


Water Audit Comment Letter re William Cole Winery

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Cc: Water Audit California <legal@waterauditca.org>

 1 attachments (818 KB)

20240416 William Cole Winery_Water Audit California comment letter.pdf;

[External Email - Use Caution]

Attached please find Water Audit California's comment letter re Planning Commission Agenda April 17, 2024 - A. WILLIAM COLE WINERY (WILLIAM BALLENTINE JR. AND JANE SORENSON TR) / USE PERMIT MAJOR MODIFICATION NO. P19-00101 - MOD & VARIANCE P19-00441-VAR

Please confirm receipt and thank you,

Valerie Stephan
Paralegal/Researcher

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April 16, 2024

County of Napa
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RE: Planning Commission Agenda April 17, 2024
A. WILLIAM COLE WINERY (WILLIAM BALLENTINE JR. AND JANE SORENSON TR) /
USE PERMIT MAJOR MODIFICATION NO. P19-00101 - MOD & VARIANCE P19-
00441-VAR

Water Audit California comments on the above captioned application as follows:

1. There is no checklist as part of the application packet. See PBES *Revised Use Permit-Major Modification Application (Winery Uses) Checklist of Required Application Materials*. Note also a Checklist of Technical Studies is "required unless waived at or following pre-App Review Mtg." No waiver is included.
2. Current Projects folder contains 13 files; the folder submitted to CEQA for agency review contains four files. *Prima facie* full comment was not sought from the regulatory agencies for the project which is under review. Specifically, and without limitation, the project has not been presented for review to the State Water Resources Control Board, Regional Water Quality Control Board, Departments of Fire or Forestry, and most importantly, the City of St. Helena. (CalFire comment cited later appears to have been surreptitious and random. Reference is made in the subject Application to future stormwater improvements, indicating the need for review, but review was not sought. Note: Napa County ordinance 16.28.100 (C)(3)(a) and (d): Reduction of pollutants in stormwater. "...undertake the measures set forth below to reduce the

risk of illicit discharge and/or pollutant discharge. C. Development and Construction Projects. 3. Stormwater Control Plans and Other Requirements (a)...applicant shall implement conditions of approval that reduce stormwater pollutant discharges... (d). Implementation of an approved SCP and submittal of an approved Stormwater Facilities Operation and Maintenance Plan by the applicant shall be a condition precedent to the issuance of a building permit, use permit or construction permit for a project subject to this section.

3. Water for the project is represented to be supplied by a "will serve" letter from the City of St. Helena. (See: County of Napa PC 20240417 Agenda Packet 7A. William Cole Winery att B. COA PDF Page 61 Enviro Health Memo "4. alternatively, a will serve letter from CSH may be submitted showing project served by permitted water system." No such letter is attached; in fact, only a *request* for a will serve letter is part of the packet. The existing water supply agreement with CSH states that it is for fire suppression only.

The county is aware of this omission. See 2019 P19-00101 Application Status Letter that found the application was INCOMPLETE in part because of the Environmental Health Services comment: "Because the total number of users (combined employees, visitors and residents and/or the total number of employees and residents) proposed exceeds 25 on a peak day, the water supply and related components serving this facility will have to comply with the California Safe Drinking Water Act and related Laws. If the existing water sources will not meet the construction requirements for a regulated water system, a new well (source) may have to be developed. Please review the enclosed information and prepare the required water system feasibility report as outlined in the enclosed handout."

4. The project area is claimed to be 5.72 acres, but the permit application states the area to be 5.12 acres, with the water availability analysis keyed to the larger number.
5. There is no traffic study. There is an existing center lane on Highway 29 that is approximately 1,082 feet (0.20 miles), extending 855 feet from the driveway north and 221 feet to the south before becoming a left turn lane from Highway 29 onto Deer Park Road. The center lanes currently serve the shared driveway to the subject project and Morlet, as well as Markham Vineyard, Ballentine Vineyards and Faust functioning as both left turn lane and deceleration lane.

Caltrans has commented "Please provide floodplain analysis report including potential impacts on existing adjacent properties;" ... "The driveway and road approach will require a Caltrans-issued encroachment permit;" and ... "... submit a completed encroachment permit application package, digital set of plans clearly delineating Caltrans; ROW, digital copy of signed, dated and stamped (include stamp expiration date) traffic control plans..."

There has been no consideration of the cumulative impact. We note the 2002 staff report comment by Mr. Lederer "The improvement of the project driveway and potential installation of a left-hand turn lane at some later date will improve ingress and egress for existing traffic at this site." Respectfully, the later date should be *now*.

6. The well pumping data from an eight-hour test is inadequate.
7. Note CalFire comment re the proposed change in occupancy to create a second floor tasting room , and the absence of reference to this "proposed change" in the Agenda Packet, reflecting the difference between the CEQA reviewed documents and the documents submitted at the time of hearing.
8. The present pending decision to approve a variance for the barn built within the highway setback is wholly inconsistent with the decision made over two decades ago to *deny* the variance. Staff Report claims the winery setback from road variance was included with the original use permit approved in 2002, but in fact a variance was not sought for in the 2002 use permit. *A 2000 Permit (not the 2002 permit) that did seek a use permit a variance to build within the winery road setback, but the variance was denied.* Staff findings in 2002 were "13.(2). ...However, in this case sufficient buildable area exists for construction of facilities that conform to the setback requirements... 13. (3) the property contains a building that has been used as a residence... Approval of setback variance is not necessary to preserve these uses"

In short, the applicant is seeking to ratify its express violation of a prior decision by simply ignoring the decision when applying for a building permit, and then omitting the earlier decision from the record submitted herein. This is a subterfuge which should not be tolerated. See the 2019 Application Status Letter at page 2 "To discourage property owners from constructing residences and barns with the express intent of converting them to wineries, the County does not generally support use permit proposals seeking to convert existing buildings to winery use if

the buildings have been constructed or substantially modified within the last 5 years (i.e. from 2019)”

9. A cultural/architectural resources survey is listed in the packet being reviewed but is not attached. See 2002 Project Revision Statement at PDF 74 “All site work, including rehabilitation, restoration, and re-use of the exterior of the historic structure shall comply with The Secretary of Interiors Standards for the Treatment of Historic Properties and Guidelines for Preserving, Restoring, and Reconstructing Historic Buildings. An independent, certified Historic Architect shall review and certify the plans prior to issue of building permits.” See also EDR 2019 Application Status Letter At page 1 “9. Cultural Resources Study: ...under Assembly Bill 52, preparation of a Cultural Resources Study is required”
10. There is no: (1) adjoining property owners list (2) associated Assessor’s parcel book pages; (3) USGS I Survey Quadrangle per Checklist Requirement; (4) grape source statement; (5) storm drainage plan. Without explanation, the Graphics provided are facially distinct from those provided in 2002.

For the foregoing reasons, Water Audit California submits that the subject Major Use Modification Permit be rejected.

Respectfully,



William McKinnon
General Counsel
Water Audit California