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Planning Commission Staff
Report

Bonny’s Vineyard Appeal P25-00020-APL
Board of Supervisors Hearing – May 6, 2025



Napa County

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Legislation Text

File #: 24-2000, **Version:** 1

TO: Napa County Planning Commission
FROM: Brian Bordona, Director of Planning, Building & Environmental Services
REPORT BY: Dana Morrison, Supervising Planner - (707) 253-4437
SUBJECT: BONNY'S VINEYARD (MEYER'S FAMILY WINERY) - P22-00002-UP

RECOMMENDATION

BONNY'S VINEYARD (MEYER'S FAMILY WINERY) NEW WINERY USE PERMIT NO. P22-00002-UP

CEQA STATUS: Consideration and possible adoption of a Mitigated Negative Declaration. According to the Mitigated Negative Declaration, the proposed project would not have any potentially significant environmental impacts with incorporated Mitigation Measures. Mitigation Measures are proposed for the following areas: Biological Resources. In accordance with Section 15073 of the California Environmental Quality Act (CEQA) Guidelines, Napa County submitted the proposed Initial Study/Negative Declaration to the State Clearinghouse for a 30-day review period beginning on November 15, 2024 and running through December 17, 2024 (State Clearinghouse No 2024110514). The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

REQUEST: Approval of a Use Permit to allow a new winery with an annual production of 30,000 gallons with the following characteristics:

1. A 10,996 square foot (sf) winery building with a 1,426 sf covered crush pad, a 392 sf uncovered mechanical yard and 1,255 sf of covered loggia (patio space);
2. Six (6) full-time employees;
3. By appointment tours and tastings for a maximum of 45 visitor per day with catering provided; catering will be prepared offsite, including outdoors tastings (as set forth in Conditions of Approval

(COAs) No. 4.1 and 4.2);

4. A marketing program consisting of two (2) large events per year with a maximum of 150 visitors and nine (9) smaller events per year with a maximum of 80 visitors, including on-premises consumption of wine (as set forth in COA No. 4.3 and 4.4)
5. Production seven (7) days per week between 9:00 AM to 5 :00 PM, and visitation seven (7) days per week between 10:00 AM to 5:00 PM;
6. Parking for 20 cars with overflow event parking occurring on-site, and as needed along the existing vineyard avenues for events (but outside of required stream setbacks);
7. On-site landscaping;
8. On-site domestic wastewater treatment system and drip dispersal system, with 3,616 sf of dispersal area;
9. Widening of existing driveway to Napa County Road and Street Standards (NCRSS);,
10. Three (3) 10,000-gallon water storage tanks; and,
11. Use of existing site well #1 for winery uses (with monitoring of all 3 parcel wells).

The project is located on a 25.54-acre parcel within the Agricultural Preserve (AP) zoning district and designated as Agricultural Resource (AR) in the General Plan at 1555 Skellenger Lane, Napa (APN 030-200-080).

STAFF RECOMMENDATION: Adopt the Mitigated Negative Declaration and approve the New Winery Use Permit (P22-00002-UP), subject to the recommended conditions of approval.

STAFF CONTACT: Dana Morrison, Supervising Planner, (707) 253-4437 or dana.morrison@countyofnapa.org

APPLICANT REPRESENTATIVE CONTACT: Cameron Pridmore of CMP Civil Engineering and Land Surveying Inc., 1607 Capell Valley Rd, Napa, CA 94558 (707) 266-2559, cameron@cmpengineering.com

EXECUTIVE SUMMARY

PROPOSED ACTIONS

That the Planning Commission:

1. Adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (Exhibit C) based on Findings 1-7 in Exhibit A; and
2. Approve Winery Use Permit No. P22-00002, based on recommended Findings 8-12 in Exhibit A and subject to the recommended Conditions of Approval in Exhibit B.

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Consideration and possible adoption of a Mitigated Negative Declaration. According to the Mitigated Negative Declaration, the proposed project would not have any potentially significant environmental impacts with incorporated Mitigation Measures. Mitigation Measures are proposed for the following areas: Biological Resources. In accordance with Section 15073 of the California Environmental Quality Act (CEQA) Guidelines, Napa County submitted the proposed Initial Study/Negative Declaration to the State Clearinghouse for a 30-day review period beginning on November 15, 2024, and running through December 17, 2024 (State Clearinghouse No 2024110514). The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5

BACKGROUND AND DISCUSSION

PROJECT INFORMATION:

Owner: BJ Meyer Properties, LLC, P.O. Box 49, Napa, CA 94558, 707 603 6003.
esther@mfenterprises.com

Representative: Cameron Pridmore of CMP Civil Engineering and Land Surveying Inc., 1607 Capell Valley Rd, Napa, CA 94558. (707) 266-2559, cameron@cmpengineering.com.

General Plan Land Use Designation: Agricultural Resource (AR)

Zoning District: Agricultural Preserve (AP)

Filed: January 7, 2022

Resubmittals Received: August 15, 2022; December 14, 2022; July 27, 2023; October 12, 2023, August 8, 2024; October 24, 2024

Application deemed complete: October 24, 2024.

Parcel Size: 25.54-acres

The parcel is developed with two residences, a main (794 Oakville Cross Rd) and a second residence (1555 Skellenger Lane), a pool, a pool house (associated with 794 Oakville Cross Rd), two barns, three wells and associated driveways and vineyard avenues, along with landscaping. The main residence was constructed prior to 1955 and the area around the house contained an orchard, which was replaced with vineyard between 1968 to 1982. The second residence was also constructed prior to 1955 when the house was on a separate parcel, but a Lot Line Adjustment (LLA) occurred in 2011 to combine the two parcels, and the structure was converted to a Farm Management Building. In 2018 the structure was converted back to residence and remodeled and is now considered a second residence. Remaining vineyard on the parcel was installed between 1982 and 1993, prior to the adoption of the Conservation Regulations; additionally, the parcel is located on slopes of less than 5% and, as such, an Erosion Control Plan (ECP) would not be required for the installation of vineyard on this parcel. There are approximately 17.06 acres of vineyard currently existing on the parcel; a total of 0.63 acres of vineyard will be removed to allow for the construction of the new winery, associated infrastructure and landscaping.

For purposes of clarification, the mitigated negative declaration that was posted on the State Clearinghouse's portal erroneously noted the 794 Oakville Cross Rd as 794 Oak Knoll Ave; however, for purposes of environmental review, APN 030-200-080, which contained both addresses subsequent to the LLA, was the site that was assessed. The document has been corrected for this release and now correctly refers to 794 Oakville Cross Rd and not Oak Knoll Ave.

WINERY CHARACTERISTICS

Proposed Winery Characteristics

Winery Development Area: 0.60 acres or 26,136 sf

Winery Coverage: 1.27 acres or 55,321 sf, approximately 5% of the property.

Production Capacity: 30,000-gallons per year

Accessory/Production Ratio: 2,492 sf accessory/ 7,763 sf production - approximately 32.1%

Number of Employees: six (6) full time.

Visitation

Public Visitation Proposed: Maximum of 45 visitors per day by appointment only (315 maximum

visitors per week). Tours and tastings may include wine and food pairings, and outdoor tasting is proposed with designated outdoor tasting space noted on the plans.

Marketing Program Proposed: Host two (2) events per year for up to 150 guests at each event; nine (9) events per year with up to 80 guests at each event (1,020 event guests per year), including outdoor event space which coincides with the outdoor tasting space noted on the plans. All food prepared offsite by a catering company.

Days of Operation Proposed: Monday through Sunday, seven (7) days per week.

Hours of Operation: 9:00 AM - 5:00 PM production and 10:00 AM - 5:00 PM visitation, with some events occurring in the evenings from 6:00 PM - 10:00 PM with quiet clean up occurring from 10:00 PM - 11:00 PM.

Parking Proposed: 20

Setbacks

Required yard setbacks: 20 feet

Existing yard setbacks: All existing and proposed winery development exceeds 40 feet from the property lines

Required Road setback: 600 feet from Silverado Trail and 300 feet from Skellenger Lane

Proposed Road setback: The winery is located outside of the required Silverado Trail and Skellenger Lane setbacks.

Adjacent General Plan Designation / Zoning / Land Use:

North: Agriculture Resource (AR) General Plan designation, Agricultural Preserve (AP) zoning - North of the project site are two (2) properties; a 1.30-acre property with a single-family home and a 3.68-acre property with vines.

South: Agricultural Resource (AR) General Plan designation, Agricultural Preserve (AP) zoning - South of the project site is a 63.09-acre property developed with Groth Vineyards and Winery LLC.

East: Agriculture Resource (AR) General Plan designation, Agricultural Preserve (AP) zoning - East of the site is one (1) property; a 66.02-acre property with a single-family home and vines.

West: Agricultural Resource (AR) General Plan designation, Agricultural Preserve (AP) zoning - West of the project site is Conn Creek which separates the parcel from two properties consisting of a 10.03-

acre property with a single-family home, and a 38.68-acre parcel with vines.

Nearby Wineries located within one mile of the project:

There are 12 wineries within one mile of the project.

Please refer to Exhibit M - Winery Comparison chart for comparison of proposed winery to approved wineries.

Code Compliance History:

None. There are no open or pending code violations for the site.

Discussion Points:

Setting -The site is currently developed with a single-family home, a second residence, swimming pool, a pool house, a barn, a water storage tank, wells and approximately 17.06 acres of vines. Access to the site is provided by an existing driveway connection from Skellenger Lane to access the second residence at 1555 Skellenger Lane, and the main residence is accessed off Oakville Cross Rd. The property is relatively flat ($\pm 0-5\%$ slope) with elevations on the property ranging from approximately 130 feet above mean sea level (msl) to approximately 135 feet above msl.

Winery Proposal - The applicant proposes to develop a new 30,000 gallon per year winery. Primary access to the winery will be from Skellenger Lane, accessed off Silverado Trail (see Exhibits D - Project Description, E - Plan Set and Color Elevations and F - Use Permit Application and Site Photos). The proposed winery structures will house both production and accessory (hospitality and winery offices) use. The proposed structure is a utilitarian structure with painted metal panels and battens in a tan earthtone, with metal clad wood windows and doors in a brown earthtone, and a metal roof in a red earthtone with a metal skylight with translucent glazing, the covered loggia supports will be painted steel (see Exhibit E). The color scheme is in natural earth tones, to blend with the environment. Maximum height of the winery structure is 31 feet and 6 inches, which is under the 35' height limit required by the zoning code. The winery structures include areas for crush, fermentation, labs, and barrel storage, as well as accessory areas such as winery offices, a tasting and sales area, restrooms, and there is also an uncovered mechanical yard proposed which is not included in the accessory or production sf. In addition, there are two outdoor loggias (patios) proposed to be utilized for tasting and labeled as A.B. 2004 (on-premise consumption of wines produced on-site) and outdoor event area on the plan, where some of the wine tastings and events may be held when weather allows. The outdoor event area is also the location of the proposed A.B. 2004 use (see Exhibit

E - Plan Set and Color Elevations).

Setbacks - The proposed project meets all applicable minimum setbacks, including the 600-foot minimum winery building setback from Silverado Trail and the 300-foot minimum winery building setback from Skellenger Lane. No variances are requested or required as part of the proposal.

Visitation/Marketing Program - The project proposes a maximum of 45 tours and tastings visitors per day by appointment only (315 maximum visitors per week). Tours and tastings may include wine and food pairings, and all food would be catered and prepared off site by a catering company. The project also proposes to host two (2) events per year for up to 150 guests at each event and nine (9) events per year with up to 80 guests at each event (1,020 event guests per year). Use of the outdoor tasting space under A.B. 2004 is also proposed for use during winery events.

Traffic - The applicant submitted a Traffic Impact Study (TIS) for the Project, prepared by W-Trans, dated October 2022 (Exhibit H - Final Transportation Impact Study). Based on maximum employee and visitor/guest data for the harvest/crush season, the proposed project would be expected to generate 48 daily trips on a weekday and 45 daily trips on a Saturday, which is below the 110-trip threshold in the Office of Planning and Research guidelines and the County's TIS Guidelines and VMT screening criteria. However, the report includes the applicant's proposal for a Traffic Demand Management (TDM) Plan with the intent of reducing vehicle miles traveled by a minimum of 15%. Proposed approaches include ride share opportunities, telework/compressed/flex schedules for employees, Guaranteed Ride Home program (Napa Valley Transportation Authority) and education, outreach and marketing. Preparation and implementation of the TDM plan will help to reduce vehicle trips by promoting employee carpooling and providing employees with information regarding related County programs and services. The Final TIS noted that no road widening or left-hand turn lane is required as a result of the proposed project, however it recommended that an "acceleration lane should be striped in the northbound direction leaving the intersection". The Department of Public Works has reviewed the project and approved it as conditioned, including the need for a striped in acceleration lane. As conditioned, the project would not conflict or be inconsistent with CEQA Guidelines section 15064.3, subdivision (b). Impacts would be less than significant.

There is currently no bus service on Silverado Trail and Skellenger Lane; the proposed project would therefore not impair use of public transit facilities in its vicinity. The Napa Countywide Bicycle Plan, adopted by the Board of Supervisors in June 2012, identifies Silverado Trail as an existing Class II bicycle facility (on-street bike lane); currently the road includes eight-foot wide, striped and paved lanes on both sides of the roadway. Skellenger Lane has no bike lane striped but is considered a primary route. The proposed project would therefore maintain existing bicycle facilities in its vicinity.

Access/Parking - Access to the winery site will be provided by the existing driveway currently off of

Skellenger Lane on the west side of Silverado Trail. On-site parking is provided for 20 vehicles, including an accessible van parking space, based on the winery's business plan, visitation, and employment levels. Parking for the larger marketing events will be located within the provided parking on site with overflow occurring within the existing vineyard avenues. No parking is permitted or proposed within the right-of-way of Skellenger Lane. [See Exhibit E - Plan Set and Exterior Color Elevations]. Additionally, no parking is proposed, and the project has been specifically conditioned to require that overflow event parking shall not occur within the required 45' setback from Conn Creek. It should be noted that normal vineyard operations can continue to occur within this setback.

Biology - According to the Napa County Environmental Resources GIS Map (Resources Map), and the Biological Report prepared by Northwest Biosurvey (see Exhibit G - Biological Study), the project site is not located in an area with known or identified sensitive environments. The subject property is a low-lying property located on the valley floor of the Napa Valley. The property is bordered on three sides by existing vineyards and there is minimal tree canopy cover on the site or in the surrounding area, with most site in the immediate vicinity containing vineyard, with some residential present or combination of residential and agriculture on the majority of parcels nearby. Conn Creek is located immediately west along a portion of the western property line which does contain an area of riparian canopy; however, the proposed winery construction work will be located outside of the designated stream setbacks and will preserve the existing vegetation along the stream and within the stream setback. Work is proposed within areas that are already disturbed and outside of the County required stream setbacks, per NCC Section 18.108.025 given the slopes of the site ranging from 1-5% require setbacks from Conn Creek would be 45 feet. No work is proposed within the required 45' setback from Conn Creek. Conditions of Approval have been included to prohibit event parking or construction staging within the required 45' setback from Conn Creek to ensure that the riparian corridor and creek are protected to the greatest extent feasible during construction and during ongoing winery operations. The project does not propose to remove any trees or vegetation but will result in the removal of 0.63 acres of existing vineyard to accommodate the new winery and associated required parking.

As noted in the Biological Report the entire riparian corridor consists of edge habitat due to its narrowness and its location adjacent to vineyard development. While it is unlikely for this narrow riparian strip to provide habitat for deer and their predators, it provides ample habitat for small mammals (racoons, possums, skunks, foxes, etc.), and for birds such as raptors (birds of prey) which use tall trees adjacent to open habitats as hunting and perches as well as nesting sites. The creek is also likely to provide seasonal habitat for aquatic herptiles (reptiles and amphibians) specifically western pond turtle. However, based on the scale and size of the proposed project, that all work proposed is well outside of the required 45' setback and given the existing baseline condition of the site as a developed, disturbed, and active agricultural site, impacts to sensitive plant and animal species have been analyzed and have determined to be less than significant. However, the Biological

Report did note that pre-activity nesting surveys including Swainson's Hawk and white-tailed kites are recommend for the project prior to construction activities, and while the proposed new winery development would occur outside of stream setbacks and in areas previously disturbed to ensure that any potential impacts remain less than significant staff has included the required Mitigation Measures and reiterated them in the Conditions of Approval, in addition to including specific Conditions of Approval to ensure the protection of these Bio resources in 4.20(d), 6.15(b), 6.15(c), 6.15 (d), as well as 7.4(a), 7.4(b), 7.4(c), and 7.5(a) and 7.5(b). These COAs require pre-activity nesting surveys (if work occurs between Feb 1 through August 31) for nesting birds, as well as surveys for Swainson's Hawk and White-tailed kites, installation of construction/western pond turtle fencing at the edges of vineyard avenue closest to the creek, requiring that no staging, storage or parking during construction within the required stream setbacks (with the stream setback called out with marked stakes and placed within the vineyard avenue - though normal agricultural activities can continue to operate within the setback within existing vineyard avenues), and that no event overflow parking occur within the required stream setbacks [see Exhibit B- Recommended COAs].

Noise - The project would result in a temporary increase in noise levels during construction of the winery and its infrastructure. Construction activities would be limited to daylight hours using properly muffled vehicles. Noise generated during this time is not anticipated to be significant. As such, the project would not result in potentially significant temporary construction noise impacts or operational impacts. Since the nearest residence to the winery development area is approximately 490 feet to the west of the proposed winery structures, there is a low potential for impacts related to construction noise to result in a significant impact. Further, construction activities would occur during the period of 7 AM-7 PM on weekdays, during normal hours of human activity. All construction activities would be conducted in compliance with the Napa County Noise Ordinance (Napa County Code Chapter 8.16). The proposed project would not result in long-term significant construction noise impacts. Conditions of approval identified below would require construction activities to be limited to daylight hours, vehicles to be muffled, and backup alarms adjusted to the lowest allowable levels. Impacts would be less than significant. [see Exhibit I - Noise Study].

Additional regulations contained within County Code Chapter 8.16 establish exterior noise criteria for various land uses in the County. As described earlier in the report, land uses that surround the proposed parcel are predominantly agricultural (vineyards) but also include rural residences; of these land uses, the residential uses are considered the most sensitive to noise. Based on the standards in County Code Section 8.16.070, noise levels, measured at the exterior of a residential structure or residential use on a portion of a larger property, may not exceed 50 decibels for more than half of any hour in the window of daytime hours (7:00 a.m. to 10:00 p.m.) within which the applicant proposes to conduct events. Noise impacts of the proposed project would be considered bothersome and potentially significant if sound generated by it had the effect of exceeding the standards in County Code more than 50 percent of the time (i.e., more than 50 decibels for more than 30 minutes in an hour for a residential use). Noise from winery operations is generally limited and

intermittent, meaning the sound level can vary during the day and over the course of the year, depending on the activities at the winery. The primary noise-generating activities are equipment associated with wineries including refrigeration equipment, bottling equipment, barrel washing, de-stemmers and press activities occurring during the harvest crush season, delivery trucks, and other vehicles. The Napa County General Plan EIR indicates the average, or equivalent, sound level (Leq) for winery activities is 51dBA in the morning and 41dBA in the afternoon. Audibility of a new noise source and/or increase in noise levels within recognized acceptable limits are not usually considered to be significant noise impacts, but these concerns should be addressed and considered in the planning and environmental review processes. Winery operations would occur between 9:00 AM and 5:00 PM (excluding harvest). The nearest off-site residence to the proposed winery is approximately 490 feet to the west of the proposed winery. Any outdoor equipment would be subject to the following standard conditions requiring that any exterior winery equipment be enclosed or muffled and maintained so as not to create a noise disturbance (COAs 4.16 and 6.6, Exhibit B - Recommended COAs).

Under the proposed project, the largest event that would occur on the parcel would have an attendance of no more than 150 people, and all evening events would commence at 6:00 PM and conclude by 10:00 PM, with clean-up conducted afterwards from 10:00 PM to 11:00 PM. The location of events are likely to occur within the winery building either in the tasting areas, and the areas identified for outdoor marketing events and AB2004 (outdoor) tasting which is located at the northeastern side of the winery development which is screened to the east and south by existing vineyard, to the north by the existing secondary residence, to the west the event area is screened by existing vineyard and the riparian corridor along Conn Creek which will help buffer noise to the surrounding residences. Furthermore, a Noise Study was prepared by California Industrial Hygiene Services Inc. in June 2022. The study found that the calculated noise levels at the nearest receptor (residence 490 west) were not above the required county limits. Continuing enforcement of Napa County's Noise Ordinance by the Division of Environmental Health and the Napa County Sheriff, including the prohibition against amplified music, would further ensure that marketing events and other winery activities do not create a significant noise impact. Events and non-amplified music, excluding quiet clean-up, are required to finish by 10:00 PM. Amplified music or sound systems would not be permitted for outdoor events as identified in standard Condition of Approval 4.10 (Exhibit B). Temporary events would be subject to County Code Chapter 5.36, which regulates proposed temporary events. The proposed project would not result in long-term significant permanent noise impacts.

In summary, the project would not result in a substantial temporary increase in noise levels or produce excessive groundborne vibration levels during construction. Project operations were found to comply with the applicable Napa County noise limits, and no substantial permanent increase in noise levels was identified. The winery is located in a compatible noise environment and the proposed project would not expose people to excessive noise levels associated with air traffic [see

Exhibit I- Noise Study].

Wastewater - The project would require the construction of a new on-site domestic treatment system that will include a drip dispersal system which would not cause significant environmental effects (see Exhibits J - Wastewater Feasibility and L - Stormwater Control Plan). There are a total of three existing wells onsite, two of which serve the existing residences, as well as some of the vineyard irrigation (Well #2 and Well #3), while the other site well is used for vineyard irrigation (Well #1). Well #1 will become the well that serves the winery (and will also continue to water the existing vineyard). Well #1 is capable of producing a flow rate in excess of 160 gallons per minute (gpm). The applicant submitted a Water Availability Analysis (WAA) completed by CMP Civil Engineering & Land Surveying Inc. showing the projected overall water demand for the project site of 10.16 AF/YR, representing a 0.02 AF/YR decrease of the existing water demand of 10.18 AF/YR (see Exhibit K - Water Availability Analysis). The winery water demand can be met with the existing parcel well (Well #1), while the remaining parcel water demands can be met with the two existing parcel wells (Well #2 and Well #3). Similarly, all of the wastewater generated by the winery (process wastewater and sanitary wastewater) would be treated on-site using treatment systems. There is an existing septic system installed on site that serves the existing residential development, which will remain separate from the wastewater treatment system for the proposed winery. Per the Wastewater Feasibility Study, the project would require a 3,375 sf dispersal area and the project proposes a 3,616 sf dispersal area. The study concluded that the proposed winery wastewater needs can be accommodated on site. With water and wastewater treatment facilities provided on-site, the proposed project requires no determination of service or will-serve letters from water or wastewater treatment service providers. The Wastewater Feasibility Report was reviewed and approved by the Environmental Health Division, subject to Conditions of Approval. Work areas of the proposed winery would be covered with a roof and plumbed to discharge runoff into the on-site wastewater treatment system, also with the intent to preserve stormwater quality. Grading for construction for the storm drain pipelines and wastewater treatment system improvements would occur concurrently with site grading associated with the winery construction, which would be subject to the dust suppression measures noted as Conditions of Approval in the Mitigated Negative Declaration.

Groundwater Availability - Tier 1: A Tier I Water Availability Analysis (Exhibit K), dated August 2024 (revised) was prepared by CMP Civil Engineering & Land Surveying Inc., to determine the estimated water use of the existing development, the proposed project and water availability, and to assess potential drawdown impacts to neighboring wells.

The water source for the existing property is provided from three (3) existing onsite wells. Two (2) wells serve the existing residences, along with some vineyard, (Well #2 and Well #3) and one (1) well used for vineyard irrigation (Well #1). Well #1 is proposed to be used for the new winery (as well as continue to irrigate of portions of the existing vineyard). Since the groundwater extraction for the winery and residence would be from a well located on the Valley Floor area, the new Valley Floor

screening criteria of 0.3 acre-foot of water per acre of land would be used for the 25.54-acre property generating a water use availability of 7.66 acre-feet per year (af/yr). The current water use for the parcel is 10.18 af/yr, which exceeds the new Valley Floor screening criteria. Projects with existing water uses that exceed the 0.3-acre-foot criteria must demonstrate no net increase in water use. The Project WAA identifies the existing water use as 10.18 af/yr which would be reduced to 10.16 af/yr. This is a slight reduction over existing conditions which is achieved by removal of 0.63 acres of existing vineyards, reduction of the well pumping time and the utilization of winery process wastewater to irrigate a portion of existing vineyard.

Tier 2: Although a neighboring well is located 287 feet from the proposed winery well, a Tier 2 analysis was not required because there is no increase in water use proposed as a result of the project. The project would result in a decrease of .02 ac/ft/yr in groundwater use, and various conditions of approval have been included to ensure that the parcels water use does not exceed 10.16 af/yr, COAs are referenced later in this section and can be found in Attachment B - Recommended COAs.

Tier 3: Although a formal Tier 3 analysis was not required by the County, due to the project's anticipated reduction in groundwater use, the WAA provided a Tier 3 discussion.

While a Tier 3 review is the County's adopted method for complying with its duties under the Public Trust Doctrine, as discussed herein, the project will comply with the WAA Guidance document because the project proposes to modify the sites groundwater pumping operational characteristics which will reduce existing groundwater extraction from the project well which offers the greatest leverage in reducing stream flow depletion and any alleged harm to public trust. As noted in the WAA the proposed project is located 181 feet from a County identified significant stream (Conn Creek). Public Trust Doctrine requires the County to consider and give due regard to public trust when analyzing impacts that may impact a navigable waterway, or a non-navigable course (in this instance Conn Creek) which connects to a navigable waterway (the Napa River). A Tier 3 discussion was prepared by CMP Engineering & Land Surveying which demonstrates that the project will reduce harm to Public Trust by reducing the overall water use for the parcel by 0.2 af/yr. This will be accomplished through the removal of 0.63 acres of existing vineyard (resulting with that much less vineyard requiring water), the watering of portions of the existing vineyard with process wastewater from the winery, reducing the annual pumping time for the parcel and limiting the pumping rate for all three parcel wells (well #1, # 2 and #3) to their existing operation capacity. Through these actions the project will reduce harm to Public Trust resources compared to existing operations. The project has been specifically conditioned to ensure alleged harm to Public Trust is less than significant. Project specific Conditions of Approval (COAs 4.9.A, 4.9.B, 4.9.C, 4.9.D, 4.20.A, 4.20.B, 4.20.C, and 6.15.A) have been implemented to require the following: that the parcels groundwater use be limited to 10.16 af/yr, that the project wells shall be equipped with flow regulation devices limiting the pumping capacity to less than or equal to existing operations, preparation of a Ground Water Management Plan, and inclusion of the project in the County's well monitoring program. As

conditioned the County has satisfied its duty to consider impacts to trust resources and no further analysis is required [See Exhibit K - Water Availability Analysis Report].

The project would not violate any water quality standards or waste discharge requirements nor substantially deplete local groundwater supplies. According to the Wastewater Feasibility Report prepared by CMP Engineering, dated August 2024 (revised), the project site and proposed system would have adequate disposal capacity to serve the project. The Division of Environmental Health reviewed this report and concurred with its findings.

As noted earlier, there are two (2) existing wells onsite serving the existing residences, as well as some vineyard, (Well #2 and Well #3) and one (1) well used for vineyard irrigation (Well #1). Well #1 is capable of producing a flow rate in excess of 160 gallons per minute (gpm). As proposed, Well #1 will be used to serve the proposed winery and continue to provide water to portions of the vineyard, while the remaining two (2) wells will serve the residences and portions of the vineyard. As noted earlier in this section, project specific Conditions of Approval (COAs 4.9.A, 4.9.B, 4.9.C, 4.9.D, 4.20.A, 4.20.B, 4.20.C, and 6.15.A) have been implemented to require the following: that the parcels groundwater use be shall be limited to 10.16 af/yr, that the designated winery well (Well #1) shall be equipped with a flow regulation device limiting the pumping capacity to less than or equal to 160 gallons per minute, that the other parcel wells (Well #2 and Well #3) shall also be equipped with flow regulations devices to maintain existing pumping operations, that the project shall prepare a Ground Water Management Plan, and that the parcel shall be included in the County's well monitoring program.

As noted above, the applicant submitted a Water Availability Analysis (WAA) completed by CMP Engineering showing the projected overall water demand for the project site of 10.16 af/yr representing a 0.02 af/yr decrease of the existing water demand of 10.18 af/yr. The parcel water demand can be met with the existing project well (specifically Well #1). Therefore, the impacts from the project would be less than significant and no further analysis is needed.

The estimated groundwater demand of 10.16 af/yr represents a decrease of 0.02 af/yr over the existing condition, and this reduced extraction shall be realized at the subject project well (Well #1), with pumping capacity at the other parcel wells (Well #2 and Well #3) conditioned to remain at their existing operational levels. The winery, as part of its entitlement would include the County's standard Condition of Approval 4.9(d), above, requiring well monitoring to all on-site wells, as well as the potential to modify/alter permitted uses on site should groundwater resources become insufficient to supply the use. Additionally, a Condition of Approval has been included to cap the groundwater use for the parcel at 10.16 af/yr, Condition of Approval 4.9(a) and 4.20(a), and for flow regulations devices for all three parcel wells, 4.9(b) and 4.20(b). The project has also been conditioned to prepare a Groundwater Demand Management Program, per COA 6.15(a). The proposed project would result in a decrease on the demand of ground water supplies and therefore would not

interfere with groundwater recharge or lowering of the local groundwater level.

Public Trust - The public trust doctrine requires the state and its legal subdivisions to “consider,” give “due regard,” and “take the public trust into account” when considering actions that may adversely affect a navigable waterway. (*Environmental Law Foundation v. State Water Resources Control Bd.*; *San Francisco Baykeeper, Inc. v. State Lands Com.*) There is no “procedural matrix” governing how an agency should consider public trust uses. (*Citizens for East Shore Parks v. State Lands Com.*) Rather, the level of analysis “begins and ends with whether the challenged activity harms a navigable waterway and thereby violates the public trust.” (*Environmental Law Foundation*, 26 Cal.App.5th at p. 403.). As demonstrated in the *Environmental Law Foundation vs State Water Resources Control Board Third District Appellate Court Case*, that arose in the context of a lawsuit over Siskiyou County’s obligation in administering groundwater well permits and management program with respect to Scott River, a navigable waterway (considered a public trust resource), the court affirmed that the public trust doctrine is relevant to extractions of groundwater that adversely impact a navigable waterway and that Counties are obligated to consider the doctrine, irrespective of the enactment of the Sustainable Groundwater Management Act (SGMA). As disclosed and assessed in the MND prepared for this project, and the WAA, the County concludes that no harm to (or less-than-significant impacts on) public trust resources would result from the proposed project.

Grape Sourcing - The project site will have approximately 16.43 acres of vineyards once the winery is constructed, if approved. The winery operator, through the use permit application, has indicated that they intend to maintain compliance with the 75% Napa Valley grape source requirement. The recommended conditions of approval include a requirement for compliance with the 75% grape sourcing rule (COA No. 4.6 - Exhibit B).

Cultural Resources- A Historical Resources Study was prepared by Archeological Resource Service (ARS) dated June 21, 2022, this Exhibit is not included as these reports are considered confidential. The study was conducted to determine the presence or absence of historical or archaeological resources, and potential impacts, if any, as a result of the proposed project. According to the study, no historical resources were observed on the site and the property contains no archaeological remains. The report concluded that no further study or specific recommendations are required. However, a standard COA has been included in Exhibit B (COA 7.2) requiring that if any previously undiscovered resources are found during grading of the project, construction of the project is required to cease, and a qualified archaeologist will be retained to investigate the site. AB-52 Tribal Consultation Letters were mailed out on February 7, 2023 and no consultation was requested. As conditioned, there are no anticipated impacts to cultural or archeological resources.

Public Comments:

As of the drafting of this staff report only one (1) comment letter has been submitted regarding the project. The comment letter was a letter of support from a neighbor who supports the proposed project. The comment received can be reviewed in Exhibit P.

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 include a no project alternative.

Option 1 - Applicant's Proposal (Staff Recommendation)

Disposition - This option would result in approval of a new 30,000-gallon per year winery. Staff recommends this option as the request is consistent with the Zoning Ordinance, applicable General Plan policies, and other County regulations. Furthermore, with the implementation of water saving measures and removal of 0.63 acres of existing vineyard, the implementation of the proposed new winery does not result in an increased groundwater demand over existing levels. There will be no significant environmental impacts, as mitigated, due to the new winery development, as discussed in the Mitigated Negative Declaration.

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, which were found to be less than significant.

Option 2 - 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 the New Winery Use Permit, 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, setting forth why the proposed Use Permit request is not being approved.

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 3 - Continuance Option

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

Exhibits:

- Recommended Findings (Exhibit A).
- Recommended Conditions of Approval & Final Agency Approval Memos (Exhibit B).
- Initial Study/Mitigated Negative Declaration, and Mitigation, Monitoring, and Reporting Plan (Exhibit C)
- Project Description (Exhibit D).
- Project Plan Set and Exterior Color Elevations (Exhibit E)
- Use Permit Application, Site Photos and Correspondence (Exhibit F)
- Biological Study (Exhibit G)
- Transportation Impact Study (Exhibit H)

- Noise Study (Exhibit I)
- Wastewater System Feasibility Report (Exhibit J)
- Water Availability Analysis Report (Exhibit K)
- Storm Water Control Plan (Exhibit L)
- Winery Comparison Chart (Exhibit M)
- Project Revision Statement (Exhibit N)
- Graphics (Exhibit O)
- Public Comment (Exhibit P)