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Agenda Date: 5/6/2015  
Agenda Placement: 9A  
Continued From: April 1, 2015

## Napa County Planning Commission Board Agenda Letter

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**TO:** Napa County Planning Commission  
**FROM:** Charlene Gallina for David Morrison - Director  
Planning, Building and Environmental Services  
**REPORT BY:** Wyntress Balcher, Planner II - 707 299-1351  
**SUBJECT:** Bell Wine Cellars Use Permit Modification

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### **RECOMMENDATION**

#### **BELL WINE CELLARS / SPANOS BERBERIAN PROPERTIES, LLC - USE PERMIT MAJOR MODIFICATION NO. P13-00055**

**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:** Request for approval of a modification to Use Permits #U-90-42 and #03315-MOD to allow the following: 1) Increase in the approved production capacity from 40,000 to 60,000 gallons; 2) Increase the approved visitation from 24-76 persons per week to a maximum of 100 persons per day with a maximum of 420 persons per week; 3) Interior remodeling of the 8,911± sq. ft. winery to allocate a new 628 sq.ft. tasting room area; a new 150 sq.ft. commercial kitchen for on-site marketing event meals and food pairings at tastings; a 210 sq.ft. meeting room; and to construct a 1,048 sq.ft. storage mezzanine, resulting in a total of 9,959± sq.ft. winery floor area with a 1,450 sq. ft. exterior covered crush pad; 4) On-premise consumption of the wines produced on-site, consistent with Business and Professions Code §§23356, 23390, and 23396.5 (also known as AB 2004 (Evans 2008 or the Picnic Bill)) outside on the adjacent patio or lawns; 5) Employ maximum 15 persons; 6) Modify the existing Marketing Event Program to remove the following events: a) Lunch or dinner for trade, press, VIP's, a maximum 6/year with maximum 8 persons; b) Educational lunch for club or non-profit group, maximum 4/year, maximum 40 people; c) Harvest Festival, Grape Picking, Grape Stomp, etc., maximum 2/year, maximum 60 people; and d) Open House by invitation (i.e. Napa Valley Wine Auction), maximum 2/year, with maximum 200 people, but no more than maximum 30 guests at any given time to replace with the following new Marketing Event Program: a) Events for wine club members, wine education seminars and trade events with appetizers or full lunch or dinner, up to four (4) events per week (no more than 1 per day) with a maximum 40 guests; and b) Wine Auction-related and other major events such as the Napa Film Festival, accompanied by food and wine, sometimes with non-amplified musical program, four (4) per year for a maximum 200 guests. All marketing events will continue to be held in all of the various winery facilities, including the winery structure and patio area. The events will last approximately 4-5 hours between 10:00

AM and 9:00 PM depending on morning or evening schedule. Up to 80 overflow parking spaces in the vineyard along the side of the access road are available during large events; five spaces are available on the grass-crete hard surface adjacent to the winery (near lawn area adjacent to the winery and driveway entrance); and nine spaces available in the center area of the circular driveway near the residence; 7) Revise the annual limit condition on the number of buses (maximum 3 per year) permitted to visit the winery (Condition #7, Use Permit #U90—42) to exclude for-hire cars, vans and public transit; 8) Installation of a new subsurface drip wastewater system; and 9) Installation of a Transient Non-Community Water system and a water backflow prevention system. The ±7.8 acre parcel is located on the east side of the State Highway 29 frontage road, Washington St., approximately 600 feet north of its intersection with Hoffman Lane and .5 miles south of the town of Yountville, within the AP (Agricultural Preserve) Zoning District at 6200 Washington St., Yountville, CA APN: 036-110-030.

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

**Staff Contact:** Wyntriss Balcher, Planner II, (707) 299-1351, or wyntriss.balcher@countyofnapa.org

**Applicant Contact:** Scott Greenwood-Meinert, (707) 252-7122, or ScottGM@dpf-law.com

**THIS ITEM WAS CONTINUED FROM THE APRIL 1, 2015 REGULAR MEETING**

**EXECUTIVE SUMMARY**

**Proposed Actions:**

That the Planning Commission:

1. Adopt the Negative Declaration for the Bell Wine Cellars based on Findings 1-6 of Exhibit A; and,
2. Approve Use Permit Major Modification (P13-00055-MOD) based on Findings 7-11 of Exhibit A, and subject to the recommended Revised Conditions of Approval (Exhibit B)

**Discussion:**

A public hearing was held on April 1, 2015, and testimony was taken from interested members of the public, an adjacent neighbor and the applicant and his representative. The hearing was continued to the April 15, 2015 meeting, which was subsequently canceled. Staff was concerned with the total number of annual visitors that the proposed change in visitation to 100 visitors per day would generate, and considered the proposed 212 annual events high in relation to other wineries within the range of the proposed new production capacity. Visitation and marketing are listed as uses permitted within the AP zoning district when associated with a winery as an accessory use. But, such visitation and event activities must be clearly incidental, related and subordinate to the main use. At the April 1, 2015 meeting, the Commission shared Staff's concern with the visitation numbers and the proposed number of annual marketing events. Although the applicant and his representative volunteered a less intense weekly visitation and marketing program, the Commission requested that the applicant and Staff meet to discuss a less intense proposal.

Staff met with the applicant and their representative to discuss revisions to the visitation and marketing program to bring their modification request more into conformance with the definition of "accessory" use to the winery operations. The applicant presented more background information regarding the marketing needs of their business, which embraces the direct-to-consumer concept in addition to the "three tier" distribution which they outlined in their March 31, 2015 letter to the Commission. Based upon the meeting, the applicant has presented a reduction in the annual visitation numbers that would work for them and more in conformance as an accessory

use to the winery. The applicant proposes 100 visitors per day, with a maximum weekly limit of 250 visitors during November 1 through April 30 and a weekly limit of 400 during May 1 through October 31. The proposal would result in a total annual visitation of 16,900, as compared to the total ±36,400 visitors previously proposed. Further, they reduced the smaller marketing events to two (2) times per month for 40 people, but those guests will be included in the maximum weekly (annual) limitation. No change is proposed regarding the four annual events for 100-200 persons, but the total number of events would be reduced to 28 per year versus 212. Staff finds that the proposed new visitation and marketing program is more in line with an "accessory use" as being supportive and subordinate to the wine production operations.

### **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: According to the proposed Negative Declaration, the proposed project would have no potentially significant environmental impacts. This project site is not on any of the lists of hazardous waste enumerated under Government Code Section 65962.5.

### **BACKGROUND AND DISCUSSION**

#### **Discussion Points**

Tours and Marketing Events - This item was first heard on April 1, 2015, wherein the proposal to increase the production capacity of the existing winery from 40,000 gallons to 60,000 gallons; to increase visitation from their existing peak of 50 to 100 persons/day (total 36,500 visitors per year); to change the approved marketing program from 14 events (728 guests) to 212 events (total 9,120 guests) per year; to increase in the number of employees from 6 to 15; to remodel and reallocate space within the winery; and to improve the wastewater disposal system was presented. The applicant also indicated that the visitation to the winery has increased beyond the amount approved by their use permit. Currently, there are no code enforcement actions on this winery given that the applicant voluntarily submitted the application to eliminate the noncompliance.

Just prior to the hearing, the applicant and his representative submitted letters to the Commission offering additional rationale for the requested increases in visitation and marketing events. The applicant's letter outlined the origin of the winery and wine sales history; discussed the winery's original sales concepts using the "three tier system" distribution and why they determined total reliance on that system was unsustainable; and their move to "direct to consumer sales" combined with the "three tier system".

Although staff was able to make the findings that the project complies with the zoning regulations, the proposed visitation and marketing program for the 60,000 gallon seemed substantial in comparison to similar medium-sized wineries. Staff recommended that the Commission determine whether the proposed increases in visitation and marketing was appropriate and whether the current levels should be maintained or something in between the two was more appropriate. The Commission agreed with Staff and continued the item to allow Staff time to meet with the applicant to discuss more appropriate levels of visitation.

On April 2, 2015, the applicant and representatives met with staff to discuss reductions in visitation numbers that

would work with the winery's marketing concept. The applicant identified periods when visitation was slow: after harvest through the end of spring and when the peak visitation/sales occur in the summer through harvest months. The revised visitation plan proposes a maximum of 250 visitors per week during the slow periods, and a maximum 400 visitors per week when the visitation is high, but would request a maximum of 100 daily visitors. The proposed number of small events with 40 guests has been reduced in half to two per month, however, the applicant proposes that these guests be included in the weekly maximum visitor counts proposed (400 summer/fall; 250 winter/spring). The applicant further proposes to change their request to 28 events per year, 2 per month for 40 guests and 4 per year for 200 guests.

In the original staff report, a comparison chart of the 40,000 to 80,000 gallon wineries was prepared for the Commission to assist in the discussion regarding the level of intensity of the accessory visitation/marketing activities to wine production. In addition to providing data regarding the number of daily visitors, weekly visitors, annual visitors, and the number of events, the chart has now been expanded to include an average of the visitation and event numbers. The wineries which have no visitors and no events were not included in the average. Based upon these averages, the number of events are less than the average, and the proposed number of annual visitors is slightly higher than the average. The applicant is proposing to maintain a sustainable number of annual visitors by decreasing the number of visitor appointments during half of the year.

In response to the seasonality for visitation numbers, Staff has added a condition of approval requiring the applicant to annually submit for the next 3 years beginning in January 2016, a report on their visitation and marketing activities. Such results would be presented to the Planning Commission as an informational item.

### **Decision Making Options**

#### Option 1- Approve Applicant's Proposal (Staff Recommendation)

This option would result in an increase in the production capacity of the existing winery from 40,000 gallons to 60,000 gallons; result in allowing reallocation of space within the winery building to add a 237 sq.ft. conference room and 593 sq.ft. tasting area plus a storage mezzanine above; expanded the water and waste disposal systems; clarify the bus limitation to exclude vans; and increase visitation from 76 per week to visitation of 100 visitors per day with a maximum of 400 visitors per week during May 1 through October 31 and a maximum of 250 visitors per week during November 1 and April 30; result in a change in marketing events from 14 events per year to two events per month for a maximum of 40 guests who would be included in the total visitation tally, and 4 events per year with maximum of 200 guests. All uses will be subject to the conditions of approval attached to the project.

Action Required - Follow proposed action listed in Executive Summary. If conditions of approval are to be amended, specify conditions to be amended at the time the motion is made.

#### Option 2 - Reduced Development Alternative

This option would further reduce the number of visitors to the winery and/or number of events beyond the applicant's revised proposal. The applicant has provided a significant reduction in visitation with the revised proposal and has previously indicated that there is adequate parking available to accommodate the proposed visitation numbers. The applicant indicated that because of the winery's location in close proximity to the town of Yountville, the winery has experienced significant visitation via transport vans from local hotels, the local trolley, and bicyclists. As discussed above, the reduction in visitation six months out of the year would make the winery more consistent with similar wineries and does not seem to significantly overshadow the operations of the wine production activities. To provide a visitation number closer to the weekly average of 229 visitors, the Commission could consider the option of reducing the weekly maximum to 350 visitors during the high season.

Action Required - Follow the proposed action listed in Executive Summary and amend the scope and project specific conditions of a approval to further reduce the visitation numbers.

Option 3 - Deny Proposed Modification

In the event the Commission determines that the project does not, or cannot meet the required findings for grant of a use permit modification, Commissioners should articulate what aspect or aspects of the project are in conflict with required findings. In a similar fashion to use permit approvals, State law requires the Commission to adopt findings based substantial evidence, setting forth why the proposed use permit is not consistent with the General Plan and/or County Code and therefore is being denied. Based on the administrative record as of the issuance of this staff report, there does not appear to be any evidence that suggest denial of the project is warranted.

Action Required - Commission would adopt a tentative motion of intent to deny the project and remand the matter to staff for preparation of required findings to return to the Commission on a specified date for formal adoption.

Continuance Option

The Commission may continue an item to a future hearing date at its own discretion.

**SUPPORTING DOCUMENTS**

- A . EXHIBIT A - FINDINGS
- B . EXHIBIT B - REVISED CONDITIONS OF APPROVAL
- C . EXHIBIT C - 40,000 TO 80,000 Gallon Wineries w/averages
- D . Applicant Proposed Visitation/Marketing Revision 4/16/15
- E . Public Comments
- F . Previous Planning Commission Staff Report-April 1, 2015

Napa County Planning Commission: Approve

Reviewed By: Charlene Gallina