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Agenda Date: 6/17/2015  
Agenda Placement: 9A  
Continued From: 5/20/15 & 6/3/15

## 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:** SHAVETA SHARMA, PLANNER III - 707-299-1358

**SUBJECT:** Markham Vineyards Use Permit Major Modification P14-00100

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### **RECOMMENDATION**

#### **MARKHAM VINEYARDS-DAVID W. FLANARY- USE PERMIT MAJOR MODIFICATION NO. P14-00100-MOD**

**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 of the lists of hazardous waste sites enumerated under Government Code Section 65962.5.

**Request:** Approval to modify previous project approvals (Use Permit #U-157879, Use Permit #U-28889, Use Permit #U-89-33, and Use Permit #96075-MOD) for an existing Winery to allow the following: 1) Increase production from 300,000 gallons per year up to 429,000 gallons per year; and (project description update) request for on premise consumption of wines produced on site within the outdoor patio consistent with Business and Professions Code §§23356, 23390, and 23396.5 (also known as AB 2004 (Evans 2008 or the Picnic Bill) **[Updated based upon applicant request]**). No expansion or increase in floor area, visitation, number of employees, parking spaces, or marketing is proposed. The project is located on an 9.97 acre site at 2812 St. Helena Highway, St. Helena, approximately 300 feet north of its intersection with Deer Park Road, within the Agriculture Preserve (AP) zoning district, designated Assessor's Parcel Number: 022-200-008.

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

**Staff Contact:** Shaveta Sharma, (707) 299-1358 or [shaveta.sharma@countyofnapa.org](mailto:shaveta.sharma@countyofnapa.org)

**Applicant Contact:** Jeff Redding, 2423 Renfrew Street, Napa, CA 94558; (707) 255-7375

**CONTINUED FROM THE MAY 20, 2015 AND JUNE 3, 2015 REGULAR MEETING.**

**EXECUTIVE SUMMARY****Proposed Actions:**

That the Planning Commission:

1. Adopt the Negative Declaration, based on Findings 1-6 of Exhibit A; and
2. Approve Use Permit Modification No. P14-00100-MOD based on Findings 7-11 of Exhibit A and subject to the recommended conditions of approval (Exhibit B).

**Discussion:**

A public hearing was held on May 20, 2015 on this item. Based upon public testimony from the Applicant regarding staff's recommendation, the Planning Commission directed staff to work with the Applicant to clarify the CEQA analysis with regards to visitation/marketing event numbers requested by the Applicant, and continued this project to June 3, 2015, and subsequently to June 17, 2015. The Applicant has submitted documentation to support the pre-WDO visitation numbers that the Applicant is requesting be recognized.

The Applicant requests approval of a Use Permit Major Modification to an existing 300,000 gallon per year pre-WDO winery to allow an increase in maximum production capacity to 429,000 gallons and requests on site consumption of wines produced on site within the outdoor patio in consistent with Business and Professions Code §§23356, 23390, and 23396.5 (also known as AB 2004 (Evans 2008 or the Picnic Bill)). No other changes are proposed. This proposal has been analyzed for its environmental impacts, which were found to be less than significant. The applicant can accommodate the increased production without the need to construct new infrastructure and as a result there is minimal impact to the site or its surroundings. As an existing winery that has sufficient grapes to meet its increased production numbers and a history free of compliance issues, the proposal appears appropriate. Staff believe the proposed project is consistent with the Napa County Zoning Ordinance and General Plan, and recommends approval of the project with standard winery conditions of approval.

**FISCAL IMPACT**

Is there a Fiscal Impact?                      No

**ENVIRONMENTAL IMPACT**

Negative Declaration Prepared. According to the proposed Negative Declaration, the project would not have any potentially significant environmental impacts. The Negative Declaration was revised consistent with State CEQA guidelines § 15073.5(c)(4). The project site is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5.

**BACKGROUND AND DISCUSSION****Proposed and Existing Winery Characteristics**

**Visitation - Approved: Public maximum 300 persons per day; maximum 450 per week**

**Visitation - Proposed:** No change.

**Marketing Program- Approved:** 81 annual events; Average attendance 50 persons; Maximum attendance 390 persons; 7,000 persons annually

**Marketing Program - Proposed:** No change.

**Number of Employees-Approved:** Up to 45

**Number of Employees-Proposed:** No change.

**Days and Hours of Operation- Approved:** Employee hours: production, 7:30 AM to 5:00 PM; hospitality/ tasting room, 10:00 AM to 5:30 PM.

**Days and Hours of Operation-Proposed:** No change.

### Discussion Points

Visitation and Marketing - As with many wineries that were established prior to 1975 and the requirement to have a use permit, the extent of pre-WDO visitation and marketing entitlement is somewhat vague. Since 2010, it has been the County's practice to determine the full extent of pre-WDO visitation and marketing activities as part of processing use permit expansion requests. In this case, use permit modifications issued in 1979 and the 1980's clearly establish that drop-in visitation was established, with tours and tastings for an anticipated maximum daily of 300 persons daily and maximum of 450 weekly. The applicant has provided historical documentation demonstrating the average number of monthly visitors at the winery dating back to 1989, which shows annual visitation as 22,312 persons annually as evidence to support their claims that historically visitation has been in the neighborhood of 22,000 annual tasting visitors. The marketing component that has historically occurred is not clear in the use permit history, other than past approvals did contain space for marketing events, inclusive of a kitchen, and the combined sewage system had previously been designed to accommodate marketing commensurate with what the Applicant has put forward in this application. The Applicant has reported that the winery has 81 annual events, averaging 50 persons per event, and not exceeding 7,000 persons annually. The Applicant is not requesting any increases or changes to its existing visitation and existing marketing levels. The increased production will decrease the ratio between the number of visitors and the numbers of gallons produced by the winery. The Applicant falls on the low end for daily visitors, while it is just above the average for marketing visitors. Overall, the total number of visitors to the winery is half the average of comparison wineries of similar production levels. The AB 2004 request associated with this permit is only to add the outdoor patio location for tastings to occur. Staff has determined that there are no impacts associated with this request.

Groundwater Availability - Current water use for the project relies on the well on the project parcel to provide 50% of the water with the remainder being provided by the City of St. Helena. This percentage will decrease both in total water supplied and percentage with this project. The City has only committed to serving the site with 1.97 AF/YR moving forward into the future due to water restrictions associated with the drought. The current use on the project site is 5.64 AF/YR. The projected water use for the project is 7.43 AF/YR. Napa County has established a threshold of 9.97 AF/YR for this parcel; therefore the estimated water demand of 7.43 AF/YR is below the threshold established for the parcel. Furthermore the City of St. Helena has provided a will serve letter indicating that they will continue to provide 1.97 AF/YR for the parcel. The remainder of the water will be provided by the on-site well. The County has received no reports and is not aware of any issue with groundwater in the project vicinity. In the event that City water supply is limited or unavailable for the project in the future the Applicant can rely on groundwater resources wholly based on their fair share factor. The project has sufficient water supplies to serve existing needs and the additional 1.79 AF/YR that is needed as a result of the proposed project.

### Decision Making Options

As noted in the Executive Summary Section above, Staff is recommending approval of the project with conditions of

approvals as described in Option 1 below. Decision making options also include a reduced development alternative and no project alternative.

#### Option 1 – Approve Applicant’s Proposal

Disposition – This option would result in an annual increase in wine production from 300,000 gallons to 429,000 gallons, and allow for on site consumption of wines within the outdoor patio within existing visitation limits.

Action Required – Follow proposed action listed in the Executive Summary. If conditions of approval are to be amended, specify conditions to be amended at time motion is made. This option has been analyzed for its environmental impacts, which were found to be less than significant. The Applicant can accommodate the increased production without the need to construct new infrastructure and as a result there is minimal impact to the site or its surroundings. As an existing winery that has sufficient grapes to meet its increased production numbers and a history free of compliance issues the proposal is appropriate. The Commission could also modify the proposed location of any AB 2004 consumption, which is proposed for an outdoor patio area. Additionally, the project meets all County Code requirements and complies with General Plan policies. This proposed increase would not result in any adverse affects and staff supports this option.

#### Option 2 – Reduced Production Alternative

Disposition – This option could result in a potential decrease in the requested wine production. The Applicant has demonstrated that they have the wastewater system and other infrastructure in place to accommodate the proposal.

Action Required- Follow proposed actions listed in the Executive Summary and amend scope and project specific conditions of approval to place limits on use. If major revisions of conditions of approval are required, the item will need to be continued to a future date.

#### Option 3 – Deny Proposed Modification

Disposition – 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. State law requires the Commission to adopt findings, based on the General Plan and County Code, setting forth why the proposed use permit modification is not being approved. Based on the administrative record as of the issuance of this staff report, there does not appear to be any evidence supporting denial of the project.

Action Required – Commission would take tentative motion to deny project and remand the matter to staff for preparation of required finding to return to the Commission on specified date.

#### Option 4 –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- Conditions of Approval
- C . Revised CEQA document

- D . Correspondence
- E . Wastewater Feasibility study
- F . Water Availability Analysis
- G . Historical Visitors data
- H . Previous Staff Report

Napa County Planning Commission: Approve

Reviewed By: John McDowell