



# Napa County

1195 THIRD STREET  
SUITE 310  
NAPA, CA 94559  
www.napacounty.gov

Main: (707) 253-4580

## Legislation Text

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**File #:** 26-390, **Version:** 1

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**TO:** Napa County Planning Commission  
**FROM:** Brian D. Bordona - Director Planning, Building and Environmental Services  
**REPORT BY:** Emily Hedge, Planner III  
**SUBJECT:** Hagafen Cellars Winery Use Permit Major Modification (P19-00121-MOD)

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### RECOMMENDATION

NORMAN WEIR / HAGAFEN CELLARS WINERY / USE PERMIT MAJOR MODIFICATION #P19-00121-MOD

CEQA Status: Consideration and intention to find the project categorically exempt from the California Environmental Quality Act (CEQA). It has been determined that this type of project does not have a significant effect on the environment and is exempt from CEQA. The project will not impact an environmental resource of hazardous or critical concern, has no cumulative impact, there is no reasonable possibility that the activity may have a significant effect on the environment due to unusual circumstances, will not result in damage to scenic resources, is not located on a list of hazardous waste sites, or cause substantial adverse change in the significance of a historical resource. Based on the proposed project as described below, the project meets the criteria for eligibility as Categorical Exemption from CEQA under Classes 1 and 4. [See Class 1 (“Existing Facilities”) and Class 4 (“Minor Alterations to Land”), which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15301, §15304]. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

Request: This application was submitted to participate in the County’s Code Compliance Program as described in Resolution No. 2018-164 adopted by the Napa County Board of Supervisors on December 4, 2018. The proposal is to grant a Use Permit Major Modification to an existing 50,000-gallon winery to remedy existing violations through recognition and approval of existing days of operation, existing days allowing retail sales, and levels of visitation. Approval and recognition of these activities will require improvements to the existing driveway. The proposal includes revisions to prior conditions of approval regarding annual reporting on multiple winery operations and noticing of all marketing events.

The project is located on an approximately 12.28-acre parcel within the Agricultural Preserve (AP) zoning district with a General Plan land use designations of Agricultural Resource (AR) at 4160 Silverado Trail, Napa Assessor's Parcel Number 039-130-002.

Staff Recommendation: Find the Project Categorically Exempt from CEQA and approve Use Permit Modification P19-00121, as conditioned.

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

Applicant Contact: Norman Weir, 4160 Silverado Trail, Napa, ernie@hagafen.com, (707) 252-4562

Applicant Representative Contact: Beth Painter, 10 Canopy Lane, Napa, Beth@bpnapa.com, (707) 337-3385

## **EXECUTIVE SUMMARY**

Proposed Actions:

That the Planning Commission:

1. Find the project Categorically Exempt from CEQA, based on recommended Findings 1 through 3 of Attachment A; and
2. Approve Use Permit Modification P19-00121 based on Recommended Findings 4 through 8 of Attachment A, and subject to the recommended Conditions of Approval in Attachment B.

Discussion:

Hagafen Cellars is an existing 50,000-gallon winery located on an approximately 12.28-acre parcel within the Agricultural Preserve (AP) zoning district with a General Plan land use designations of Agricultural Resource (AR) at 4160 Silverado Trail, Napa. Assessor's Parcel Number 039-130-002.

The existing winery development is approximately 6,800 s.f., consisting of a 4,500 s.f. main winery building with an attached, covered outdoor work area, an uncovered work area, and an approximately 360 s.f. tasting room building. The existing driveway enters off Silverado Trail, going straight back to the winery, before looping around the winery building and outdoor work areas. Parking is located around the winery building. There are approximately 10 acres of vineyards and a single-family residence.

As part of the Code Compliance Program, the applicant is asking for recognition of the operational levels

occurring in 2018. No increase in operations or new development is requested.

1. Components Necessary to Remedy Existing Violations (based on 2018 records):

- a. Recognition of days of operation Monday through Sunday. The winery is currently authorized for operations Monday through Friday and Sunday;
- b. Recognition of retail sales occurring Monday through Sunday. The winery is currently permitted for retail sales Monday through Thursday and Sunday.
- c. Recognition of a maximum of 60 visitors per day with a maximum of 311 visitors per week, not to exceed an annual total of 9,719 visitors. The winery is currently authorized for 25 visitors per day (six days per week) with up to 150 visitors per week for an annual total of 7,825 visitors;
- d. Recognition of use of an approximately 720-square-foot storage room in the winery building. The room was not delineated on the original winery Use Permit plans.
- e. Widening the existing driveway to meet Napa County Road and Street Standards.
- f. Revise COA No. 2 of Permit No. 99477 to remove the requirement for mailing notice of events to identified individuals.
- g. Revise COA No. 3 of Permit No. 99477 to remove the requirement for submitting an annual report of daily visitation counts.
- h. Remove COA No.15 of Permit No. 99477 requiring submittal of an annual report of grape source data.
- i. Remove COA No.16 of Permit No. 99477 requiring submittal of an annual statement certifying compliance with grape sourcing requirements.
- j. Revise COA No. 21 of Permit No. 99477 to remove the requirement for submitting an annual report of the number of gallons of wine produced during the year.

The proposal includes recognition of existing days of operation, existing days allowing retail sales, and levels of visitation, that have been occurring beyond current entitlements. No intensification of these activities is requested as part of this application. Additionally, there are no requested changes to the authorized levels of production, employees, marketing events, or other operational components. No new construction or physical improvements are required for continued use of the 720-square foot storage room within the winery building. The proposed improvements to the existing driveway are required to comply with the Napa County Road and Street Standards. The improvements will occur on areas on the site that have previously been disturbed by planting landscaping and vineyards, and grading for winery development. The proposal also includes a request to modify previous conditions of approval to remove the requirement for annual reporting of daily visitation counts, grape source data, and production, and the requirement to notice a specific list of individuals prior to winery events.

The modification would bring the existing winery operations into compliance with approved entitlements and allow improvements to the road to meet County and State regulations. Project operations would remain at the 2018 baseline levels and would not result in additional traffic trips, generation of more wastewater, use of

groundwater, or use or consumption of additional resources. The revision to existing conditions replaces them with standard conditions of approval and general winery use permit practices.

Staff found the requests to be consistent with the Zoning Ordinance and applicable General Plan policies. Based on the reasons stated above, staff recommends approval of the project, subject to the recommended Conditions of Approval included in Attachment B.

## **ENVIRONMENTAL IMPACT**

**ENVIRONMENTAL DETERMINATION:** Consideration and intention to find the project categorically exempt from the California Environmental Quality Act (CEQA). It has been determined that this type of project does not have a significant effect on the environment and is exempt from CEQA. The project will not impact an environmental resource of hazardous or critical concern, has no cumulative impact, there is no reasonable possibility that the activity may have a significant effect on the environment due to unusual circumstances, will not result in damage to scenic resources, is not located on a list of hazardous waste sites, or cause substantial adverse change in the significance of a historical resource. Based on the proposed project as described below, the project meets the criteria for eligibility as Categorical Exemption from CEQA under Classes 1 and 4. [See Class 1 (“Existing Facilities”) and Class 4 (“Minor Alterations to Land”), which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15301, §15304]. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

## **BACKGROUND AND DISCUSSION**

**Owner/Applicant:** Norman Weir, 4160 Silverado Trail, Napa, [ernie@hagafen.com](mailto:ernie@hagafen.com), (707) 252-4562

**Representative:** Beth Painter, 10 Canopy Lane, Napa, [Beth@bptnapa.com](mailto:Beth@bptnapa.com), (707) 337-3385

**Zoning:** Agricultural Preserve (AP)

**General Plan Designation:** Agricultural Resources (AR)

**Parcel size:** 12.2 acres

**Application Filed:** March 27, 2019

**Resubmittals Received:** July 10, 2020; August 31, 2022, October 28, 2022; January 20, 2023; April 24, 2024; January 26, 2026

**Application Deemed Complete:** May 22, 2024

**Courtesy Notice Sent:** November 18, 2020

**Parcel History:** On March 4, 1998, the Planning Commission heard Use Permit #97219-UP to establish a

50,000 gallon per year winery with by-appointment visitation and a marketing plan. Development included an approximately 6,800 square foot winery, consisting of a 4,500 s.f. main winery building with an attached, covered outdoor work area, an approximately 360 s.f. tasting room building, and an uncovered work area. Due to a concern regarding the noticing associated with the hearing, the project was brought to the Planning Commission on December 2, 1998, and approved subject to the proposed conditions of approval.

The use permit approval and the conditions of approval requiring a left turn lane were individually appealed by a neighbor. On March 23, 1999, the Board of Supervisors heard the appeal regarding the use permit and denied the appeal, upholding the Planning Commission's December 2, 1998, approval of the use permit, subject to revised conditions of approval. Following the Board's decision, the neighbor filed a petition with the Napa Superior Court and then appealed the Court's decision to the Court of Appeals. At that time the owner, neighbor, and County ultimately reached a Stipulation for Settlement. On May 9, 2000, the Board of Supervisors ratified the Stipulation. The provisions of the Stipulation were to be incorporated into the project record through the approval of a use permit modification.

On June 16, 2000, the Zoning Administrator approved minor modification #99477-MOD, which incorporated the provisions of the Stipulation into the formal record of the Planning Department, revising the previously approved Conditions of Approval of Use Permit #97219-UP. Upon approval of this modification the court case and appeals were withdrawn.

On May 10, 2018, the Director approved very minor modification P18-00081-VMM to allow reconstruction of the outdoor trellises that were destroyed in a wildfire, replacement of landscaping destroyed in a wildfire, on-premises consumption, and removal of previous conditions of approval related to custom crush.

**Code Compliance History:** This application was submitted to participate in the County's Code Compliance Program as described in Resolution No. 2018-164. Pursuant to that Resolution, a site inspection was conducted by Code Compliance, Planning, and Engineering staff to identify any potential health and safety issues, as well as to review the existing use and proposed changes. Code Enforcement Case CE19-00128 was opened for alleged violations outside the scope of the Use Permit. On July 16, 2019, Code Enforcement staff issued a letter identifying 13 life safety items, which included Fire and Building Code issues such as, exiting signage in the winery building, exit lighting, improper door hardware, equipment clearance, and a propane tank and water heater that did not have building permits. Also, an area between the first and second floor, used for winery storage, did not have a code compliant door. The applicant worked with Code Enforcement staff to correct the violations. Twelve of the items have been completed with the last building permits passing final inspections in June 2022. The only item remaining is obtaining a building permit associated with the winery storage area; completion of this item is pending approval of this Major Modification application.

**Existing Development:** The existing winery development is approximately 6,800 s.f., consisting of a 4,500 s.f. main winery building with an attached, covered outdoor work area, an uncovered work area, an approximately 360 s.f. tasting room building, and outdoor trellises. The existing driveway enters off Silverado Trail, going straight back to the winery and looping around the winery building and outdoor work areas. Parking is located around the winery building. There are approximately 10 acres of vineyards and a single-family residence located in the southeastern corner of the property.

**Adjacent General Plan Designation / Zoning / Land Use:** Surrounding properties have a General Plan Land

Use Designation of Agricultural Resource (AR) and Zoning district Agricultural Preserve (AP). Properties in the vicinity of the project site include vineyards, undeveloped parcels, and residences. The closest residence is approximately 550 feet from the existing winery.

**Wineries in the Vicinity** (located within one mile of the project): There are ten (10) wineries located within one (1) mile of the Winery Parcel.

Winery Characteristics

**Existing Winery Development Area:** 8,000 s.f. or 0.18 acres

**Proposed Winery Development Area:** No change.

**Existing Winery Coverage Area:** 50,000 sq. ft. or 1.15 acres. Approximately 9.3% of the parcel.

**Proposed Winery Coverage Area:** Approximately 54,000 s.f. or 1.2 acres. Approximately 9.8% of the parcel (maximum allowed: 25 percent or approximately 9-acres).

**Entitled Winery Building Size:** 4,500 s.f. production building and 360 s.f. tasting room building.

**Request:** Allow continued use of an approximately 720-square-foot storage room in the winery building. The room was not delineated on the original winery Use Permit plans.

**Existing Accessory/Production Ratio:** 17 percent (maximum allowed: 40 percent)

**Proposed Accessory/Production Ratio:** 15 percent (maximum allowed: 40 percent)

**Entitled Production Capacity:** 50,000 gallons

**Existing Production Capacity:** 23,150 (2018)

**Proposed Production Capacity:** No change.

**Entitled Number of Employees:** Five (5) full-time, Two (2) part-time, and Five (5) seasonal

**Proposed Number of Employees:** No change.

**Entitled Visitation:** 25 visitors per day (six days per week) with up to 150 visitors per week, resulting in an annual total of 7,825 visitors per year.

**Existing Visitation** (2018 records): Maximum 60 visitors per day (seven days per week), maximum 311 visitors per week, and maximum 9,719 visitors per year.

**Request:** Recognize Existing visitation

**Entitled Days of Operations (Production):** Monday through Friday and Sunday. 8:00 AM to 5:00 PM

**Existing Days of Operations (Production):** Monday through Sunday 8:00 AM to 5:00 PM

**Request:** Recognize Existing

**Entitled Days of Operations (Visitation):** Monday through Friday and Sunday. 10:00 AM to 5:00 PM

**Existing Days of Operations (Visitation):** Monday through Sunday. 10:00 AM to 5:00 PM

**Request:** Recognize Existing

**Entitled Retail Sales:** Monday through Thursday and Sunday. 11:00 AM to 4:00 PM

**Existing Retail Sales:** Monday through Sunday. 10:00 AM to 4:00 PM

**Request:** Recognize Existing

**Existing Marketing Program:** Twelve events per year, consisting of:

- One (1) event per year with a maximum of 75 guests
- Two (2) events per year with a maximum of 100 guests
- Eight (8) events (lunches and dinners - food catered) per year with a maximum of 50 guests
- One (1) event per year with a maximum of 50 guests - Non-profit event

**Proposed Marketing Program:** No change to events.

**Request:** Project includes a request to modify the existing condition of approval requiring noticing for marketing events. See Revisions to Existing Conditions below.

**Parking - Approved:** 22

**Parking - Proposed:** No change.

**Setbacks:** The existing winery development exceeds all applicable minimum setbacks, including the 600-foot minimum winery setback from Silverado Trail. No additional structural development is proposed.

Discussion Points:

**Use Permit Modification Proposal** - As part of the Code Compliance Program, the application requests recognition of existing days of operation, existing days allowing retail sales, and levels of visitation, based on the 2018 records. The applicant does not request further expansion beyond the 2018 levels and there are no requested changes to the authorized levels of production, employees, or marketing events.

**Days of Operation and Retail Sales** - The request for recognition is to permit the winery to be open and offer retail sales Monday through Sunday. The original Use Permit approved winery operations on Monday through Friday and on Sunday (not open on Saturday), with retail sales available Monday through Thursday and Sunday (not available on Friday and Saturday).

**Visitation** - The request for recognition of 2018 visitation levels is a maximum of 60 visitors per day with a maximum of 311 visitors per week, not to exceed an annual total of 9,719 visitors. The winery is currently authorized for 25 visitors per day (six days per week) with up to 150 visitors per week for an annual total of 7,825 visitors. This represents a daily increase of up to 35 visitors, a weekly increase of up to 161 visitors, and an annual increase of up to 1,894 visitors. Although the existing operations are higher than the entitled levels, the intent of this application is to recognize existing operations (2018 records), which are considered the CEQA baseline conditions for environmental analysis. The operational components of the project would not exceed the environmental baseline, therefore continued operations would not result in additional traffic trips, generation of more wastewater, or use of additional groundwater, and would not cause an environmental impact.

**Winery Building Storage Space** - An approximately 720-square foot room within the winery building was not delineated on the original winery Use Permit plans, so it wasn't included in the areas for use by the winery. The applicant requests to continue to utilize this space for storage. The storage room is existing, so no new construction would occur. A building permit may be required to retrofit or update the access door. The continued use of the room would not expand the current level of operation.

**Driveway Improvements** - The proposed physical improvements are limited to an expansion of the existing driveway to meet the Napa County Road and Street Standards. The driveway will be widened by approximately four (4) feet along the main entry, requiring removal of existing olive trees and potentially vineyard rows adjacent to the driveway. Minor expansions to portions of the driveway that loops around the winery building will meet standards for safe access for employees, visitors, and emergency vehicles. The improvements will occur on areas of the site that have previously been disturbed by landscaping, vineyards, and grading for winery development.

**Revisions to Existing Conditions** - The existing conditions require annual reporting on four (4) winery operations: visitation, grape source data, certification of grape source data, and gallons of wine produced. The applicant maintains these records and provides applicable records to state agencies; however, they have not provided them to the County. The applicant requests removal of the four (4) existing conditions to be replaced by the County's current standard conditions of approval for the same operations. Language contained within conditions Nos. 4.2 and 4.6 requires maintaining records for visitation and marketing activities, grape source data, and production quantities, with records to be provided to the department upon request. Because the data will continue to be recorded and can be obtained, the intent of the original conditions will remain. Additionally, this brings the winery's conditions into parity with the majority of winery use permits and use permit modifications recently approved. There are no proposed changes to the permitted events, but the applicant is requesting to remove the portion of the existing condition of approval requiring the winery to provide a notice to select neighbors and individuals prior to all marketing events. The applicant provided noticing to the list of identified individuals for the first several years following use permit approval. They did not receive responses, and they were not contacted by any of the individuals after they stopped noticing events. The department has not received complaints regarding events that were not noticed. Based on the lack of noticing for many years, it appears that removal of the condition will not impact the community or previously interested individuals.

**Wastewater System** - The Wastewater Feasibility Report, prepared by Stillwater Civil Design, dated March 5, 2019, demonstrates that the existing standard leach field can accommodate the existing levels of winery operations proposed to be recognized. Only minor repairs to the existing distribution boxes will be required to ensure that all leach field zones are utilized equally. A repair permit will be applied for by a septic contractor to reconfigure the distribution boxes for the existing standard septic system.

**Water System** - In accordance with California Health and Safety Code Section 116275(o), the existing domestic water system is currently classified as a transient, non-community system. The system is comprised of an onsite supply well, water tanks, and supply lines. The system is operated under State ID Water System No. CA2800025 and is owned and operated by Hagafen Cellars, Inc., a private corporation. Because the system is existing, a water system feasibility report was not required to be submitted. The recognition of the visitor levels does not result in operational levels that would change the classification of the water system. Therefore, no modifications to the system are required.

**Groundwater Use** - A Water Availability Analysis (WAA), dated December 4, 2025, was prepared by O'Connor Environmental Inc. As directed by the County's Water Availability Analysis Guidance Document of May 2015 (WAA Guidelines) and the Interim Standards, the report includes Tier 1 calculations 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. Because the project is limited to recognizing existing levels of operations,

the associated water will not increase, and no net change in use will occur.

The project well (Well 1) is located on the eastern portion of the subject property between the vineyards and winery buildings. The parcel is located within the Napa Valley Subbasin boundary, commonly referred to as the GSA, as delineated by the County’s Groundwater Sustainability Agency.

Maintenance records from Imboden Pump reported that the well is 194 feet deep with its pump set at a depth of 184 feet below ground surface. To obtain information about the construction of Well 1, a down-well camera inspection was performed by Dr. Well with assistance by Imboden Pump on March 4, 2024. This process included the removal of the well pump and associated pipes to allow access for the downhole camera.

Tier 1- Water Use Criteria - Groundwater Demand and Recharge Analysis

The Tier 1 analysis considered existing uses onsite - the residence, irrigation, winery production, and winery domestic uses. The existing groundwater usage is estimated at 5.40 acre-feet per year (AFY). As noted, there is no request for expanded operations, therefore the project does not result in additional water use.

Table: Groundwater Usage

Source of Demand	Existing (AFY) -No change-
Residence	0.75
Vineyard Irrigation	3
Winery Use Process	1.33
Winery Guests/Employees	0.32
<b>Total</b>	<b>5.40</b>

The WAA Guidelines allot 0.3 AFY of water per acre of land within the GSA, or no net increase if that allocation is already exceeded. The existing groundwater use exceeds the estimated groundwater recharge for the 12.2-acre parcel (3.66 AFY). Groundwater use will not increase with this approval; therefore, the project satisfies the no net increase criteria. The project hydrogeologist notes that the observed static water level (39 feet below ground surface (bgs)) during the late winter season in two relatively wet years indicates significant aquifer recharge capacity. In order to ensure no net increase is maintained, the project has been conditioned to include COA No. 4.20(a) and COA No. 6.15(a) to impose a cap on maximum annual groundwater extraction and require groundwater use monitoring.

Tier 2 Well and Spring Interference

The WAA Guidelines requires a well interference analysis (Tier 2) if neighboring wells lie within 500 feet (ft) of the project well. There are three neighboring wells within 500 ft of the existing project well (Well 1) - Well 2 is located approximately 170 ft northwest of the project well; Well 3 is approximately 180 ft northwest of the project well; and Well 4 is approximately 390 ft northwest of the project well. Since Well 2 is located closest, the 170-foot distance was used for the analysis.

The analysis considered operation of the project well at a rate estimated to meet the proposed project daily demand - 20 gallons per minute (gpm) for 8.15 hours. The potential drawdown of groundwater elevation in

Well 2 was evaluated using data gathered from the interpretation of the two-hour pump test performed on Well 1 (October 2019) along with the evaluation of a range of hydraulic aquifer properties listed in the WAA Guidelines and local hydrogeologic studies.

The analysis estimated a potential drawdown range from zero (0) to 17 ft. Under one scenario the estimate slightly exceeds the threshold of concern (15 ft for a well meeting the construction standards of Well 1). This only occurs in a scenario assuming an extremely low value of the storativity parameter. The project hydrogeologist opines that the scenario is unlikely to represent local conditions, therefore they do not believe that significant well interference would occur as a result of continued operations. Although only one of the combinations of parameters resulted in a slight drawdown, the WAA considered an option to lessen potential drawdown of concern in Well 2 by reducing the pumping rate of Well 1 from the estimated rate of 20 gpm to 17 gpm. Staff recommend COA No. 4.20.b to limit the pump rate as proposed.

### Tier 3 Groundwater/Surface Water Interaction Criteria

The latest Interim Napa County Well Permit Standards and WAA Guidelines require an analysis of potential groundwater to surface water interaction for new, altered, or increased groundwater use occurring from project wells within 1,500 feet of any County-identified Significant Stream inside the Napa River Watershed. Additionally, a Tier III review or equivalent analysis is the County's adopted method for complying with its duties under the Doctrine.

The nearest County-designated "significant stream" is Soda Creek, located approximately 1,150 feet to the east. The WAA Guidelines provide distance standards that are expected to preclude any significant adverse effects on surface waters based on well pumping rates, aquifer hydraulic conductivity, and well construction characteristics. These distance standards are presented in Tables 3, 4 & 5 within the WAA Guidelines. For Well 1 to meet distance and construction standards it must be constructed 1,000 ft away from the water body in question, have a 50 ft-deep surface seal, and that the minimum depth of uppermost well perforations be at least 100 ft bgs.

Well 1 is located over 1,000 ft from Soda Creek, meeting the distance criteria. A Well Completion Report and driller's geologic log for the project well is not available; however, results of the March 2024 down-well video inspection revealed that the sealed interval is less than 50 ft. The inspection showed that the well is sealed off from and is not perforated in alluvial aquifer materials that could be interconnected with surface water in Soda Creek. Therefore, the project hydrogeologist opines that the existing seal is sufficient, and this part of the criteria satisfied, since a connection between Well 1 and any upper alluvial aquifer that could be connected to Soda Creek is not possible. Further, the project hydrogeologist found that the depth of the fractured rock, determined to be the main aquifer accessed by Well 1, in the uncased well bore, is equivalent to the screened interval of Well 1 and, that the criterion pertaining to "depth to uppermost perforations" is satisfied.

The WAA concluded that Well 1 satisfies criteria "expected to preclude significant adverse effects on surface waters". Additionally, the project hydrogeologist notes other factors indicating that pumping of Well 1 will not significantly affect flows in Soda Creek. Flows in Soda Creek are believed to be of a losing character and more influenced by climate, namely precipitation, than pumping of groundwater. Based on that characterization (LSCE, 2017), the horizontal and vertical separation between the fractured rock aquifer in the project well (Well 1) and Soda Creek, relatively small amounts of drawdown estimated at a nearby Well in the Tier 2 analysis, the project hydrogeologist does not expect the proposed project will have significant effects on flow in Soda Creek.

**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.5<sup>th</sup> 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).

On January 10, 2024, Napa County released a Tier III Water Availability Analysis guidance memorandum, providing guidance for complying with Public Trust. A Tier III review or equivalent analysis is the County’s adopted method for complying with its duties under the Doctrine. The project WAA includes a Tier III equivalent analysis for potential impacts to Soda Creek. As discussed above, the project hydrogeologist concludes that the project well meets the standards specified in the County’s WAA Guidance document to demonstrate that continued use of the well at existing operations would be expected to preclude significant adverse effects on surface waters. The operational pumping rate of the project well shall be restricted to no more than 17 gallons per minute (where no limitation previously existed). Additionally, a ground water management condition of approval will be included with imposed metering on the project well, monitoring and reporting of groundwater use (at the County’s request), and the County’s ability to recommend additional measures or revoke the use permit in the future if substantial evidence exists that the project substantially affects the groundwater basin. These project components and conditions of approval provide even greater protection, further reduce any alleged harm, and align with the requirements of the 2024 Water Memo. The County has satisfied its duty.

**Public Comments** - One (1) public comment was received following the Courtesy Notice mailed in November 2020, and multiple support letters have been received.

**Decision Making Options -**

As noted in the Executive Summary Section above, staff is recommending approval of the components of the project necessary to remedy existing violations with conditions of approval as described in Option 1 below. The decision-making options also include a no project alternative and a reduced project alternative.

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

Disposition - This option would result in approval of visitation, days of operations, use of the existing storage room, and the installation of driveway improvements. This would also revise existing conditions related to annual report and noticing, to be replaced by standard conditions of approval.

Staff recommends this option as the request is consistent with the Zoning Ordinance and applicable General Plan policies. Furthermore, County divisions and departments have reviewed the proposal and are in support of

the applicant's request.

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 the time the motion is made.

#### Option 2 - Reduced Project Request

Disposition - This option could require the applicant to reduce their existing maximum daily, weekly, or annual visitation numbers, limit days of operations, or keep existing conditions related to annual reporting and noticing.

Action Required - Follow proposed actions listed in the Executive Summary and amend scope and project specific conditions of approval to reduce operational components. The item will 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 - This option would deny the applicant's proposal to remedy existing violations and would require the applicant to operate the winery in compliance with the existing entitlements. In the event the Commission determines that the project does not or cannot meet the required findings for the granting of a Use Permit major 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 Major modification is not being approved.

Action Required - Commission would move to deny the project.

#### Option 4 - Continuance Option

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

#### Supporting Documents

- A. Recommended Findings
- B. Recommended Conditions of Approval and Final Agency Approval Memos
- C. CEQA Categorical Exemption Memorandum
- D. Previous Project Approvals
- E. Use Permit Application Packet
- F. Code Compliance Program Health and Safety Inspection Letter
- G. Water Availability Analysis
- H. Wastewater Feasibility Report
- I. Winery Comparison Analysis and Summary of Changes
- J. Graphics
- K. Public Comments