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Agenda Date: 7/20/2016

Agenda Placement: 9A

## 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:** John McDowell, Deputy Planning Director - 299-1354  
**SUBJECT:** Mountain Peak Winery - Use Permit P13-00320

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### **RECOMMENDATION**

#### **MOUNTAIN PEAK WINERY / MOUNTAIN PEAK VINEYARDS, LLC / USE PERMIT NO. P13-00320-UP AND ROAD AND STREET STANDARDS EXCEPTION REQUEST**

**CEQA Status:** Consideration and possible adoption of a Negative Declaration. According to the proposed Negative Declaration, the proposed 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:** Request for approval of a Use Permit to allow: 1) Construction of a new 100,000 gallon per year winery including an approximately 33,424 square foot cave, approximately 8,046 square foot tasting and office building, and approximately 6,412 square foot covered outdoor crush pad and work area; 2) demolition of the existing single family residence; 3) installation of twenty-six parking spaces; 4) construction of two (2) new driveways and private access roads with ingress/egress from Soda Canyon Road; 5) installation of a High Treatment wastewater treatment system and community non-transient potable water supply sourced from on-site private wells including two (2) 100,000 gallons water tanks for vineyard irrigation and one (1) 20,000 gallon water tank for domestic supply; 6) disposal of all cave spoils on-site within existing vineyards; 7) nineteen full time employees, four (4) part-time employees and four (4) seasonal harvest employees; 8) wine tours and tastings by prior appointment only for a maximum of eighty visitors per day and a maximum of 320 visitors per week; 9) a marketing plan including three (3) events per month for up to twelve visitors, three (3) events per month for up to twenty-four visitors, four (4) events per year for up to seventy-five visitors, and two (2) events per year for up to 125 visitors; and 10) on premises consumption of wines produced on site in the tasting room and outdoor terrace in accordance with Business and Professions Code Sections 23358, 23390 and 23396.5 (AB 2004-Evans Bill). The project also includes a request for an exception to the Napa County Road and Street Standards (RSS) to increase the maximum slope on a portion of the commercial access road to the covered crush pad and cave portals from 16% to 19.6%. The project is located on a 41.76-acre parcel on the northwest side of Soda Canyon Road, approximately 6.1 miles north of its intersection with Silverado Road, 3265 Soda Canyon Road, Napa, CA, 94558; APN: 032-500-033.

**Staff Recommendation:** Adopt the Negative Declaration and approve the Use Permit and Road Exception Request, as conditioned.

**Staff Contact:** John McDowell, (707) 299-1354 or [john.mcdowell@countyofnapa.org](mailto:john.mcdowell@countyofnapa.org)

**Applicant / Property Owner Contact:** Steven Rea, 1114 Petra Drive, Napa, CA 94558, (310) 913-0742

## **EXECUTIVE SUMMARY**

### **Proposed Actions:**

That the Planning Commission:

1. Adopt the Negative Declaration based on Findings 1 - 7 of Attachment B; and
2. Approve Road and Street Standards Exception request based on Findings 8 - 9 of Attachment B, and Use Permit No. P13-00320-UP based on Findings 10-14 of Attachment B, subject to the recommended conditions of approval (Attachment C).

### **Discussion:**

The proposal is for the construction of a new 100,000 gallon per year winery with visitation and marketing program located near the end of Soda Canyon Road. Staff has reviewed the proposal and found it to be consistent with the Zoning Ordinance and applicable General Plan policies. Typically, larger production and visitation wineries are located closer to major through roads, and wineries located on Soda Canyon Road and other similar hillside roads tend to be smaller. There is no prohibition on larger wineries in more remote areas, but winery use permits are discretionary, as opposed to permitted by-right, for the very reason that discretion is needed to determine if a winery's scope/scale is appropriate for its location. Often times, the decision on scope, scale and location is rather straight forward, especially when the Commission can draw from other similar examples. In this case, there is not a robust history of similar past actions. In light of the broader community discussion regarding the proliferation of wineries in the valley that occurred over the last two years with the Agricultural Protection Advisory Committee, this project would be easier to support if it was smaller and the equivalent to other existing wineries on Soda Canyon Road, but the fact that it is larger is in itself not a reason to find it problematic. Staff supports this proposal for the following reasons: 1) the project design is of high quality, and corresponds well with the proposed level of use; 2) although construction of the project will involve substantial amounts of grading and site preparation, the resulting finished project will not substantially change the visual character from what exists today because of the project design; 3) Staff does not believe approval of this facility will lead to a rush of other similar facilities in similar location or on Soda Canyon Road as this is a somewhat unique/specialized request; and 4) other large wineries in remote locations have not lead to proliferation of similar wineries in remote locations. Based on the reasons stated above, staff recommends approval of the project subject to the recommended conditions of approval.

## **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

## **ENVIRONMENTAL IMPACT**

**CEQA Status:** Consideration and possible adoption of a Negative Declaration. According to the proposed Negative Declaration, the proposed 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.

### **BACKGROUND AND DISCUSSION**

**Applicant:** Steve Rea, 1114 Petra Drive, Napa, CA 94558, (707) 853-8600

**Representative:** Donna B. Oldford, Plans4Wine, 2620 Pinot Way, St. Helena, CA 94574, (707) 963-5832

**Zoning:** Agricultural Watershed (AW)

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

**Filed:** September 26, 2013

**Resubmittal Received:** November 21, 2013, May 27, 2014, July 9, 2014, November 25, 2014, April 14, 2015, March 21, 2016

**Deemed Complete:** April 15, 2016

**Parcel Size:** 41.76 acres

**Existing Development:** Single family residence, 28 acre vineyard, vineyard office.

#### **Proposed Winery Characteristics:**

**Winery Size:** 33,424 sq. ft. cave (Type III); 8,046 sq. ft. tasting and office building (replacing single family residence); 6,412 sq. ft. covered crush pad and work area

**Production Capacity:** 100,000 gallons per year.

**Development Area:** 26,572 sq. ft.

**Winery Coverage:** 5.3% (Maximum 25% or approximately 15 acres).

**Accessory/Production Ratio:** 37.1% (Maximum 40% permitted).

**Number of Employees:** 19 full-time employees, 4 part-time employees, and 4 harvest employees maximum.

**Visitation:** 80 persons maximum per day, 320 persons maximum per week

**Marketing Program:** 3 events monthly for 12 guests; 3 events monthly for 24 guests; 4 events annually for 75 guests; and 2 events annually for 125 guests

**Days and Hours of Operation:** 6 AM to 6 PM daily (Production hours only). 10 a.m. to 6 p.m. for visitation. Marketing events to conclude by 10 p.m.

**Parking:** 26 spaces

**Required Setbacks:** 300 feet from Soda Canyon Road, and 300 feet from private road bisecting subject property; 20 feet side and rear yard setbacks (for structures).

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

North: Agriculture, Watershed and Open Space (AWOS) /Agricultural Watershed Zoning (AW)/Agricultural use (vineyards) and large lot residential.

South: Agriculture, Watershed and Open Space (AWOS)/Agricultural Watershed Zoning (AW)/large lot residential.

East: Agriculture, Watershed and Open Space (AWOS) /Agricultural Watershed Zoning (AW)/Agricultural use (vineyards) and large lot residential.

West: Agriculture, Watershed and Open Space (AWOS)/Agricultural Watershed Zoning (AW)/large lot residential.

**Nearby Wineries (located within 1 mile of the project)**

Please refer to Attachment A.

**Parcel History:**

The site contains an existing 28 acre vineyard and residence which were both developed prior to the implementation of the Conservation Regulations in 1991 regulating hillside vineyard development. A vineyard management office was constructed in the northern portion of the site in mid 2000's.

**Code Compliance History**

During the course of processing this application, two code compliance cases were investigated. The first case involved wine tastings being conducted within the existing vineyard office on north side of the property. It was determined that the prior property owner had been conducting tasting in the office for a number of years without complaint, and was using the building as a staging area for tours and tastings for another property further up the canyon. The current property owner was responsive to the County's notice of violation and unauthorized tastings activities were discontinued.

More recently, a neighbor complained that the current property owner conducted a tasting at the existing residence, and requested that their account of the purported tasting be included with this report (see attachments). Code violation complaints are kept anonymous unless the complaining party wishes to disclose the source. Code Enforcement Staff contacted the property owner shortly after the complaint was received, and the property owner asserted that the persons visiting the property were friends and that no commercial wine tasting occurred. The complaining party indicated that they had talked with the visitors who gave indications that they were visiting for commercial tasting. The property owner made a claim of trespass from the complaining neighbors which Staff documented with the Sheriff's office. There have been no further incidents reported to the County, and given the conflicting reports and no indications of subsequent events, Code Enforcement has closed this case.

**Discussion Points**

Project Scope, Setting and Traffic - Neighbor and general public concern over this project has been strong and consistent since the project was originally submitted in 2013. Persons concerned with the project question its size, both in terms of proposed wine production level and proposed visitation/marketing, as it relates to its location near the end of Soda Canyon Road. The project site is approximately 6.5 miles up Soda Canyon Road from its intersection with Silverado Trail. This is a public road, but it is a mountainous dead-end road, which raises

concerns for some area residents over how the project's traffic generation will impact the area and the commonly shared public road. Soda Canyon Road carries a low traffic volume compared to through roadways such as Silverado Trail, but as a mountainous road, it is not suitable to carry the traffic volumes seen on Silverado Trail. Concerned citizens have asserted that road safety is currently an issue due to steep grades, sharp turns and poor drivers, and are concerned that this project will result in additional poor and/or unsafe drivers. Area residents have also raised concerns about how the project would change the general character of the road. Soda Canyon Road is a quiet road. Traffic volumes are quite low and most drivers travel at or below the speed limit.

In evaluating the project, Staff believe it is clear that from a technical perspective that the project would not result in a significant traffic impact. Traffic data and observations on the functionality of the existing roadway indicate that the road is not a health and safety hazard to its current users. The road also is well below operational capacity during peak hours and carries very few cars outside of peak times. Truck traffic will increase, but truck traffic is not a new phenomenon on this road. There are hundreds of acres of working vineyards located off this road which result in a wide variety of truck traffic occurring through the year. The applicant has suggested that a benefit of the winery at this location will be a reduction in truck trips on Soda Canyon Road because off-haul of grape during harvest will be eliminated. Although it is true that the grapes grown on the existing vineyards must be off-hauled presently, Staff believes overall truck trips will increase as a result of processing the grapes on site and conducting visitation and marketing promoting those grapes. However, the number of new truck trips will be well within the capacity of the road to handle, and the types and frequency of truck trips will not be out of character with the nature of truck trips that already occur routinely in that area. Detailed analysis of vehicle trips, including trucks, is contained in the attached traffic analysis prepared by the applicant's traffic engineer and peer reviewed by the County Traffic Engineer. Setting aside the technical analysis, the question of project scope appears to come down to community character. The applicant's objectives on this point do not align with objectives of those neighbors engaged on this proposal.

Visitation / Marketing - A maximum of 80 visitors per day and 320 visitors per week is proposed for the tours and tastings program. Food pairing and on-site consumption (pursuant to AB-2004) is included with the request. Outdoor visitation would occur on the covered patios attached to the main tasting room building and at two landscape features which will likely include covers but not be enclosed. Sizes of the individual indoor and outdoor tasting areas are indicated on the floor plans and site plans (attached). The Commission has looked more closely at outdoor visitation areas in recent years as it has become common for these features to be larger and more elaborate as seen on other recent projects. This has generated concern in some cases where visitation areas, both indoors and outdoors, appear to have substantially more capacity than the number of visitors proposed. In this case, the size and placement of the tasting areas appear to correspond well to the level of visitation proposed.

Marketing will be conducted in the tasting room building, the outdoor landscape features and in portions of the cave. The program envisions three events monthly for smaller groups of 12 visitors or fewer and three monthly events for groups up to 24 visitors. Six larger events for up to 75 and 125 visitors (three of each type of event) are proposed annually. This marketing plan is not out of scope with what has been implemented at other similarly sized wineries.

Noise - A noise analysis was conducted by a qualified acoustics professional that indicates the overall project will comply with County noise standards. The report is attached. It evaluated noise levels from visitation, marketing events, wine production, and vehicles traveling to and from the site. Although the report indicates the project will comply with standards, Staff is recommending project specific conditions of approval requiring a subsequent noise analysis be performed after operation of the project commences to determine if actual noise generation is in compliance with standards because forecasted noise levels come close to being a threshold levels. County noise standards set an hourly average maximum noise limit for certain receiving land uses. For example, the noise level at a nearby residence is 55 dBA between 7 a.m. and 10 p.m., drops to 50 dBA in the evening (10 p.m. - 7 a.m.), and higher noise levels are permitted for shorter periods of time within that hourly average maximum. Therefore, the daytime sound limit is 60 dBA for noise lasting less than 15 minutes in an hour; is 65 dBA for less than 10 minutes

in an hour; and is 70 dBA for one minute or less.

These standards are of particular importance on this project due to the conclusions of the noise study. Large truck noise is projected not to exceed the standard, because it is anticipated that such noise would last 1 minute or less for the nearest receiving residence. This is indeed possible because the truck noise projected on the nearest residence at the highest level would only occur while the truck is accessing the project driveway. Noise from that same truck would substantially dissipate at the residence once the truck descends the driveway to the crush pad, or after ascending the driveway to Soda Canyon Road. However, to comply with the standard, this noise generation source cannot exceed greater than one minute cumulative over a one hour period. This limits how the driveway can be used if truck noise is as loud as the noise consultant forecasts. If actual noise levels are 4 to 5 dBA less than what is forecast, then truck noise could last for up to 10 minutes in one hour.

Likewise, with outdoor marketing events, noise levels should be acceptable but would be exceeded if event noise continues past 10 p.m. or is higher than what is forecasted. As indicated in the noise analysis, ambient noise levels are quite low in the evening in the project vicinity which results in higher sensitivity to noise than in areas with high ambient noise levels. Therefore, it is appropriate that actual noise levels be evaluated once the project commences operation, and if noise is greater than projected, then changes to the project design and/or operational characteristics could be employed to achieve compliance. In the event noise levels are at or lower than forecasted levels, operational characters would comply with standards and no project changes would be necessary.

Groundwater - Detailed water availability analysis has been performed by the applicant's civil engineer and hydrogeologist indicating that there will be adequate water to serve the project without impacting other existing developments both on-site and in the vicinity. As the Commission is aware, this project has been in process for several years, and the attached water analysis shows the evolution and increasingly refined evaluation of groundwater resources. On pages 2 and 3 of the Bartelt Engineering Water Availability Analysis (WAA) attached, it states both the original estimates of existing and proposed water use based on County standard assumptions (i.e. – rule of thumb), and the more refined current WAA water use estimates based on site specific analysis by the hydrogeologist. The original rules of thumb estimates projected a demand of 14.75 AF/yr. for the existing vineyards and residence, and 17.02 AF/yr. of demand resulting from the project (new winery, demolition of residence, and reduced size vineyard). The updated analysis based existing water use on actual well log pumping information and notes that 20.79 AF/yr. was used for the vineyard and residence. The proposed water demand changed slightly downward to 16.46 AF/yr., showing that the project results in a net reduction in water use.

As is current practice for use permits, proposed conditions of approval will limit winery groundwater use to the requested 3.44 AF/yr., and require monitoring. The proposed conditions also detail actions for further review and/or alteration of the project if water use exceeds this amount. Please note however that the conditions do not place a limit on the existing vineyard's water use. The vineyards are an allowed-by-right existing use and served by a separate well from the proposed winery. The project subject to this discretionary use permit requires a new well because the current well is not designed to meet the requirements for a regulated transient non-community public water system.

Setbacks - County Code requires a 300 foot winery setback from both the public road and the private road, however the setback is not applicable to cave portals and adjoining work areas when those improvements are not visible from the subject road. In this case, the project meets winery setbacks because the majority of improvements are outside of the setback and those small portions that are within the setbacks are not visible from the subject road. No variance is required or requested.

Road and Street Standards Exception - A request for an exception to the Napa County Road and Street Standards (RSS) was submitted by Bartelt Civil Engineering and involves the service access road to the cave and work area. The exception is necessary because the proposed driveway has a maximum slope of 19.6% which exceeds the

current standard of 16%. At the time the project was originally submitted, the allowed maximum slope of the road was 20%, but late in 2015 the County was obligated to change the standard to 16% to comply with State Fire Code Regulations. Although the regulations became more stringent, the State continued its practice of allowing local agencies to have exception and alternative design processes dependent upon projects demonstrating compliance with two required findings. The first finding requires an environmental or legal constraint that conflicts with meeting the standard, and the second finding requires that the alternative project design request meet the same overall practical effect as the standard.

The RSS exception request consists of allowing a less than 500 ft. section of the service access driveway to exceed the 16% maximum slope requirement for a private road. The slope of the road will reach a maximum of 19.6%. This slope is necessary for the existing terrain where the road will be constructed slopes away from the public road at grades of 15% and greater. Because design standards require a gently slope driveway where it connects to the public road, the proposed design features a relatively level driveway (less than 3% slope) extending from Soda Canyon Road, and thus, a road slope greater than 15% is necessary for the remainder of the driveway. This 15% and greater existing slope represents a significant unique natural feature.

The County Engineering Division has discussed the request with the Napa County Fire Department and has conducted a site visit. Engineering staff recommends approval subject to recommended conditions attached. The proposed improvements will meet the same overall practical effect of the RSS accommodating the slope differences of the site. The proposed road is an employee-only access designed to a full 20 ft. paved width. The RSS exception would allow this road to a maximum slope of 19.6% where 16% is the standard. This road serves only employees and business vehicles, is separated from the customer access road, and the distance of road where slopes exceed 16% is less than 500 ft. in length. The proposed improvements will serve as an alternate method by which adherence to the RSS may be achieved and will provide the same overall practical effect as the RSS towards providing defensible space, preserving the natural environment and protecting the life, safety and welfare of the public.

Greenhouse Gas Emissions - The voluntary greenhouse gas checklist is attached to this report, in which the applicant has stated that the following measures are being considered for incorporation into the project: generation of on-site renewable energy, preservation of open space, habitat restoration, alternative fuel and electrical vehicle fleet, exceeding Title 24 energy efficiency standards, vehicle miles traveled reduction plan, water efficient landscaping, recycling of 75% of all waste, limit the amount of grading, and several other items. The applicant has also represented that they intend to construct and operate the facility in a manner to achieve a LEED Platinum certification. The project architect will provide a presentation for the Commission on how this will be achieved. These materials have not been provided to staff for evaluation, and are not required as this is a voluntary program.

Grape Sourcing - The applicant has represented that the majority of grapes used to make the winery's wine will be sourced from vineyards on-site and nearby. According to the applicant's representative, 112 producing acres are owned or under contract accounting for 92% of the proposed 100,000 gallon production capacity. No data on was provided on typical or average gallons of production per acre, but using a rule of thumb of 4 tons per acre and 160 gallons per ton, 112 acres would result in 71,680 gallons of wine which does correlate to some degree with the purported 92% figure put forth. Grape tonnage per acre varies greatly depending on many factors including varietal, season, location, farming technique, etc.

### **Decision Making Options**

As noted in the Executive Summary Section above, staff is recommending approval of the project with conditions of approval as described in Option 1 below. Decision making options also includes a smaller and no project alternatives.

Option 1 - Approve Applicant's proposal (Staff Recommendation)

Disposition - This option would result in approval of the proposed 100,000 gallon per year winery with a visitation and marketing program and the RSS Exception.

Action Required - Follow the proposed action listed in 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.

Option 2 - Reduce Project Concept

Disposition - This option would reduce the size of the winery to a size deemed appropriate by the Commission.

Action Required - Minor revisions in the project can be addressed through changes to conditions of approval. Major reductions in project size would likely trigger continuation off of the agenda.

Option 3 - Deny Proposed Project

Disposition - In the event the Commission determines that the project does not, or cannot meet the required findings for the granting of a Use Permit and the Road & Street Standards Exception. Commissioners should identify what aspect or aspects of the project are in conflict with the required findings. State Law requires the Commission to adopt findings, based on the General Plan and County Code. 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 the project and remand the matter to staff for preparation of required findings to return to the Commission on a specific date.

Option 4 - Continuance Option

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

**SUPPORTING DOCUMENTS**

- A . Winery Comparison Chart
- B . Findings
- C . Conditions of Approval
- D . Department Conditions Memos
- E . Application Narrative
- F . Use Permit Application
- G . Cave Feasibility Report
- H . Road Exception Request
- I . Soda Canyon Road Study
- J . Draft Negative Declaration - Initial Study



- K . Traffic Study
- L . Traffic Study Figures and Tables
- M . Noise Assessment
- N . Groundwater Study
- O . Water Availability Analysis
- P . Stormwater Treatment Plan
- Q . Sewage Treatment Feasibility Study
- R . Public Correspondence
- S . Graphics

Napa County Planning Commission: Approve

Reviewed By: Charlene Gallina