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Agenda Date: 7/15/2009

Agenda Placement: 9A

## 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:** Carver-Sutro Winery Variance and Use Permit

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### **RECOMMENDATION**

#### **CARVER-SUTRO WINERY / ANNE CARVER TRUST – USE PERMIT REQUEST P09-00043-UP & VARIANCE REQUEST P09-00044-VAR**

**CEQA Status:** Categorically Exempt pursuant to Section 15303 and 15305 of the California Environmental Quality Act (Class 3 – New Construction or Conversion of Small Structures and Class 5 – Minor Alteration in Land Use Limitations) and Appendix B, Class 3 (New Construction or Conversion of Small Structures Item #10: Small Wineries) of the Napa County's Local Procedures for Implementing the California Environmental Quality Act.

**Request:** (A) Approval of a Use Permit to establish a new 20,000 gallon per year winery with: (1) a 3,265 square foot single story winery building that includes a covered crush pad, and 6,700 square feet of caves for a winery totaling 9,965 square feet; (2) two full-time and two part-time employees; (3) eight parking spaces; (4) tours and tasting by appointment only with a maximum of 20 visitors per day and a maximum of 120 visitors per week; (5) a marketing plan with: seven 30-person events per year; two 30-person events per year; hold no Temporary Events; and participation in the Napa Valley Wine Auction; (6) installation of a new engineered process and domestic wastewater treatment system; and,

(B) Approval of a Variance from the winery road setback requirements of Napa County Code Section 18.104.230 (A) (2) to allow a winery structure to be constructed 281 feet from the centerline of Palisades Road and to allow a cave portal that can be seen from this road to be constructed 210 feet from Palisades Road centerline where 300 feet is required. The winery project is proposed on an 80.22 acre parcel (pending a Lot Line Adjustment) located on the east side Palisades Road approximately 1,600 feet northeast of its intersection with Lake County Highway (St. Highway 29) within an AW (Agricultural Watershed) zoning district. (Assessor's Parcel #: 017-230-034 & 035). 3106 Palisades Road, Calistoga.

**Staff Recommendation:** Find the project Categorically Exempt from CEQA and approve the Use Permit and Variance with the proposed conditions of approval.

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

## **EXECUTIVE SUMMARY**

**Proposed Action:** (1.) That the Planning Commission find the project categorically exempt; (2.) That the Planning Commission approve Variance #P09-00044-VAR based on the attached findings 2-6 of Exhibit A; and, (3.) That the Planning Commission approve Use Permit #P09-00043-UP for Carver-Sutro Winery based on findings 7-11 of Exhibit A and subject to the attached Conditions of Approval (Exhibit B).

**Discussion:** This application requests approval of a variance and a use permit to establish a new 20,000 gallon per year winery. The project involves two parcels totaling approximately 98 acres (per a recent survey) that are located on the east side of Palisades Road approximately three quarters of a mile northeast of the City of Calistoga. A Lot Line Adjustment will be required to bring the proposed improvements onto the winery parcel. The proposed winery parcel is currently developed with 17.88 acres of vineyard, an existing main residence, a 2nd Dwelling Unit, and a barn. Approval of a Variance is requested since the proposed location for the new winery building encroaches 19 feet into the required 300 foot road setback for wineries from a public road (Palisades Road). Likewise, the proposed west cave portal and entrance area is subject to the variance because it can be seen from this road and is within 210 feet of the public road setback. Should the Variance be approved by the Planning Commission, the applicant will be required to permanently screen the west portal and associated pad area as a use permit condition of approval.

The applicant proposes to construct a single-story, 3,265 square foot winery building that includes a 620 square foot covered crush pad and 6,700 square feet of caves for a winery totaling 9,965 square feet. The project also includes: custom crush production activities not to exceed the approved total production gallons per year; two full-time employees and an additional two part-time employees at harvest season, eight parking spaces, and By Appointment Only Tours and Tasting for a maximum of 120 visitors per week. Also included is a marketing plan with nine 30-person events per year and one wine auction event with a maximum of 100 persons. All marketing events will be catered and no temporary events will be held. The applicant intends to utilize water from two existing wells and install a new engineered process and domestic wastewater treatment system for both the residential and winery uses on the site.

Finally, a Lot Line Adjustment will be required to bring all of the winery improvements, including the engineered septic system and caves, onto the winery parcel. After the Lot Line Adjustment, the winery parcel will total approximately 80.22 acres. Napa County Public Works requires the Lot Line Adjustment to be recorded prior to issuance of any grading or building permits associated with this permit. They also require improvements to the new winery access to current Napa County road and street standards.

Staff reviewed the data provided on the Napa County Environmental Sensitivity GIS layers as well as the submitted Geotechnical, Hydrological and Archaeological reports and found no reported evidence of any significant environmental impacts. A biological survey was also completed on October 21, 2008, by Olberding Environmental, Inc. The company performed a follow-up field survey on July 7, 2009, in which the biologist stated that the project would have no impact on a threatened or endangered species.

In addition, staff reviewed the project description and found the proposed winery is specifically limited in size, production capacity, traffic trips per day and marketing events. The Napa County Board of Supervisors has found that such projects typically do not have a significant effect on the environment and therefore qualify for a Class 3 (15303) categorical exemption under both the California Environmental Quality Act (CEQA) and, *The Napa County's Local Procedures for Implementing the California Environmental Quality Act*, for small wineries. The proposed winery is also in keeping with the Winery Definition Ordinance for grape sourcing and production/accessory use ratios. Its architectural design conveys a strong sense of the agricultural nature of its use while maintaining the General Plan goal of promoting attractiveness of wineries throughout the Napa Valley.

**FISCAL IMPACT**

Is there a Fiscal Impact?                      No

**ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: The proposed action is Categorically Exempt pursuant to Section 15303 and 15305 of the California Environmental Quality Act (Class 3 – New Construction or Conversion of Small Structures and Class 5 – Minor Alterations in Land Use Limitations) and Appendix B, Class 3 (New Construction or Conversion of Small Structures Item #10: Small Wineries) of the Napa County's Local Procedures for Implementing the California Environmental Quality Act.

**BACKGROUND AND DISCUSSION**

**Owner:** Anne D. Carver, Trustee, Margaret H. Carver Trust

**Applicant:** Denis Sutro

**Representative (Project Manager):** Denis Sutro

**Zoning:** AW (Agricultural Watershed)

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

**Filed:** February 5, 2009 Resubmitted: May 19, 2009 Complete for CEQA Review: May 19, 2009

**Building Size:** 3,752 square feet (footprint including crush pad) (3,265 square feet of interior space including crush pad)

**Cave Size:** 6,700 square feet

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

**Visitation:** A maximum of 20 visitors per day with no more than 120 persons during a six days/week operation

**Marketing:** Seven events per year with a maximum of 30-person per event; two release events per year with a maximum of 30 persons per event; and, one wine auction event per year with a maximum of 100 persons. All events will be catered. No temporary events will be held.

**Number of Employees:** Two full-time and two additional part-time employees during harvest season.

**Days and Hours of Operation:** 9:00 AM to 6:00 PM, six days a week (Marketing Events: Mon., Wed., Sat. -12 Noon to 10 PM)

**Parking:** 8 parking spaces, including one ADA-accessible space

**Adjacent Zoning / Land Use:**North

AW - Open Space/Rural Residential/Agricultural-Vineyard (41.5 acres) & AW - Open Space/Rural Residential (104 acres)

South

AW - Open Space/Rural Residential (65 Acres)

East

AW – Open Space (81 Acres)

West

AW – Agricultural-Vineyard (41.7 Acres)

Nearby Wineries (within one mile to the northeast and southeast of the project site):

Garnett Creek Winery - 3082 Old Lawley Toll Road - Approved 11/17/2004 - 15,000 gal/yr - 6492 sq. ft. - By Appt

T-Vine – 3120 Old Lawley Toll Road – Approved 10/20/1999 20,000 gal/yr – 5,000 sq. ft. - By Appt

Chateau Montelena Winery – 1429 Tubbs Lane – pre WDO – 128,000 gal/yr – 27,740 sq. ft. - Public

Arroyo Winery – 2361 Greenwood Avenue – Approved 11/10/1982 - 20,000 gal/yr – 6,074 sq. ft. – By Appt (Tasting Only)

**Property History:**August 1990

The Planning Department issues two unconditional certificates of compliance (86 acres and 22.86 acres)

July 1992

An Erosion Control Plan is approved associated with installation of a swimming pool.

March 1993

Building Department completes Guest Cottage final.

April 2000

Zoning Administrator approves Home Occupation permit for wine sales office in main residence.

February 2009

Applicant submits application for a winery use permit and a variance.

May 2009

Application deemed complete.

**Code Compliance History:**

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

## Discussion Points:

### I. Preliminary Environmental Evaluation

A preliminary environmental evaluation of the project was conducted to determine whether an Initial Study was required. Staff reviewed the project description against various environmental source materials including the Napa County Environmental Resource Mapping System (GIS), consultant prepared Biological, Archaeological, Hydrological, Geotechnical reports and most recent biological field survey information and State and Local California Environmental Quality Act regulations as they pertained to the project area. The review found no significant environmental impacts associated with the proposed project.

Therefore, pursuant to Sections 15061 (b) (2), 15300.4, and 15022 (a) (1) (C) of the State CEQA Guidelines, it was determined the project qualifies as Categorically Exempt under a: Class 3 (New Construction or Conversion of Small Structures); and a Class 5 (Minor Alterations in Land Use Limitations); as well as a Class 3 (New Construction or Conversion of Small Structures) under Appendix B, Item #10: Small Wineries of, *The Napa County Local Procedures for Implementing the California Environmental Quality Act*.

The State CEQA classes of exemptions allow for new construction of limited small new facilities, minor alterations to land use such as lot line adjustments and variances. Local Napa County CEQA procedures allow for construction and operation of small wineries that: are less than 5,000 sq. ft. (excluding caves); will produce less than 30,000 gallons of wine per year; will generate less than 40 vehicle trips per day and 5 peak hour trips except during marketing events. Marketing events are limited to: no more than ten, 30 person marketing events per year; no more than one, 100 person wine auction event; and, no temporary events. As previously described in the Executive Summary, this project fits well within these parameters.

### II. Variance

The applicant is requesting approval of a Variance to the required 300 foot road setback from public roads for wineries. The proposed winery will be set back 281 feet from Palisades Road which is a County maintained public road. The applicant has stated that the 19 foot encroachment into the setback is necessary because the location of the caves is an essential component of the project.

As discussed in the applicant's variance application, other sites outside the setback were considered but found infeasible. One of the alternatives was more damaging to the environment because it required the removal of numerous oak trees and interfered with an existing access serving other properties. The other alternative caused numerous other problems such as: on-going safety issues between the winery traffic flow and the residential compound; restricting access to existing septic tanks and pool equipment; and, generally creating conflicts between the winery operation, the vineyard operation and the residential activities due to the resulting poor placement of the winery and close proximity to other structures. The preferred site, which is adjacent to the hill on the northwest side of the property, will provide a suitable location for the caves with optimum vehicle circulation. It will also require the least amount of natural vegetation and vineyard removal for the winery development site.

It should be noted however, that by locating the winery and caves along the western hillside portion of the property, the west cave portal and associated entry pad area will likely be visible from the public road. Because it could be visible, it is subject to a variance under Napa County Code section (18.104.230 (A.) (2.). The cave / pad area will be set back 210 feet from Palisades Road encroaching into the setback 90 feet. The applicant will be required to permanently screen any visible portions of the west cave portal and associated entry pad from view of the road as a condition of approval of the use permit. Staff believes that since the property has unique considerations due to topography and the existing natural environment as discussed above, the variance findings for both structures can be made.

### III. Viewshed Regulations

The applicant proposes to cut into a steeply sloping hillside on the west side of the property to create the

development area for the new winery and cave system. Staff calculated the average slope of the natural grade over the graded area of development is 14%. A project is subject to the Viewshed regulations when any part of the development occurs on slopes 15% or greater and is visible from a designated Viewshed road. Since the graded area for the cave portal / entrance pad area is on slopes averaging 14 %, it is not subject to the Viewshed Ordinance.

#### IV. Winery Design and Aesthetics

The winery itself is small in massing and height and designed to blend with the natural environment through the use of earth tone stucco, a dark metal roof and dark brown wood trimming on the exterior. The caves, designated as Type I with no public access allowed, will be constructed at the rear of the winery building with only the west portal and pad being exposed. Existing oak trees and native vegetation beyond the winery excavated area will be retained to the greatest extent possible. As a condition of approval, any trees removed shall be replace elsewhere on the property on a 2 to 1 basis of equivalent caliper. The proposed winery development is considered by staff to blend well with its natural surroundings and will convey "permanence and attractiveness" as required by General Plan Policies AG/LU-10 and CC-2.

#### V. Biological Resources

On October 21, 2008, Olberding Environmental, Inc., conducted a biological survey of the Carver vineyard property. The purpose of the survey was to determine whether any of the possible five special-status bat species were roosting or foraging within or adjacent to the proposed impact area. The biologist walked the entire proposed impact area and the surrounding lands adjacent to this area. Based on field observations of suitable habitat and foraging areas and a thorough record search of the California Natural Diversity Data Base (CNDDDB), the biologist determined that only the pallid bat had the highest potential to utilize the site. The October 21, 2008, survey concluded that no bats currently occupied the property but recommended a follow-up report. The company performed a follow-up survey on July 7, 2009. After completing the field survey, the biologist confirmed that the project would have no impact on a threatened or endangered species.

#### VI. Archaeological Resources

At the applicant's request, Archaeological Resource Service (ARS) conducted an archaeological survey of the Carver property for the purpose of evaluating the presence of cultural resources that could affect the planned construction. During March of 2009, ARS conducted a thorough archival and literature search of the area and consulted with the Native American Heritage Commission and their suggested contacts. A surface examination was also conducted in the vineyard areas in and around the proposed construction site. Details of their research and field work can be found in the attached cultural resources evaluation report #09-017, submitted by ARS on June 18, 2009. It concludes that, "No evidence of either historic or prehistoric archaeological materials was observed during the examination of the proposed winery location, the cave, or the septic field. Thus it is the conclusion of this evaluation, that there will be no adverse effects to significant cultural resources from the planned construction. In light of the negative findings, an archaeological monitoring program does not need to be implemented at this time." The report strongly recommends further examination of the property should different areas other than those surveyed, become proposed sites for new construction or cultivation.

#### VII. Geologic Hazards

On December 2008, a preliminary geotechnical report was completed for the proposed winery and cave to be constructed on the Carver property by RGH, Consultants, Inc. According to the registered geologist, the purpose of the study was to evaluate the geologic hazards within the property and comment on the geotechnical feasibility of the project and recommend future geotechnical services for actual development, design and construction of the project. The report noted shallow landslide areas at the project site but indicated these did not threaten the location of the structures. Preliminary conclusions were that it was feasible from a geotechnical standpoint to construct the winery, cave, driveway and parking areas in the location specified. Future site-specific subsurface exploration and testing was recommended for verification of the final design. A soils report, prepared by a qualified geotechnical engineer, is required as part of the building permit submittal. The report will be used to recommend

appropriate grading methods and design specific foundation systems for the project.

### VIII. Utilities and Service Systems

The proposed winery domestic and process wastewater systems are described in full in the submitted septic feasibility report submitted by Delta Consulting & Engineering of St. Helena on January 15, 2009. (See attachment.) The report is based on the assumption that the proposed winery building will be located over the existing residence septic system. A new system is proposed to combine the existing domestic and winery sanitary wastewater and after pretreatment, distribute it using the same system subsurface drip dispersal system. Distribution of the winery process wastewater will consist of an on-site surface drip system with pretreatment or a hold and haul system at the owner's option. If the on-site surface distribution system is chosen, the engineer states that either the reserve area will be hold and haul or it will be located at a suitable area on the winery parcel. The final design will be required to meet septic system setbacks to cave structures and wellheads. A Lot Line Adjustment will be required to bring the proposed septic system including all distribution fields and reserve areas onto the winery parcel. The Department of Environmental Management has reviewed the proposed septic feasibility report and will require that all their attached conditions of approval be met prior to issuance of any grading or building permit.

### IX. Groundwater Availability

Water for the proposed winery and existing vineyards, orchard and residence will be supplied by two existing on-site wells and the proposed two additional water storage tanks for fire protection of a minimum of 12,000 gallons. The Phase 1 Water Availability Analysis was submitted by the applicant. It indicates that the estimated water demand for the site (post Lot Line Adjustment) will be 7.25 a/f of water per year including: 0.53 af/yr for winery production, 5.27 af/yr for existing vineyards, 0.75 af/yr for landscaping, 0.7af/yr for domestic use (main residence plus 2nd residence). This represents an increase of 0.69 a/f/year over existing uses. This project is located in the mountain areas of the Napa Valley which have an established acceptable water use criteria of 0.5 acre feet per acre per year. Therefore, the water use threshold for an 80.22 acre parcel is 40.11 acre feet per year. The increase is well below the water use threshold for the property currently established by Napa County.

### X. Fire Protection

The applicant indicates two 6,000 gallon water tanks will be located on the east side of the proposed winery for fire protection as required by CDF.

### XI. Winery Operation and Traffic Loads

Rick Marshall, Principle Transportation Engineer for Napa County Public Works reviewed the potential traffic impacts associated with the proposed project (see attachment) and stated that:

*Based on the project description, the traffic generated will be low enough that it will not warrant the widening of Palisades Road for a left-turn pocket. Calculations indicate 13 daily trips during harvest-season operations, and 8-17 daily trips associated with proposed events on-site (event traffic will occur only during non-peak hours). Since left-turn pocket warrants will not be met at the driveway intersection with Palisades Road, project impacts at nearby public-road intersections (such as Tubbs Lane or Route 29/Silverado Trail) will be negligible, as project traffic is dispersed around the road network. I recommend that this project not be found to have a significant impact on traffic and circulation.*

Staff has calculated this volume is also well within the less than 40 vehicle trips per day allowed under the local CEQA implementing procedures criteria for small wineries. In addition, staff notes the applicant has attempted to limit traffic trip concerns to a certain extent. For example, marketing events will only occur on Wednesday, Friday and Saturday. Production is a nominal 20,000 gallons per year with 60% of the grapes being estate grown - a factor which will significantly reduce truck traffic during harvest. County signage limiting visitation to, "By Appointment Only", will also help deter drop-in traffic. And under the local regulations for small wineries, no temporary events can be held at the winery.

### XII. City of Calistoga comments

The County has received comments from the City of Calistoga Planning and Building Director. The letter requests consideration and/or conditions of approval for: control of post-development peak stormwater discharge; inclusion of a traffic study to include impacts associated with use of the Silverado Trail/Highway 29 intersection; mitigations for project related housing needs; California Fire Code compliant improvements to all winery access roads; and, installation of fire sprinklers and safety equipment.

On May 29, 2009 the County Planning staff responded to the City of Calistoga's comments in the letter attached to this report. As discussed in the letter, it is the County Planning Department's opinion that all concerns are being met by the conditions of approval required by various agencies and/or development impact fees imposed on the applicant through the Napa County Building Department.

### XIII. Neighbor Comments and Concerns

Several individuals have contacted the Department and voiced their concerns about this application. However, no formal letters have been filed as of the date of this report. In general, the concerns received on or prior to June 26th, were related to: 1) the increase in traffic trips on Palisades Road and subsequent public intrusion on private property; 2) concerns over water shortages due to the increasing water usage of area wineries; 3) boron contamination; and, 4) possible impacts to cultural resources.

The applicant has had several one-on-one discussions with several neighbors and discussed plans for the new winery. In addition, he has sent a letter to the surrounding neighbors and welcomed discussion regarding any of the neighbor's concerns. (See example letter sent to surrounding neighbors attached.)

### **Consistency with Standards:**

#### Zoning

The project is consistent with AW (Agricultural Watershed) 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 18.20.030) are permitted in the AW district with an approved use permit. This application complies with the Winery Definition Ordinance and the setbacks (pending a Variance approval) and other requirements of the Zoning Code.

#### Building Division Requirements

The Building Division recommends approval with standard conditions. Please see their June 29, 2009 memo (attached).

#### Fire Department Requirements

The Fire Department memos of April 30, 2009 and June 9, 2009, recommend approval of the requested winery use permit and Type 1 wine cave with standard conditions noting special non-public access and other conditions for the wine cave. Also included in their standard conditions is the requirement for the applicant to provide a minimum of 10' of defensible space on each side of all fire apparatus access roads.

#### Public Works Department Requirements

The Public Works Department recommends approval with conditions of approval under their memo dated June 25, 2009, and also their memo dated June 25, 2009 for Groundwater. In addition, approval of a Lot Line Adjustment is required prior to approval of any building or grading plans associated with the use permit.

#### Environmental Management Department Requirements

The Department recommends provided all conditions of approval are satisfied. Please see their memo of July 10, 2008.



Sheriff's Department Requirements

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

**SUPPORTING DOCUMENTS**

- A . Exhibit A - Proposed Variance & Use Permit Findings
- B . Exhibit B - Proposed Scope and Conditions of Approval
- C . Building Division Conditions of Approval Memo
- D . Environmental Management Conditions of Approval Memo
- E . Public Works Conditions of Approval Memo
- F . Public Works Groundwater Conditions of Approval Memo
- G . Fire Marshal Conditions of Approval Memo
- H . Public Works Transportation Engineer Comments Memo
- I . City of Calistoga Comment Letter
- J . County Response Letter to City of Calistoga
- K . Applicant Sample Letter to Neighbors
- L . Use Permit Application Material and Photo Simulations
- M . Variance Application Material and Photo Simulations
- N . Phase I Water Study (Pre & Post Lot Line Adjustment)
- O . Septic & Wastewater Feasibility Report
- P . Archaeological Report
- Q . Biological Report
- R . Geotechnical Report
- S . Hydrology Report
- T . Presentation Graphics

Napa County Planning Commission: Approve

Reviewed By: Melissa Gray