



Napa County

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Legislation Text

File #: 23-0952, **Version:** 1

TO: Napa County Planning Commission

FROM: Brian Bordona - Interim Director Planning, Building & Environmental Services

REPORT BY: Emily Hedge, Planner III - (707) 259-8226

SUBJECT: Ladera Vineyards Winery Minor Modification P21-00294-MOD and Viewshed P22-00109-VIEW

RECOMMENDATION

LADERA TRAIL NORTH LLC / LADERA VINEYARDS WINERY / USE PERMIT MINOR MODIFICATION P21-00294 AND VIEWSHED P22-00109

CEQA STATUS: Consideration and possible adoption of a Mitigated Negative Declaration. According to the proposed Mitigated Negative Declaration, the proposed project would not have any potentially significant environmental impacts after implementation of mitigation measures. Mitigation measures are proposed for Tribal Cultural Resources. This project is not on any lists of hazardous waste sites enumerated under Government Code Section 65962.5.

REQUEST: Approval of a Minor Modification to increase weekly visitation, number of employees, and add two annual marketing events to an existing winery. The project would allow food and wine pairings with tastings and marketing events and permit on-premises consumption on the outdoor patios. Physical changes on site include expanding the tasting room storage building to a total of approximately 1,200 s.f., construction of an approximately 8,800 s.f. cave, improvements to the existing driveway, and a modified parking lot. Improvements to the existing water and wastewater systems would be required, along with installation of a left turn lane on Silverado Trail in front of the project driveway. The project includes a determination that the proposed cave wall and portals meet the Administrative Criteria under the Viewshed Protection Program (Chapter 18.106.040.C of the Napa County Code). The Viewshed component of the project has been administratively approved by the Director, pending approval of the underlying minor modification. The project site is located on a 7.44-acre parcel at 3942 Silverado Trail, Calistoga, CA 94515. The General Plan designation is Agriculture, Watershed, and Open Space (AWOS) the Zoning is Agricultural Watershed (AW). APN: 021-030-047

STAFF RECOMMENDATION: Adopt the Mitigated Negative Declaration and approve the Use Permit Minor Modification, as conditioned.

STAFF CONTACT: Emily Hedge, Planner III, (707) 259-8226 or emily.hedge@countyofnapa.org

APPLICANT REPRESENTATIVE CONTACT: Chris Artley, P.O. Box 27917 Scottsdale, AZ 85255; (480) 609-9225; chris@laderavineyards.com

APPLICANT AGENT CONTACT: Thomas Adams, 1455 1st Street, Suite 301, Napa, CA 94559; (707) 252-7122; tadams@dpf-law.com

ITEM CONTINUED FROM MAY 3, 2023, COMMISSION MEETING.

EXECUTIVE SUMMARY

PROPOSED ACTIONS

That the Planning Commission:

1. Adopt the Mitigated Negative Declaration based on Findings 1-7 in Attachment A; and
2. Approve Use Permit Minor Modification No. P21-00294, based on recommended Findings 8-12 in Attachment A and subject to the recommended Conditions of Approval in Attachment B.

DISCUSSION:

On July 21, 1982, the Planning Commission approved the Wermuth Winery Use Permit #U-388182. This established a 20,000 gallon per year winery in an existing 375 s.f. building, and permitted the two (2) authorized owners as employees, with a minimum of two parking spaces, hours of operation 8:00 a.m. to 10:00 p.m. No invitational signs were authorized to be installed. On August 10, 1987, the Planning Commission approved Major Modification U-698687. This action authorized public tours and tastings (30 per day; 100 per week anticipated), conversion of an existing 400 s.f. garage to a wine storage building, an increase to eight parking spaces, and a reduction in hours of operation to 11:00 a.m. to 4:30 p.m. with irregular days of operation. No additional employees were authorized. Use Permit U-388182 became null and void upon issuance of a building permit for the use permit or commencement of tours and tastings. On July 15, 2019, the Director issued Status Determination No. P19-00135 to confirm existing legal entitlements granted by the County.

The winery was purchased by the current owners in May 2019. In November 2021, the applicant applied for a Minor Modification to their Use Permit. Staff determined that the request comported with the parameters of County Code Section 18.124.130.C. Upon receipt of a written request from the holder of a winery use permit, the zoning administrator may approve minor modifications to winery use permits in accordance with the procedures set forth in subsection (D) below. There will be no public hearing for such minor modifications. Following staff review of the project and preparation of necessary environmental documentation, a notice of intent to approve or deny the project is sent. The notice of intent shall include a general explanation of the matter to be considered and a statement that the zoning administrator intends to approve or deny the requested modification on a certain date not less than ten calendar days after the date of mailing of the notice.

Following mailing of the project Courtesy Notice Sent May 3, 2022, with a revised copy correcting the address sent on May 11, 2022, staff received several public comments throughout the application review process. After the final application submittal, a representative for the neighbors requested the Zoning Administrator elevate the project to the Planning Commission. General duties of the Zoning Administrator, defined in County Code Section 18.10.020, include approval of Minor Modifications for Winery Use Permits, unless, in the zoning administrator's sole discretion, the zoning administrator determines that the matter (1) is of a size, importance, or unique nature such that it is judged not to be a routine matter; (2) involves potentially significant environmental impacts; or (3) is such that the public interest would be furthered by having a particular application heard and decided by the planning commission. Interim Director Brian Bordona, the acting Zoning Administrator, agreed that a hearing at the Planning Commission would better serve the public interest.

The item was noticed for a public hearing before the Planning Commission, scheduled for May 3, 2023. However, due to an unexpected illness, the applicant requested the item be continued to a date uncertain and re-noticed. In response to rescheduling this item, staff has amended the prior staff report below to address additional written comments provided by the public.

As proposed, the current Minor Modification shall be limited to:

1.1 Approval to modify an existing 20,000 gallon per year winery, previously approved under Use Permit U-388182 (now null and void) and U-698687, to allow the following:

- a. Construct an addition to the existing winery tasting room and storage building (740 s.f.) for a total of an approximately 1,200 s.f building with tasting room, office, wine storage, and restroom;
- b. Demolish the existing wine tank room building and greenhouse;
- c. Construct an approximately 8,800 s.f. Type II cave for production and offices and Type III for hospitality;
- d. Increase employees from two (2) full-time employees to three (3) full-time and two (2) part-time employees;
- e. Increase weekly visitation from 100 people per week to 210 people per week with no change to the existing daily maximum of 30 people;
- f. Change hours of operation from 11:00 a.m. - 4:30 p.m. to allow visitation from 10:00 a.m. - 4:30 p.m. and

production activities from 9:00 a.m. - 6:00 p.m.;

g. Permit catered food at tastings;

h. Add two annual marketing events with up to 50 guest per event with food and wine pairing;

i. Use outdoor patios around the winery building for wine tasting and marketing events;

j. Authorize on premises consumption on the outdoor patios;

k. Improve the existing driveway and parking lot configuration;

l. Install underground water storage tanks (15,000 gallons and 50,000 gallons) on the hillside above the winery;

m. Install a water system;

n. Install a wastewater treatment system;

o. Tree removal of approximately 0.2 acres and preservation of approximately 1.8 acres; and

p. Install a left-turn lane on Silverado Trail at the project driveway.

Staff has reviewed the proposal and found it to be consistent with the Zoning Ordinance and applicable General Plan policies. Staff prepared an Initial Study that evaluated the potential environmental impacts of the project. Staff recommends adoption of a Mitigated Negative Declaration, with mitigation measures proposed for Tribal Cultural Resources. It was determined that with the implementation of mitigation measures the proposed project would not have any potentially significant environmental impacts. With the project's consistency with adopted County policy and regulations, staff believes that the necessary findings for the project can be made and recommends approval of the Use Permit Minor Modification request as proposed and subject to conditions.

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Consideration and possible adoption of a Mitigated Negative Declaration. According to the proposed Mitigated Negative Declaration, with incorporation of mitigation measures for Tribal Cultural Resources, the proposed project would have less than significant environmental impacts. This project is not on any lists of hazardous waste sites enumerated under Government Code Section 65962.5.

BACKGROUND AND DISCUSSION

PROJECT INFORMATION:

Owner: Ladera Trail North LLC, Chris Artley, P.O. Box 27917 Scottsdale, AZ 85255;

(480) 609-9225; chris@laderavineyards.com

Representative: Thomas Adams, 1455 1st Street, Suite 301, Napa, CA 94559; (707) 252-7122; tadams@dpf-

law.com

General Plan Land Use Designation: Agriculture, Watershed and Open Space (AWOS)

Zoning District: Agricultural Watershed (AW)

Filed: November 1, 2021; Resubmittals Received: April 1, 2022; July 21, 2022; September 2, 2022; December 6, 2022.

Application deemed complete: December 22, 2022

Courtesy Notice Sent: May 3, 2022, with a revised copy sent May 11, 2022

Parcel size: 7.44 acres

Existing Development: The parcel is currently developed with a single-family residence, residential studio, greenhouse, and two winery buildings. The winery buildings include an approximately 740 s.f. tasting room and storage building and a 440 s.f. tank room. The prior winery owner converted and was utilizing additional space beyond the approved 775 s.f. The applicant is currently using the existing tank room to store cased wine and the remainder of the space is used as temporary storage for non-winery items such as yard maintenance equipment and furniture. The structures are situated at the base of the hillside. The existing driveway and parking area serve both the residence and winery.

WINERY CHARACTERISTICS

Approved and Proposed Winery Characteristics

Winery Development Area Approved: 1,620 s.f. or .04 acres

Winery Development Area Proposed: 16,628 s.f. or .4 acres

Winery Coverage Approved: 9,994 s.f. or 0.2 acres, approximately 2.6% of the property.

Winery Coverage Proposed: 25,002 s.f. or 0.6 acres, approximately 8 % of the property. Maximum permitted 25% or approximately 15 acres permitted, whichever is less.

Production Capacity Approved: 20,000 gallons per year

Production Capacity Proposed: 20,000 gallons per year

Winery Size - Approved: 775 s.f. Including 375 s.f. tasting room and 400 s.f. wine storage

Winer Size - Existing: 1,170 s.f. - Including 433 s.f. Tank room and 737 s.f. Tasting bar and storage. The applicant is currently using the existing tank room to store cased wine and the remainder of the space is used as temporary storage for non-winery items such as yard maintenance equipment and furniture.

Winery Size - Proposed: 1,164 s.f. - Tasting room

Cave - Approved: None

Cave - Proposed: 8,800 s.f. Type II for production, offices, and Type III for tastings and marketing events

Accessory/Production Ratio Approved: 737 s.f. accessory/438 s.f. production - approximately 168%.

Accessory/Production Ratio Proposed: 1,876 s.f. accessory/8,096 s.f. production - approximately 23%.

Number of Employees Approved: 2 full-time

Number of Employees Proposed: 3 full-time and 2 part-time

Visitation - Approved Public: 30 guests/day with 100 guests/week

Visitation - Approved By-appointment: None

Visitation - Proposed Public: No change - 30 guests/day with 100 guests/week

Visitation - Proposed By-Appointment - 110 guests/week in addition to the existing 100 public guests/week for a weekly maximum to 210 total. No change to daily maximum of 30 guests.

Marketing Program - Approved: None

Marketing Program - Proposed: 2 events per year with a maximum of 50 guests

Days of Operation - Approved: Irregular (per Status Determination)

Days of Operation - Proposed: Monday through Sunday

Hours of Operation - Approved: 11:00 a.m. - 4:30 p.m.

Hours of Operation - Proposed: Visitation 10:00 a.m. - 4:30 p.m. Production 9:00 a.m. - 6:00 p.m.

Cave - Approved: None

Cave - Proposed: 8,800 s.f. Type II/III for production, offices, tastings, and events

Parking - Approved: Eight (8)

Parking - Proposed: Six (6). Two (2) of the existing eight will be reserved as parking for the residence.

Setbacks

Required Property Line setbacks: 20 feet

Existing Property Line setbacks: All existing and proposed winery structures located above ground exceed 20 feet

Required Road setback: 600 feet from Silverado Trail

Existing Road setback: The original winery Use Permit #U-388182 was approved prior to the WDO. The existing winery tasting room building is approximately 206 feet from the centerline of Silverado Trail.

Proposed Road setback: Winery building - The expanded winery building will be no closer than 206 feet from the centerline of Silverado Trail.

Proposed Road setback: Cave - The closest portion of the cave pad or entry area is the cul-de-sac, proposed at 265 feet from the centerline of Silverado Trail, and the cave wall is set back an additional 54 feet. County Code section 18.104.230.A. states that underground portions of caves are not subject to the winery or yard setback requirements. However, cave portals shall be required to meet the setback if the portal is visible from the applicable road, and if the associated entry pad outside of the cave portal is used for winery functions the pad is also required to meet the winery setback requirements. Based on the design of the cave the cave portals are concealed behind the curved walls of the enclosure, and will not be visible from Silverado Trail. No winery functions will occur in the cul-de-sac in front of the winery.

Adjacent General Plan Designation/ Zoning / Land Use:

All surrounding properties have a General Plan designation of Agriculture, Watershed and Open Space (AWOS). Many properties across Silverado Trail have a split designation of AWOS and Agricultural Resource (AR). The Zoning designation of the adjacent properties on the east side of Silverado Trail is Agricultural Watershed (AW). Properties across Silverado Trail are zoned Agricultural Preserve (AP). Nearby properties include vineyards, residences, and some undeveloped parcels.

Nearby Wineries located within 1 mile of the project - There are seven (7) wineries within one mile of the project. Please refer to Attachment N.

Parcel History:

July 21, 1982, the Planning Commission approved the Wermuth Winery Use Permit #U-388182. This established a 20,000 gallon per year winery in an existing 375 s.f. building, and permitted the two (2) authorized owners as employees, with a minimum of two parking spaces, hours of operation 8:00 a.m. to 10:00 p.m. No invitational signs were authorized to be installed.

August 10, 1987, the Planning Commission approved Major Modification U-698687. This authorized public tours and tastings (30 per day; 100 per week anticipated), conversion of an existing 400 s.f. garage to a wine storage building, an increase to eight parking spaces, and a reduction in hours of operation to 11:00 a.m. to 4:30 p.m. with irregular days of operation. No additional employees were authorized. Use Permit U-388182 became null and void upon issuance of a building permit for the use permit or commencement of tours and tastings.

July 15, 2019, the Director issued Status Determination No. P19-00135 to confirm existing legal entitlements granted by the County. Please refer to Attachment C.

Code Compliance History: There are no open cases on the property.

Discussion Points:

Setting - The project is located on a 7.44-acre parcel on Silverado Trail in the unincorporated area of Napa County between Calistoga and St. Helena. The project site can be accessed via a private driveway serving the existing winery and residence. The existing development on the property includes a residence, residential studio, greenhouse, and two winery buildings. The winery buildings include an approximately 740 s.f. tasting room and storage building and a 440 s.f. tank room. The structures are situated at the base of the hillside. The existing parking area serves both the residence and winery.

Winery Proposal and Design - Operational changes to the winery would include modifying the hours of operation, increasing the number of employees and weekly visitors, the addition of two (2) marketing events, permitting catered food at tastings, and authorizing on-premises consumption on the outdoor patios. Physical changes on site would include expanding the tasting room storage building to a total of approximately 1,200 s.f. The building would include a tasting room, office, wine storage, and restroom. The building would be no closer to the road than the closest portion of the existing structure. An approximately 8,800 s.f. cave would be constructed into the hillside north of the proposed winery building. The cave design includes a cul-de-sac turn around area in front of the cave. No winery functions (production, employee parking or hospitality activities

will occur in the cul-de-sac in front of the winery; it will only be used for trucks and/or emergency vehicles accessing the cave. Approximately 60 feet into the property the existing driveway will add a branch to the left creating a new access road to the cave. The existing parking area would be improved. Underground tanks would be installed on the hillside above the winery, with an underground pipe system to the well at the base of the hillside. A left turn lane would be installed on Silverado Trail at the project driveway. The winery building is proposed to be finished with a corten steel roof, natural redwood siding and a fieldstone base. Over time the materials will develop natural patinas. The building would be no closer to the road than the closest portion of the existing structure. Outdoor patios around the building are proposed for use for visitation and marketing events. The closest portion of the cave pad or entry area is the cul-de-sac, proposed at 265 feet from the centerline of Silverado Trail. The cave front and entry portals will be located approximately 300 feet from the front property line. The approximately 29-foot high cave wall would be set back behind a curved retaining wall built into the hillside. The retaining wall would range in height from eight feet to approximately 20 feet and would create an enclosure around the cul-de-sac and portals. The cave wall would be constructed of shotcrete and coated with a warm gray color. Vegetation such as climbing ivy and hanging rosemary shrubs will be added to blend the cave into the hillside. Existing trees and vegetation in front of the cave area will add to the screening. Based on the design of the cave the cave portals are concealed behind the curved walls of the enclosure and will not be visible from Silverado Trail.

Viewshed - Silverado Trail is a Viewshed designated road per County Code Chapter 18.106 Viewshed Protection Program. Proposed site development on slopes greater than 15 percent is subject to review and design criteria to minimize effects on the natural terrain and views from designated roads. The location of the winery building, driveway expansion, and parking lot are on slopes less than 15 percent and therefore are not subject to a viewshed analysis. The hillside water storage tanks and the pipe system to the well at the base of the hillside are located underground and would not be visible. Therefore, they are not subject to a viewshed analysis. The cave is located on slopes greater than 15 percent, so Viewshed application P22-00109 was submitted to analyze visibility of the cave wall and portals from Silverado Trail. It was determined that the proposed design meets the criteria for processing as an Administrative Viewshed under County Code Section 18.106.040.C. As discussed above, the cave has been designed so that the portals will not be visible from the roadway. Because of the design of the cave and use of earth tone materials, along with the existing vegetation and incorporation of new landscaping, substantial views of the cave wall will be screened. As required by County Code and included as a condition of approval, prior to the issuance of a building permit the property owner shall be required to execute and record in the County Recorder's office a use restriction requiring building exteriors, and existing and proposed covering vegetation, as well as any equivalent level of replacement vegetation, to be maintained by the owner or the owner's successors to maintain conformance with County Code Section 18.106.040. See Attachment B - COA No. 6.11. The Viewshed component of the project has been administratively approved by the Director, pending approval of the underlying minor modification. No action on the viewshed is required by the Commission.

Days and Hours of Operation - Status Determination P19-00135-SD noted the days of operation as Irregular. The applicant is proposing regular operation Monday - Sunday. Approved hours of operation are between 11:00 a.m. - 4:30 p.m. The applicant proposes hours of operation for production activities between 9:00 a.m. - 6:00 p.m. and hours of operation for visitation between 10:00 a.m. and 4:30 p.m. The request falls within the hours

allowed under Administrative modifications to winery use permits (Code section 18.126.065.N.)

Employees - The Use Permit approval listed 2 full-time employees, originally referenced as the authorized owners. The winery proposes to increase employees to 3 full-time and 2 part-time.

Visitation and Marketing - The winery is currently permitted for public tours and tastings with a maximum of 30 guests per day and 100 guests per week. The applicant is requesting to maintain the daily maximum of 30 guests but expand the weekly total to 210 guests. The additional 110 guests would be approved as By-appointment tours and tastings. The applicant has stated that they generally intend to operate all tastings through appointments. Areas where public visitation may occur is limited in square footage to the size of the area(s) originally approved. Status Determination P19-00135-SD found that the hospitality area at the time of the approval of public tastings was 375 s.f. With the expanded winery building, the applicant is denoting the approximately 100 s.f. tasting bar as the separate area designated for use by public visitation. This is within the recognized square footage limitation. Weekly visitation would increase by 110 guests, resulting in an annual increase of 5,720 guests. Total annual guests would increase from 5,200 guests to 10,950 guests. When compared to other wineries producing 20,000 gallons, including wineries approved prior to the Winery Definition Ordinance (Pre-WDO), wineries receiving a small winery exemption, and wineries with By Appointment visitation, the approved daily, weekly, and annual visitation is higher than the average of other wineries. The proposed increase in weekly visitation would further increase the weekly and annual visitation above other wineries.

The winery is not currently approved for events. The proposal includes two events per year with up to 50 guests per event, with food and wine pairings. Events would be held within the winery building, on the outdoor patios, and within the approximately 400 s.f. tasting room in the cave. The proposed annual marketing plan is comparable to the approved marketing plans of other Pre-WDO wineries, but less than By Appointment and small winery exemption wineries.

Traffic, VMT Analysis, Parking - The County maintains a set of Transportation Impact Study Guidelines (TIS Guidelines) that define situations and project characteristics that trigger the need to prepare a TIS. Per the County's current TIS Guidelines, a project is required to prepare a TIS if it generates 110 or more net new daily vehicle trips. Based on the County's Trip Generation worksheet, the proposed project would generate approximately the following Average Daily Trips (ADT) - Weekday Daily Trips: 39 (Harvest), 37 (Non-Harvest) and Weekend Daily Trips: 37 (Harvest), 35 (Non-Harvest). The anticipated ADT falls within the limitations of section 18.124.130.C.2 for Minor Modifications. There is a slight increase over the existing ADT ranging from 28 to 32 due to the proposed increase in employees from two full-time to three full-time and two part-time. There is no increase in the daily maximum visitation, however weekly visitation would increase from 100 guests per week to 210 guests per week. The trip generation does not exceed 110 net new daily trips; therefore the project is not required to prepare a traffic study. Although a TIS was not required, Sherwood Design Engineers prepared a Transportation Memorandum, dated March 15, 2022, with a left turn lane warrant analysis. Based on the "Left Turn Lane Warrant Graph" in the TIS Guidelines and the Trip Generation Worksheet, the proposed project requires installation of a left turn lane. Preliminary plans were submitted and

reviewed by the Engineering Division and Department of Public Works. All work would be completed within the County right of way. The preliminary design complies with County standards. Final plans would be reviewed and approved by the Department of Public Works. The trip generation does not exceed the threshold requiring a Vehicle Miles Traveled (VMT) analysis, so one was not prepared. The winery is currently approved for eight (8) parking spaces. The project proposes to redesign the parking area, maintaining the total of eight (8) parking spaces. Two parking spaces would be reserved for the residence and denoted with signage, resulting in six (6) parking spaces for the winery. The six winery parking spaces would likely not be sufficient for marketing events. For events staff is requiring shuttle services or arrangements for guests to park off site. Staff has recommended a condition of approval. See Attachment B - COA No. 4.20.f.

Noise - A noise study was prepared by Salter Inc., acoustical engineers, in May 2022. The study focused on outdoor activities, in order to address potential noise impacts from the expanded tasting room, outdoor patios, and increased visitation. Following comments from neighbors regarding potential impacts from production activities and new outdoor equipment, the study was updated in November 2022 to address use of the cul-de-sac in front of the cave and outdoor wastewater equipment. All production activities are proposed to occur within the cave. Concerns were raised by neighbors regarding noise from truck and equipment use in the cul-de-sac, including the use of back-up sirens. The cul-de-sac is predominantly enclosed within the cave retaining walls, and the design includes a turnaround area that would allow trucks to complete a three-point turn, removing the need to back down the driveway. Salter Inc. considered this in their revised analysis and concluded that the site features provide shielding and sound attenuation to comply with noise regulations. Additional concerns were raised regarding potential impacts from a component of the wastewater system that would be located outside, above ground on the northwestern side of the cave. Specific concerns were raised regarding the blowers. In consultation with the equipment manufacturer, recommendations were made for selecting noise attenuating design features and additional equipment. Conditions of approval have been added to ensure that the proposed equipment selection and noise attenuating devices are included in the building permit submittal and construction and maintained. See Attachment B - COA Nos. 4.20.d. and 6.15.e.

The noise study, focused on outdoor activities to address potential noise impacts from the expanded tasting room, use of outdoor patios, and increased visitation. The proposed tasting area courtyard is to be located near the center of the property. The nearest adjacent residence to the proposed courtyard is approximately 240 feet to the northwest and 200 feet to the northeast. There are also residences 450 feet to the northwest and 475 feet to the south across Silverado Trail. The study took readings from two locations, one along the northern property line across from the tasting room building and one along Silverado Trail. The Napa County General Plan defines normal conversation as 60 dB. The analysis estimates the combined noise level of 50 people talking during a marketing event would be roughly 80 dB. Assuming this combined noise level, Salter opined that the noise level at the closest (east) property line 110 feet away will be 49 dB (due to noise loss over distance traveled) [correction: distances were previously listed as 125 feet and 48 feet]. This resultant level at the east property line is below the 50 dB criterion and lowest measured ambient level of 54 dB. Therefore, noise from the proposed outdoor events will meet the Napa County property line criterion without the need for noise mitigation. Additional acoustical shielding will occur due to the proposed tasting building, the wall along the western side of the Northern Patio, and existing trees around the patio and along the property lines.

Following publication of the staff report a neighbor raised further concerns about the noise study and potential impacts. First it was suggested that an incorrect measurement was used in the noise study, inaccurately evaluating potential impacts based on a larger distance. The noise study listed the closest portion of the outdoor areas to neighboring property line at 110 feet, however the Northern Patio is approximately 75 feet to the closest property line. In response the applicant explained that the Northern Patio will primarily be used as a walkway between the Tasting room and the cave, and the closest portion of the patio that is intended to be used for hospitality, visitation, marketing, and on-premises consumption is 110 feet from the property line. Additionally, the western side of the patio contains a four (4) foot wall separating the patio from the driveway. If the applicant limits use of the Northern Patio to the area further away from the neighboring property, the noise standards will be met and the area can be used for hospitality. Second, it was noted that although the application materials state that all production would occur in the cave, the noise study states “Truck turnaround areas are to be located at the cave auto-court and tasting room, and vehicles will either be staged within the production tunnel or directly outside of the tunnel which is shielded from adjacent properties by a large retaining wall.” Raising concern that outdoor production may occur. It was also questioned that if all production activities will take place in the cave, would this require equipment such as air circulating devices within or outside of the cave, and would cave portal doors be shut during production. In response the applicant reiterated that all production activities will occur within the cave and not on the cul-de-sac. The cul-de-sac is provided for a fire truck to turn around as demonstrated on the plan set. The cul-de-sac and cave are designed to allow a bottling truck to enter and then back into the portal. Air circulating devices will not be located within/out of the cave. The doors will be primarily closed to maintain the natural ambient temperature of the cave for aging wine.

Additionally, it has been the division’s practice to evaluate noise from the noise generating source to the potentially sensitive receptor. In this case the residence is approximately 200-225 feet from the cave portals and patio. The study shows noise standards can be met at the property line and noise levels would further dissipate prior to reaching the residence on the adjacent property. Staff is recommending the addition of a condition of approval will be added to ensure compliance with County setback requirements that would prohibit use of the cul-de-sac for winery functions. See Attachment B - COA 4.20.f.

Groundwater Availability - A Water Availability Analysis was prepared by Sherwood Design Engineers, Revised September 21, 2022. As directed by the County Water Availability Guidelines (May 2015) the report includes a Tier 1 calculation for the existing and proposed water uses and a groundwater recharge analysis, a Tier 2 well interference analysis, and a Tier 3 surface water interference analysis.

The Tier 1 analysis considered existing uses onsite to include the residence and residential studio, winery domestic use, winery process use, and landscape irrigation. An onsite water audit was completed and the existing water use associated with the residence and winery is estimated to be 1.37 acre-feet/year (af/yr). Due to the increase in employees and hospitality guests, along with the new landscape design, total water use would increase to 1.54 af/yr. Vineyards will be planted on the landscape berm along the front portion of the property. The vineyards will be watered with treated process wastewater, resulting in no direct groundwater use. There would be no change in winery process water use and residential water use would decrease following conversion of the residential studio to a residential storage building. Overall, the project would result in an increased water

use of 0.17 af/yr. Due to the parcel location outside of the GSA boundary, a parcel specific recharge calculation was prepared. In calculating the recharge for the 7.44-acre parcel, the analysis included a conservative approach that removed 1.95 acres of the hillside portion of the site due to steep slopes over 30%, resulting in 5.49 acres considered as the recharge area. The groundwater recharge was estimated by reviewing the soil properties and geological materials present. The site contains Sonoma Volcanics, which have been determined to have specific recharge yields varying from 0 to 15%. According to the PRISM Climate Group at Oregon State University data set for 2011 to 2021, the average annual rainfall is reported to be 35.58 inches. The volume of rainwater that is estimated to be available for groundwater recharge, calculated based on the recharge area, average rainfall, and the 15% recharge rate for Sonoma Volcanics, is 2.44 af/yr. This is greater than the estimated proposed use of 1.54 af/yr. The proposed water use would not impact groundwater availability.

The Tier 2 analysis was performed to analyze potential well from the project well on wells located within 500 feet of the project well. There are three (3) wells within this distance. The analysis considered the properties of the aquifer and soils in the area and utilized well completion reports for the project well and neighboring wells. Although the project well has an estimated potential pumping capacity of 50 gpm, the applicant has proposed to install well equipment that would limit the pumping rate to 9 gallons per minute (gpm). A condition of approval requires installation of well pump equipment to limit the pumping rate to 9 gpm. See Attachment B - COA Nos. 4.20.e. and 6.15.f. This proposed pumping rate of a maximum of 9 gpm is sufficient to satisfy the project water demands. Using the Theis equation, the estimated well drawdown at the neighboring wells ranged from 0.01 to 0.04 feet after one day of pumping at a constant rate of 9 gpm. Table 2B of the WAA Guidelines includes standard estimated drawdown at neighboring wells based on parameters such as distance and pumping rates. The estimated drawdown quantities resulting from the project calculations are less than those included in Table 2B and therefore no significant interference is expected.

The Tier 3 analysis was performed due to the project well's location approximately 730 feet from Dutch Henry Creek, a designated Significant Stream. The WAA Guidelines Table 3 provides general conditions based on parameters such as aquifer hydraulic conductivity, distance from the stream, depth of the well seal, and depth of the uppermost perforations, that present expected levels of drawdown on surface waters that are not considered to result in a significant impact. The proposed installation of well pump equipment limiting the pumping rate to 9 gpm maximum would qualify the well as a low-capacity pumping rate. Within the parameters of the Guidelines Table 3, the proposed project would exceed the acceptable distance standard of 500 feet which is expected to preclude any significant adverse effects on surface waters, and would therefore not have a significant impact on Dutch Henry creek. Conditions of approval have been added that require development of a Groundwater Demand Management Program, which includes an annual water use limit based on the proposed use of 1.54 af/yr. See Attachment B - COA 4.20.a.; 6.15.a.; and 9.9.a.

Wastewater System - A Wastewater Feasibility Study, dated July 2022, was prepared by Sherwood Design Engineers detailing the existing system and proposed changes to accommodate the changes in employees and hospitality. The project site includes an existing septic system that consists of a septic tank and conventional gravity leachfield. The existing septic system is proposed to be removed per Napa County Planning, Building, and Environmental Services (PBES) requirements as part of the proposed improvements. The domestic wastewater system, which would serve the winery and residence, is proposed to include a subsurface drip

dispersal system. The winery process wastewater system is proposed to include a pretreatment system followed by surface dispersal on vineyard and landscape irrigation areas. The system will be designed per Regional Water Quality Control Board (RWQCB) and PBES requirements. A pressure distribution leachfield is proposed as the 100% replacement area. A wastewater and irrigation balance will be performed following approval of the Use Permit Modification to establish the storage tank size and irrigation programming required. The facility will have to enroll for coverage under RWQCB's General Waste Discharge Requirements for Winery Process Water and meet discharge standards and monitoring requirements specific to the amount of waste discharged. The Division of Environmental Health reviewed this report and concurred with its findings, conditioning that the plans shall be designed by a licensed Civil Engineer or Registered Environmental Health Specialist and approved by the Division of Environmental Health. As discussed above a condition of approval regarding noise attenuating equipment for outdoor, above ground equipment has been included.

Water System - A Water System Feasibility Report, dated July 2022, was prepared by Sherwood Design Engineers. Based on the proposed uses, the onsite public water system will be classified as a transient noncommunity (TNC) public water system per the State of California Drinking Water Requirements. The existing water system (tanks, utilizes, treatment devices) will not be used as part of the proposed project and will be demolished as part of the improvements. Water is proposed to be pumped from the project well to the proposed water storage tanks that will be installed approximately 750-ft north up the hill beneath what is currently an existing unpaved access road. One of the proposed below ground storage tanks will be a 50,000-gallon fire protection and irrigation water storage tank. The other proposed below ground tank will be a 15,000-gallon domestic water storage tank. The Division of Environmental Health reviewed this report and concurred with its findings.

Biological Resources - According to the Napa County Environmental resource maps (based on the following GIS layer - CNDDDB layer), potential for pallid bat and townsend's big-eared bat have been identified in the vicinity of the property. In order to address this potential impact, the applicant provided documentation from WRA Environmental Consultants regarding an assessment for bat habitat. The document, dated February 14, 2022, provided a background of the site and proposed project, along with information on the methods utilized, and their results. Two areas were the focus of this assessment: 1) The portion of the property where construction of new winery facilities is planned, requiring demolition of some existing structures, tree removal, and other associated activities; and, 2) an on-site area proposed to house new water tanks. A daytime roost assessment was performed on February 9, 2022, by WRA wildlife biologist Nick Brinton (author). The survey assessed any trees or buildings proposed for removal as well as adjacent trees and other substrates within the Study Area for their potential to support bat roosts, and specifically bat maternity (breeding) roosts. The document concludes that no suitable bat roosting substrates were observed within the Study Area during the site investigation. None of the trees examined contained suitable cracks, fissures or basal cavities that might support bat roosting. No sign of historic or current bat roosting was observed in either the trees or in buildings proposed for demolition. If building construction has not commenced within five (5) years of the completion of this assessment, February 2022, a follow up assessment shall be completed. Following the recommendations of the report, conditions of approval will be included requiring additional assessments if the project development areas are revised or work has not commenced with five years. See Attachment B - COA No. 6.15.h.

Tree Removal and Preservation -The project scope included tree removal of approximately 0.2 acres and permanent preservation of approximately 1.8 acres of trees through a deed restriction. Based on the property zoning of Agricultural Watershed (AW) the project is subject to the vegetation canopy cover retention and removal mitigation requirements pursuant to the Conservation Regulations Napa County Code Section 18.108.020. This section requires 70% retention of the vegetation canopy cover on the parcel (or contiguous parcels under common ownership), and that any vegetation canopy cover removed as part of the project be mitigated at a 3:1 ratio (by acreage) via preservation or restoration, and permanently preserved through deed restriction or other means acceptable to the County. Due to impacts from the fires in 2020, the vegetation canopy cover analysis shall be as configured on the parcel existing on June 19, 2018, pursuant to County Code Section 8.80.130, Conservation Regulations for Fire Damaged Properties.

The vegetation canopy cover subject to County Code Section 18.108.020 includes the oak woodland and coniferous forest vegetation communities. The applicant submitted a Canopy Retention Analysis, prepared by WRA Environmental Consultants, dated March 21, 2022, with revised materials submitted April 26, 2023. As determined by WRA the total existing canopy cover is approximately 5.6 acres. Individual oak trees identified in the existing developed area of the site around the existing winery and residential structures (approximately 0.1 acres within the developed land cover area) were not included in the vegetation canopy cover analysis per the biologist assessment that these trees are isolated from the oak woodland habitat. The project proposes removal of approximately 0.2 acres of trees in the location of the proposed cave (0.1 acre canopy cover) and individual trees in the already developed area (0.1 acre). The analysis of the canopy cover considered the area in the location of the cave development (0.1 acre) and an area of trees already removed following the 2020 fire (approximately 0.5-acre), for a total of 0.6 acres. As proposed, the project would retain approximately 5 acres, resulting in an 89% retention compared to the 2018 condition. This is in compliance with County Code Section 18.108.020(C). The proposed total canopy cover analysis of 0.6-acre would require approximately 1.8-acre preservation area to comply with 3:1 preservation ratio found in County Code Section 18.108.020(D). Civil improvement plans submitted with the application proposed two areas totaling approximately 1.8 acres, in compliance with County Code Section 18.108.020(D) and (E). A revised plan and narrative were received April 26, 2023, revising the selected preservation areas. The revised areas removed a hillside portion on steeper slopes and instead included the previously cleared area. This combines the two preservation areas, which includes the largest portion of the property where average slope is 30 percent or less and canopy is currently or was recently present. The previously submitted plans were adequate to demonstrate compliance with County Code, however the new location offers higher biological and water quality protections. The revised location remains at 1.8 acres. Staff is supportive of the revised location which complies with County Code Section 18.108.020(D)(2).

In addition to the vegetation canopy cover analysis the oak woodland removal is subject to General Plan Policy CON-24, which requires preservation or replacement of lost oak woodlands at a 2:1 ratio on an acreage basis. Based on the Land Covers figure the total of oak woodland already removed and proposed for removal is 0.34-acre, resulting in a requirement of an approximate 0.7-acre oak woodland preservation area to be consistent with County policy. The Tree Canopy Exhibit and Land Covers Exhibit demonstrate that the proposed preservation areas include a minimum of 0.7-acre oak woodlands, and therefore is consistent with Policy CON-24.

Conditions of approval related to vegetation canopy cover preservation and oak woodland preservation have been included to ensure the site is developed and preservation is incorporated as proposed. See Exhibit A - COA No. 6.15.g.

Green House Gas Emissions - On April 20, 2022, the Bay Area Air Quality Management District (BAAQMD) adopted new recommended thresholds for determining the significance of individual projects' greenhouse gas impacts under CEQA. Under the new thresholds, proposed land use projects may be analyzed for consistency with a qualified greenhouse gas (GHG) reduction strategy in the event one has been adopted. To date, Napa County has not adopted a qualified GHG reduction strategy pursuant to CEQA Guidelines section 15183.5. Absent an adopted strategy, BAAQMD recommends that a land use project must include specified minimum design elements to ensure that the project is contributing its "fair share" toward achieving the state's key climate goal of carbon neutrality by 2045. Napa County has not adopted a qualified GHG reduction strategy or an air quality plan, therefore projects will be evaluated per the BAAQMD recommended minimum design elements.

Specifically for buildings, the project must not:

- Include natural gas appliances or natural gas plumbing (in both residential and nonresidential development); and
- Result in any wasteful, inefficient, or unnecessary electrical usage as determined by the analysis required under CEQA section 21100(b)(3) and CEQA Guidelines section 15126.2(b).

Specifically for transportation, the project must:

- Achieve compliance with electric vehicle requirements in the most recently adopted version of CALGreen Tier 2, and
- Achieve a reduction in project-generated vehicle miles traveled (VMT) below the regional average consistent with the current version of the California Climate Change Scoping Plan (currently 15 percent) or meet a locally adopted Senate Bill 743 VMT target reflecting the following recommendations:
 - o Residential projects: 15 percent below the existing VMT per capita;
 - o Office projects: 15 percent below the existing VMT per employee; or
 - o Retail projects: no net increase in existing VMT.

To address these requirements, staff has recommended a project specific condition to prohibit the use of natural gas appliances or plumbing. Additionally, at the time of construction the project will be required to comply with the California Building Code, which is currently being updated to include regulations to assist in the reduction of air quality impacts associated with construction. Any new construction will be required to install energy efficient fixtures complying with CA building code Title 24 standards. The project will also be required to comply with the recently adopted version of CALGreen Tier 2. Staff has included a project specific condition to ensure this is reviewed and implemented at the time of construction through adherence to the California

Building Code. See Attachment B - COA 6.15.b. and 6.15.c. Construction and site improvement development included utilizing energy conserving lighting and water efficient fixtures, a natural green roof of the cave, installation of an electric vehicle charging station, and inclusion of striping for a bicycle lane with the left turn lane and bicycle parking on site. Additionally, the drainage design incorporates low-impact development, and treated winery wastewater would be used for the landscaping which has been designed to comply with the State Water Efficient Landscape Ordinance (WELO). The winery will use 70-80% cover crop along with retaining biomass removed from agricultural processes on site, instead of burning on-site. A condition of approval will be included to require implementation of the checked Voluntary Best Management Practices Measures submitted with the project application. See Attachment B - COA No. 6.15.d.

The proposed tree removal is subject to GHG analysis, as the proposed total tree removal would result in loss of carbon sequestration. Tree removal associated with the project includes 0.1 acre at the proposed cave location and 0.1 acre of individual trees being removed from the area already developed with winery structures and the residence. Emissions resulting from the tree removal is offset by the permanent preservation of minimum 1:1 by acreage ratio, which is accomplished through the tree preservation conditions of approval.

Tribal Cultural Resources - On May 3, 2022, County Staff sent invitations to consult on the proposed project to Native American tribes who had a cultural interest in the area and who as of that date had requested to be invited to consult on projects, in accordance with the requirements of Public Resources Code section 21080.3.1. Staff received a response from the Yocha Dehe Tribe on May 23, 2022. The Tribe did not request to consult or provide comments. Staff was contacted by representatives from the Middletown Rancheria and Mishewal Wappo Tribe requesting additional information on the project and to be included in a site visit. A Cultural Resources Evaluation, dated May 13, 2022, was prepared by Archeological Resource Service (ARS) to determine the presence or absence of potentially significant cultural resources within the footprint of the proposed project. A surface reconnaissance of all accessible parts of the project area was conducted to locate any visible signs of potentially significant historic or prehistoric cultural deposits. The site evaluation reviewed the open flat area formerly occupied by vineyards, the locations proposed for changes or additions to buildings, the proposed driveway and parking, the entrance area for the cave, and the water tank site above the tasting room on the hill. The investigation resulted in a positive find, indicating the presence of a cultural resource within part of the project area. An archaeological site record (DPR form 523) was filed with the Northwest Information Center (NWIC). On June 14, 2022, a site visit was conducted with ARS staff, county staff, the winery's project team, and a representative from Middletown Rancheria. A representative from the Mishewal Wappo tribe was not able to attend in person but joined in via a phone call held on speaker phone. The observations and recommendations of the archaeological report were generally upheld with specific agreement on the approach to preserve any resources in place through the careful placement of fill soil. As discussed, all excavation, grading, vegetation removal, trenching, compaction, placement of fill, or other earth disturbing operations undertaken as part of the project should be discussed between the archaeologist, tribal representative, and the project engineer to ensure the work is the minimum necessary and that design measures are incorporated to preserve the resources in place and that the work must be monitored by a professional archaeologist and a tribal representative. Middletown Rancheria provided recommendations for training and monitoring to be incorporated with the project design and approval for preservation or mitigation of potentially significant impacts to tribal cultural resources. With incorporation of the design components, mitigation measures, and conditions of approval, potential impacts to resources would be less than significant. See

Attachment B - COA Nos. 6.12, 7.4, and 7.5.

Grape Sourcing - The original winery use permit was approved prior to the WDO and therefore the existing 20,000 gallons of production is not subject to the County's 75% grape sourcing rule. The applicant noted in prior production years they have sourced approximately 55 tons of fruit, with approximately 36 tons coming from Napa County. They anticipate similar grape sourcing with continued production.

Conditions of Approval - Site improvements are required to be completed prior to beginning an increase in employees, visitation, and marketing. Improvements include installation of the left turn lane, driveway improvements, and installation of the water system and wastewater treatment system. A condition of approval regarding the timing of these improvements has been added. See Attachment B - COA 4.20.b.

Staff is recommending one additional condition of approval. As discussed in the Winery Characteristics - Setbacks section, the cave portals is permitted within the required winery setback because it is not visible from Silverado Trail and the associated entry pad outside of the cave portal will not be used for winery functions such as, but not limited to, placement of winery equipment, crushing, visitation, etc. To ensure compliance with this code section a condition will be added to prohibit use of the cul-de-sac for winery functions. See Attachment B - COA 4.20.f.

Public Comments - During processing of this permit, public comments were received expressing concerns about the proposed winery expansion and that the applicant had not adequately address neighbor issues. This led to the Zoning Administrator elevating this Minor Modification request to the Planning Commission. At the time of publication of the staff report for the May 3, 2023, hearing one (1) comment email was received. See Attachment O.

On May 2, 2023, prior to the hearing, a comment letter was submitted from residents residing at the five (5) adjacent residences, with homes to the north, south, and across Silverado Trail. The comments included procedural concerns, project-specific concerns including: water usage, noise, lighting, privacy, and physical improvements associated with the left-turn lane, and proposed recommendations. Additionally, the neighbors felt there was a lack of effort on the part of the applicant to engage with them regarding their concerns. The comment letter was provided to the Planning Commissioners and applicant prior to the May 3rd hearing and has been added to this staff report.

Since the May 3, 2023, hearing staff met with one of these neighbors and their representative and has had phone calls to discuss the items raised in the letter. Their specific comments regarding noise were discussed above. The topic of potential impacts from new lighting was also raised. As shown on the preliminary plans the lighting complies with the standard Condition of Approval applied to all winery projects in order to reduce potential impacts. The neighbors suggested possibly including additional conditions regarding time restrictions on lighting. This comment letter, along with one (1) email, have been as an attachment to the Staff Report. See

Attachment P.

After reviewing the additional comments received, staff's opinion remains that all application requirements have been met and compliance with County Code has been addressed through project design, CEQA review, and recommended conditions of approval.

Decision Making Options:

As noted in the Executive Summary, staff recommends approval of the project subject to conditions of approval. Decision making options also include a reduced-intensity project alternative, and a no project alternative (denial of the requested Use Permit Minor Modification).

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

Disposition - The proposed project includes operation changes, construction of new structures, and infrastructure improvements. Operational changes include an increase in employees, an increase in weekly by-appointment visitation, and a new marketing plan. Proposed physical improvements include expansion of the existing winery building, outdoor patios, a new cave, expanded driveway, improved parking area, and water and wastewater system equipment. To reduce potential impacts, the applicant has incorporated a number of components into their project, including mitigation measures for protection of tribal resources and monitoring, a well pump to restrict water pumping levels, noise attenuating materials on the wastewater equipment, and permanent preservation of oak woodlands and overall tree canopy. Conditions of Approval and Mitigation Measures have been prepared to ensure these project components are completed. This option has been analyzed for environmental impacts, which were found to be less than significant with the incorporation of mitigation measures for tribal resources.

Action Required - Follow the proposed action listed in the Executive Summary. If conditions of approval are to be amended, specify conditions to be amended at time motion is made.

Option 2 - Revised Project Request

Disposition - All potential environmental impacts have been found to be less than significant through a combination of project design, mitigation measures, and conditions of approval. However, this option provides the Planning Commission, at their discretion, the ability to further reduce potential effects, such as decreasing the winery's maximum weekly visitation numbers, marketing activities, location of outdoor activities, and/or the number of employees. If the Planning Commission elects to pursue this option, the recommended conditions of approval would need to reflect the revised components.

Action Required - Follow proposed actions listed in the Executive Summary and amend scope and applicable conditions of approval. The item may need to be continued to a future date if significant revisions to the recommended conditions of approval are desired.

Option 3 - Deny Applicant's Proposal

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 minor modification, 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 minor modification is not being approved.

Action Required - Commission would take a 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. Recommended Findings
- B. Revised Recommended Conditions of Approval and Final Agency Approval Memos
- C. Previous Project Conditions
- D. Initial Study Mitigated Negative Declaration
- E. Use Permit Minor Modification and Viewshed Application Packets
- F. Water Availability Analysis
- G. Water System Feasibility Report
- H. Wastewater Feasibility Study
- I. Bat Habitat Assessment
- J. Outdoor Noise Study

K. Canopy Retention Analysis

L. Transportation Memorandum and Left Turn Lane Analysis

M. Graphics

N. Winery Comparison Analysis and Summary of Changes

O. Public Comments May 3, 2023, Staff Report

P. Public Comments Received after Posting the May 3, 2023, Staff Report