



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 9/4/2013
Agenda Placement: 10B

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission
FROM: Charlene Gallina for Hillary Gitelman - Director
Planning, Building and Environmental Services
REPORT BY: LINDA STCLAIRE, PLANNER III - 707.299.1348
SUBJECT: Cosentino Winery Use Permit Modification

RECOMMENDATION

VINTAGE WINE ESTATES / COSENTINO WINERY / USE PERMIT P13-00058

CEQA Status: Consideration and possible adoption of a Categorical Exemption. Pursuant to the California Environmental Quality Act, Section 15301 - Existing Facilities, 15303 - New Construction or Conversion of Small Structures, & 15304, Minor alterations to the land.

Request: Approval of a Minor Modification to Use Permit #U-518687 et. seq. to: 1) construct a 2,754 square foot patio with landscaping and outdoor seating on the east side of the winery adjacent to the building on either side of the front public access; 2) replace the existing landscaping in the front setback with water efficient landscaping; 3) replace the winery sign; 4) re-surface and re-stripe the existing parking lot and sidewalk, 5) recognize an additional two (2) parking spaces for a total of 29 spaces, and; 6) allow on-site consumption of wines in accordance with AB2004. The 4.29 acre project site is located on the west side of State Highway 29, 0.23 miles south of its intersection with Yount Mill Road within the Agricultural Preserve (AP) Zoning District at 7415 St. Helena Hwy., Napa (APN: 027-540-013).

Staff Recommendation: Find the project Categorical Exempt from CEQA and approve the requested use permit as conditioned.

Staff Contact: Linda St. Claire, Planner linda.stclaire@countyofnapa.org (707) 299.1348

Applicant Contact: Pat Roney (707) 836-5000

EXECUTIVE SUMMARY

Proposed Actions:

That the Planning Commission:

1. Find the project Categorical Exempt from CEQA based on Finding 1 of Exhibit A; and
2. Approve Use Permit (P13-00058) based on Findings 2-6 of Exhibit A and subject to the recommended Conditions of Approval (Exhibit B).

Discussion:

Cosentino Winery is a pre-WDO winery approved by the Napa County Planning Commission on June 3, 1987 to produce 30,000 gallons of wine per year, with public retail sales and tours and tastings, 27 parking spaces, and a winery sign, constructed in three phases for a total of 11,755 square feet. The Minor Modification includes constructing a 2,754 square foot patio with landscaping and outdoor seating on the east side of the winery adjacent to the building on either side of the front public access, replacing the existing landscaping in the front setback with water efficient landscaping, replacing the winery sign with a new sign consistent with Napa County Code, re-surfacing and re-striping the existing parking lot and sidewalk, recognize two additional parking spaces for a total of 29 spaces, and allowing on-site consumption of wines in accordance with AB2004. Initially, the proposal was for a patio on the north side of the winery but the applicant has opted for a design on the east side of the building. A noise study was requested due to past issues with neighboring properties. Two letters were received, one from the applicant and two from neighbors. The letters from the neighbors requested a public hearing before the Planning Commission (see attachment G). Staff has no objections to the Cosentino request, and finds the project consistent with the Napa County Winery Definition Ordinance and other applicable provisions of the Zoning Ordinance, General Plan, and subject to standard conditions. No changes are proposed to the annual production, visitation, marketing, number of employees or hours of operation.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

The project is Categorical Exempt, pursuant to the California Environmental Quality Act, Section 15301 - Existing Facilities, Section 15303 - New Construction or Conversion of Small Structures, & Section 15304 - Minor Alterations to Land, (See attached CEQA Memo). This project site is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5.

BACKGROUND AND DISCUSSION

Owner: Vintage Wine Estates, DBA Cosentino Winery

Representative: Pat Roney (707) 836-5000

Zoning District: AP (Agricultural Preserve)

General Plan Designation: AR (Agricultural Resources)

Original Application Filed: February 26, 2013

Application Deemed Complete: August 16, 2013

Parcel Size: 4.29 acres

Winery Size (Approved): 11,288 s.f. winery

Winery Size (Existing): 11,755 s.f. winery plus a 7,800 s.f. crushpad

Winery Size (Proposed): with 2,754 s.f. patio - total approx 14,509 s.f.

Production Capacity (Approved): 30,000 gallons per year

Production Capacity (Existing): 620 gallons (source: 2012 TTB forms)

Production Capacity (Proposed): No change proposed.

Accessory to Production Ratio (Approved): Not a requirement in 1987

Accessory to Production Ratio (Existing): 33%

Accessory to Production Ratio (Proposed): The proposed patio is "accessory" and would change the ratio to approx 34%.

Winery Coverage (Approved): Not a requirement in 1987.

Winery Coverage (Existing): 21.8%

Winery Coverage (Proposed): An additional 2,754 square feet for a total coverage of 23.2%

Number of Employees (Approved): Four Full-time, Two Part-time.

Number of Employees (Existing): Four Full-time, Two Part-time.

Number of Employees (Proposed): No changes proposed.

Hours of Visitation (Approved): Variable

Hours of Visitation (Existing): 10:00 am - 6:00 pm daily, no changes proposed.

Hours of Operation (Existing): 7:00 am - 6:00 pm, daily, no changes proposed.

Tours & Tastings (Approved): Public

Tours & Tastings (Existing): Public

Tours & Tastings (Proposed): No changes proposed.

Marketing; (Approved): None authorized in 1987 Use Permit.

Marketing (Existing): None

Marketing (Proposed): No changes proposed.

Parking Size (Approved): Twenty-seven spaces.

Parking Size (Existing): Twenty-nine spaces, including 2 ADA-accessible space.

Parking Size (Proposed): Recognize two additional spaces.

Adjacent General Plan Designation/Zoning District/Land Use:

Northerly - Agricultural Preserve (AP) - Two parcels, the first a private residence 1.03 acres (Scrubby) and the second a B&B, 0.46 acre (Oleander House).

Southerly - Agricultural Preserve (AP) and Commercial Limited (CL) - Mustards Restaurant and a private residence, 6.4 acres in size.

Easterly - Agricultural Preserve (AP) - various vineyard and wooded parcels ranging in size from 1.92 to 15 acres.

Westerly - Agricultural Preserve (AP) - vineyard and wooded parcels ranging in size from 9.55 to 26.25 acres.

Nearby Wineries (within about a mile of the project site):

Folie a Deux - 7481 St Helena Hwy - 50,000 gallons per year - Public tours and tastings

Paradigm Winery - 1277 Dwyer Rd - 13,000 gallons per year - tours and tastings by appointment (15/wk)

Cardinale Winery - 7600 St Helena Hwy - 1,280,000 gallons per year - tours and tastings by appointment (500/wk)

Far Niente Winery - 1 Acacia Drive - 175,000 gallons per year - Public tours and tastings

Lincoln Ranch Winery - 7554 St Helena Hwy - 50,000 gallons per year (not yet producing) - tours and tastings by appointment (300/wk)

Parcel History and Evolution of this Application:

June, 1987 – A winery Use Permit (U-518687) was approved by the Planning Department which allowed an initial production of 30,000 gallons per year with public tours and tastings, marketing, and retail sales, to be constructed in three phases for a total of approximately 11,288 square feet with four full-time and two part-time employees. Twenty-seven parking spaces and landscaping were also included. A winery wastewater system was installed and shared with Mustards Restaurant, located on the adjacent parcel. Phase One was the construction of the 3,688 square foot winery and 2,200 square foot of office. Phase Two and Three involved the addition of 5,400 square foot of winery space. Phase One was completed, which "used" the permit. On July 8, 1993, the Department administratively approved a one-time buildout of 4,205 square feet instead of the 5,400 previously approved for Phases Two and Three. A covered receiving area of 1,682 square feet was also approved with the understanding that this area would not be further enclosed without use permit modification approval. That action is described below and brought the total size of the winery to 11,755 square feet.

1990 - An Agreement for Deferred Construction Improvements was entered into between Napa County and the winery owners, Crystal Valley Cellars/Gaylon Patterson, which required the owner to construct the wastewater system and install the landscaping prior to receiving a certificate of occupancy. A modification to the use permit (U-518687 Modification #1) was approved by the Planning Commission and detailed these conditions. The Commission granted the applicant permission to occupy the approved winery before the waste water system was completed, on a temporary basis, in February 1990. The modification was appealed by the neighbors (Scrubys) to the Board of Supervisors, and on March 27, 1990, the Board upheld the Commission's action and denied the appeal.

April 1994- A use permit modification (#93362-MOD) was approved by the Zoning Administrator to enclose a portion of the existing receiving area on the western side of the building, leaving a remaining north access door for shipping and receiving. The modification was appealed by the Scrubys to the Board. On September 13, 1994, the BOS upheld the Commission's action and denied the appeal.

1994 - Request by the Scrubys to the Board to investigate compliance of the Cosentino Winery use permit. A memo was submitted to the Board with a status list of the original approved Conditions of Approval. All use permit conditions were found to be satisfied with the exception of those pending before the appellate court (COA #2 landscaping, and Mitigation measures #8 erosion, #9 water, and #10 sediment). The Board had addressed the issue of landscaping through COA #10 of use permit modification #93362-MOD, which set specific timetables for the installation of the landscaping once the court action had been concluded.

May 2001 - A use permit modification (#00304-MOD) was approved by the Zoning Administrator to add approximately 1,095 square feet of equipment storage to the existing winery structure for a total of 12,850 square feet. The modification was appealed by the neighbors, Scruby and Taddei, to the Board. The item was set to be heard by the Board on March 12, 2002 but the applicant withdrew the application.

July 2005 - A use permit modification (#03474-UP) was approved by the Planning Commission to disestablish and

dismantle parts of the joint waste water system shared by Cosentino and Mustards Restaurant and establish a new independent wastewater system for Cosentino and refurbish the existing pond.

Code Compliance History:

A current Code Enforcement case was filed in May 2013 siting easement issues and possible events without permits. Upon review of these potential issues, the Code Enforcement officer has determined that, 1. Easement issues are a private matter in which PBES has no power to regulate, and; 2. all events held at Cosentino Winery have been permitted by a Temporary Event Permit. The winery was purchased in 2010. The new owners have continued with winery operations and have been found to be compliant with their conditions of approval.

Discussion Points:

Visitation - Pre-WDO wineries were issued use permits typically without conditions of approval detailing the maximum number of visitors allowed at the winery. In determining visitation in later years staff has looked at the original use permit application (approved domestic wastewater systems and parking are also indicators) in which the applicant has noted the number of visitors anticipated per day and per week. In this particular case, the original Crystal Valley Cellars indicated that their visitation would be 40-50 persons per day, 280-350 persons per week. The proposal before us today, to include constructing a patio, does not include any increases in visitation and therefore, the winery will continue with the numbers indicated in the original use permit application and any changes must be brought forth in a major modification to the use permit.

Wineries with Similar Traits - Below is a table of wineries with similar traits as Cosentino. Like Cosentino, they are all pre-WDO wineries with public visitation, comparable production limitations, square footage, and parking.

Winery Name	Address	Parcel Number	Acreage	Establish Date	Current or Expan Total Sq. Ft.	Current or Expan Total Prod.	Tours & Tasting	Visitors (Ave/Wk)	Employees	Parking
CASA NUESTRA	3451 SILVERADO TRL	021-380-001	6.21	09/01/1980	1,000	5,000	PUB	0.00	1	7
PRAGER WINERY	1281 LEWELLING LN	027-130-016	1.00	09/01/1979	4,492	8,500	PUB	42.00	3	7
NICHELINI VINEYARDS	2950 SAGE CANYON RD	025-290-005	161.72	09/01/1920	12,000	12,000	PUB	100.00	0	0
WERMUTH WINERY	3942 SILVERADO TRL	021-030-047	7.44	09/01/1983	775	20,000	PUB	100.00	0	8
SIGNORELLO WINERY	4246 SILVERADO TRL	039-400-080	56.74	09/01/1987	8,000	20,000	PUB	120.00	4	20
POPE VALLEY WINERY	6613 POPE VALLEY RD	018-090-004	36.41	12/01/1972	4,836	20,000	PUB	20.00	4	0
MILAT WINERY	1091 S ST HELENA HWY	027-160-001	10.50	09/01/1986	4,900	20,000	PUB	140.00	1	8
DUTCH HENRY WINERY	4310 SILVERADO TRL	020-120-026	3.77	05/01/1984	5,000	20,000	PUB	50.00	0	10
PLUMP JACK WINERY	620 OAKVILLE CROSS RD	031-050-028	57.43	09/18/1981	7,574	25,000	PUB	140.00	5	30
COSENTINO WINERY	7415 ST HELENA HWY	027-540-013	4.29	09/01/1990	11,809	30,000	PUB	350.00	5	27

Note: Total Visitation Ave/Wk number, are approximate.

Coverage - Winery Development areas are defined as "contiguous and not to exceed 100 percent of the winery area calculated by the sum of the aggregate paved or impervious or semipermeable ground surface areas of the production facility, storage areas (except caves), offices, laboratories, kitchens, tasting rooms and paved parking areas for the exclusive use of winery employees" (Napa County Code Section 18.104.210). In this case, the maximum coverage for a winery shall be 25% of the existing parcel. Twenty-five percent of the total 4.9 acres is 53,361 square feet. The Cosentino Winery currently has a coverage total of 46,718 square feet, which is 21.8 percent of the total 4.9 acres. The proposed patio equals 2,754 square feet, for a total of 19,472 square feet or 23.2 percent coverage, still under 53,361 square feet and therefore, the proposal continues to comply with coverage requirements.

AB 2004 - On July 16, 2008, Assembly Bill 2004 (Evans) was signed into law which permits wineries to sell full glasses or bottles of wine for immediate consumption on the premises. On-site consumption was set to begin in 2009 and since that approval at least eighteen wineries in Napa County have obtained use permits or modifications to allow on-site consumption. This proposal for a patio, adjacent to the Cosentino Winery, includes onsite consumption in accordance with the use permit (and subsequent modifications) conditions of approval. No changes to visitation hours have been proposed and guests will inevitably leave by 6pm daily. It is assumed that the patio will not be in use during inclement weather.

Noise - A noise study was requested and the applicants submitted a study, "Environmental Noise Assessment, Cosentino Winery Exterior Improvements" by Fred M. Svinth, INCE, Assoc. AIA, dated May 3, 2013. This study evaluated the potential for increased noise as a result of the construction and use of an exterior patio at the Cosentino Winery (see attachment F). The study covered the first proposal, for a patio on the north side of the winery building. The study results recommended construction of a 150 foot long solid wall (with a surface weight of 3.0 pounds per square foot) to replace the current wood fence at the center of the easement between the neighbor (Scrubby) and the winery. Due to the history of the site and neighbor issues, the applicant chose to propose constructing the patio on the east side of the winery building. A subsequent letter from the noise expert commented on the revised proposal for a patio on the east side of the winery building, includes an eight foot high gas fireplace structure and wall constructed at six feet in height on the north side, with a six foot high stucco wall extension at the northeastern and northwestern corners of the patio and of solid materials with a surface weight of at least 3.0 pounds per square foot would be below the County Noise Ordinance daytime noise limit of 50 decibels. Standard conditions of approval include language to limit noise during construction at wineries and during winery operations, also, amplified sound systems or amplified music utilized outside of approved, enclosed, winery buildings is not allowed.

Neighbor Concerns - A letter was received from John & Giovanna Scruby on August 12, 2013 detailing concerns about the modification and current conditions/actions at the site. This letter was delivered to all of the Planning Commissioners on August 21, 2013. The letter addresses six points, which are discussed here:

1. Winery shipping area has recently been enclosed with a chain link gate and rented out. A chain-linked gate has been installed in front of the shipping and receiving door and the winery does have a custom crush client who uses the approved shipping receiving area for their production. Additionally, there is concern that an approved awning to the shipping/receiving doorway may be on conflict with the 48 foot setback. Staff is assuming the 48 foot setback pertains to the easement bordering the neighbor from the winery. Administrative approval was granted for the installation of the awning and the setback determined to meet the code.

2. Fire lane and the shared easement. The neighbor has indicated that shipping and receiving has been occurring in the fire lane/easement and that the existing fire lane curb has been painted yellow instead of red. The curb has been painted yellow. The Napa County Fire Conditions of Approval for fire lanes typically direct the applicant to paint the curb red with white four inch high white letters to read "NO PARKING FIRE LANE-CVC22500.1". Therefore, the curb will need to be repainted to comply. The neighbor has also indicated in her letter that these changes have occurred without the benefit of a modification to the use permit. Winery Condition of Approval Number Four from use permit modification 93362-MOD does require shipping and receiving to occur within the receiving area. The County does not have jurisdiction over the private easement and the California Court of Appeals dated August 6, 1995, said that the use of

the easement by the winery did not interfere with Scruby's right of ingress and egress to their property. That portion of the winery has been used historically as the arrival and departure point for trucks. Long term parking in the easement does not occur.

3. Movement of trucks arriving and departing from the winery. The neighbor has indicated that there is not enough room for a truck to turn around on the property and therefore backs out into the highway when leaving, using winery staff to direct traffic. The owner has indicated that they do not back trucks into the highway.

4. Installation of a metal storage container. Storage of equipment continues to occur in the access road (staff believes this to be the easement). The owner has indicated that the storage container will be removed. Recent site visits to the winery have found the easement to be clear of winery storage and/or equipment.

5. Noise generated by forklifts. The project is conditioned to follow standard conditions of approval for noise. The owner has also indicated that no work will continue past 6:00 pm each day.

6. Custom crush client parking in emergency access (again staff assumes this to be the easement). The owner has indicated that the clients will utilize existing parking outside the easement. Again, the County does not participate in the regulation of a private easement. However, it should be noted that staff finds the site to have adequate parking to accommodate such uses.

Consistency with Standards:

Zoning - A winery (as defined in the Napa County Code Section 18.08.640) and uses in connection with a winery (refer to Napa County Code Section 18.16.030) are permitted in the AW (Agricultural Watershed) District with an approved use permit. Based upon discussion provided above, staff is recommending approval of the modification request. The project as conditioned complies with the Napa County Winery Definition Ordinance, the General Plan, and all other requirements of the Zoning Code.

Fire Department - Recommends approval with standard conditions in the attached Memorandum dated August 28, 2013.

Engineering Services Division - Recommends approval with standard conditions in the attached Memorandum dated August 22, 2013.

Groundwater Memo - Recommends approval with standard conditions in the attached Memorandum dated May 1, 2013.

SUPPORTING DOCUMENTS

- A . Draft Findings
- B . Draft Conditions of Approval
- C . Department/Division Comments
- D . CEQA Memorandum
- E . Noise Study
- F . Correspondence
- G . Prior Use Permits
- H . Minor Modification Application

I . Graphics

Napa County Planning Commission: Approve

Reviewed By: John McDowell