Napa County Code § 18.08.640) and uses in connection with a winery (see Napa County Code § Section 18.20.030) are permitted in the AW district with an approved use permit. This application complies with the Winery Definition Ordinance and applicable sections of the Zoning Code.

#### Building Division Requirements

The Building Division recommends approval with standard conditions.

#### Fire Department Requirements

The Fire Marshal's office recommends approval with standard conditions. Please see their May 20, 2009 memo (attached).

#### Department of Public Works Requirements

The Department of Public Works recommends approval with standard conditions. Please see their memo (attached).

#### Department of Environmental Management Requirements

The Department of Environmental Management recommends approval with standard conditions. Please see their June 18, 2009 memo (attached).

#### Sheriff's Department Requirements

The Sheriff's Department has reviewed this application and has no comments or conditions.

### **SUPPORTING DOCUMENTS**

- A . Exhibit A - Findings
- B . Exhibit B - Conditions of Approval
- C . Public Works Conditions of Approval
- D . Fire and Environmental Management Conditions of Approval
- E . Revised Mitigated Negative Declaration
- F . Project Revision Statement
- G . Mitigating Monitoring and Reporting Plan
- H . Biological Surveys
- I . Exhibit to Bio Report



- J . Traffic Impact Study
- K . Application and Assoicated Documents
- L . Greenhouse Gas Reduction Checklist
- M . Wastewater Feasability Study
- N . Exhibit to Wastewater Study
- O . Graphics
- P . City of Calistoga comment letter
- Q . Public Comment

Napa County Planning Commission: Approve

Reviewed By: John McDowell