

# Sonoma County Board of Zoning Adjustments **STAFF REPORT**

Sonoma County Permit and Resource Management Department  
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**FILE:** UPE07-0008  
**DATE:** November 13, 2008  
**TIME:** 1:05 p.m.  
**STAFF:** David Hardy

Appeal Period: 10 calendar days

## SUMMARY

**Applicant:** W. Guy Davis

**Owner:** Henry Cornell Winery

**Location:** 245 Wappo Road, Santa Rosa  
APN 028-260-041 Supervisorial District No. 1

**Subject:** Use Permit

**PROPOSAL:** Request for a Use Permit for a winery with a maximum annual production capacity of 10,000 cases with tasting by appointment only, 10 dinners yearly for marketing purposes, and no special events.

**Environmental Determination:** Mitigated Negative Declaration

**General Plan:** Resource and Rural Development, 100 acre density

**Specific/Area Plan:** Franz Valley Area Plan  
**Land Use:** Resource Conservation

**Ord. Reference:** Section 26-10-020 (g)

**Zoning:** RRD (Resource and Rural Development), B6-100 acre density, BR (Biotic Resources)

**Application Complete for Processing:** July 3, 2008

**RECOMMENDATION:** Adopt the Mitigated Negative Declaration and approve the Use Permit request.

## ANALYSIS

### **Background:**

On February 10, 2005, the Board of Zoning Adjustments (BZA) approved a request for a winery at the subject site (UPE03-0092) with a maximum annual production capacity of 10,000 cases with tasting by appointment only. Issues raised at the BZA hearing were Mark West Creek watershed impacts, geology, and traffic. On February 22, 2005, an appeal of the BZA approval was filed.

The appellant contended that the BZA failed to assess cumulative impacts on surrounding lands and the upper Mark West Creek watershed. On June 7, 2005, the Board of Supervisors, with a 4-0-1 straw vote, upheld the BZA's approval of the project and continued the project to allow the applicant

to prepare a geotechnical report.

In July of 2005, the applicant purchased an adjacent parcel and decided to relocate the proposed winery to this parcel, which is closer to St. Helena Road. The applicant withdrew the Use Permit application UPE03-0092 and submitted a new application on February 7, 2007. The current application was deemed complete on October 1, 2007, with the submittal of the revised Project Description, but was modified with a revised Project Description on December 20, 2007. In addition, additional geological studies were submitted and peer-reviewed by the County's consultant, with the last review being completed July 3, 2008.

### **Project Description:**

The applicant's request is for a winery with a maximum annual production capacity of 10,000 cases. The proposal includes construction of an 18,670 square foot building and a 8,670 square foot cave, for barrel storage. The project would require a substantial amount of grading (approx. 3,000 cubic yards) to terrace the site for the proposed buildings. The plans indicate space for approximately 22 parking spaces. A new water tank would be constructed for fire protection and domestic use. The building and caves would contain all winery operations and equipment.

Tasting would be by appointment only. According to the proposal statement, a maximum of 15 visitors at a time would be hosted. There would be three full time employees, with four additional employees to help during harvest and crush. Crushing operations would take place outside on a crush pad. Normal hours of operation (non-crush) would be 8:00 a.m. to 5:00 p.m., Monday through Friday. The process wastewater would be treated using a small patented aerobic treatment system and stored in a water tank for disposal by means of drip irrigation in the vineyard. Domestic wastewater from staff and customers would be processed using a conventional septic system with disposal in a leach field downhill and to the north of the proposed winery. The existing wells on the ridge to the northeast will supply the winery with water. Stems and pomace would be disced back into the vineyard and not burned.

A 540 square foot kitchen is proposed in the 2,640 square foot hospitality area of the winery. The kitchen use will be limited to wine industry sales and marketing representatives for wine and food pairings at a frequency of ten dinners per year with a maximum number of ten dinner guests at one time. No special events are proposed.

### **Site Characteristics:**

The 40-acre winery parcel is located on a private road, known as Wappo Road, off St. Helena Road, northeast of Santa Rosa. Topography varies over the 40 acres, although the majority of the site is fairly steep with slopes up to 30%. The project parcel consists of oak and pine woodlands and open grasslands, although the building site is proposed to be located on two knolls bounded by ravines. The closest watercourse is an ephemeral stream approximately 640 feet away, sometimes referred to as the North Fork of Mark West Creek, that feeds Mark West Creek through a culvert under St. Helena Road. The building sites have been grubbed and stabilized with erosion control measures.

Existing development on-site includes a primary residence and accessory structures. Approximately 25 acres of vines have been planted on the applicant's adjacent property at 425 Wappo Road. The proposed location for the structures below the hilltop should hide their visibility from off-site public areas and viewsheds. The site is uphill from St. Helena Road and obscured by topography and vegetation.

### **Surrounding Land Use and Zoning:**

Land use in the project vicinity is rural. The south side of Mark West Creek is largely forest land along most of St. Helena Road. The north side of the road is interspersed with forest and chaparral scrub, some of the latter having been cleared for pasture and for vineyards. The nearest off site neighboring dwellings are more than 1,300 feet to the south. There is an old Christmas tree farm on St. Helena Road southwest of the site. A winery with a maximum annual production capacity of 6,000 cases was approved in August of 2002 on Mattei Road, another private road off of St. Helena Road about 2 miles west of the site. Parcels in this area range from over 120 acres to less than 5 acres in size. Zoning is RRD (Resource and Rural Development), with 100 acre density.

Properties north, east, and west of the parcel share the same RRD zoning designation; and the properties to the south of the parcel along St. Helena Road are designated RR (Rural Residential),

B6-15 acre density, one home per 15 acre density.

## DISCUSSION OF ISSUES

**Issue #1:**      General Plan

The project is subject to GP 2020 because it was deemed complete on July 3, 2008, after the Board of Supervisors adopted pipeline provision that any discretionary project that was not deemed complete prior to September 2007, now falls under the jurisdiction of the 2020 General Plan. The General Plan defines the purpose of the Resources and Rural Development land use designation as follows:

*POLICY FOR RESOURCES AND RURAL DEVELOPMENT AREAS*

*Purposes and Definition: This category allows very low density residential development and also is intended to:*

1.      *Protect lands needed for commercial timber production under the California Timberland Productivity Act,*
2.      *Protect lands needed for geothermal resource production,*
3.      *Protect lands for aggregate resource production as identified in the Aggregate Resources Management Plan.*
4.      *Protect natural resource lands including, but not limited to watershed, fish and wildlife habitat and biotic areas.*
5.      *Protect against intensive development of lands constrained by geologic hazards, steep slopes, poor soils or water, fire and flood prone areas, biotic and scenic areas, and other constraints.*
6.      ***Accommodate agricultural production activities but limit such activities on timberland*** [emphasis added], or
7.      *Protection of county residents from proliferation of growth in areas where there are inadequate public services and infrastructure, including water supply and safe wastewater disposal.*

*It is further the intent of this category that public services and facilities not be extensively provided in these areas and that development have the minimum adverse impact on the environment.*

The proposed winery is an agricultural processing facility that can be considered related to agricultural production activities, and therefore the project can be found consistent with the purpose of the RRD area.

The proposal is also consistent with the GP 2020's Agricultural Element Goals, Objectives and Policies which include the following:

**GOAL AR-1: Promote a healthy and competitive agricultural industry whose products are recognized as being produced in Sonoma County.**

**Objective AR-1.1:** "Create and facilitate opportunities to promote and market agricultural products grown or processed in Sonoma County."

**Objective AR-1.2:** Permit marketing of products grown and/or processed in Sonoma County in all areas designated for agricultural use.

**Policy AR-1a:** Permit a wide variety of promotional and marketing activities of County grown and processed products.

**GOAL AR-5:** Facilitate agricultural production by allowing agriculture-related support uses, such as processing, storage, bottling, canning and packaging, and agricultural support services, to be conveniently and accessibly located in agricultural production areas when

related to the primary agricultural production in the area.

**Policy AR-6d:** “Follow these guidelines for approval of visitor serving uses in agricultural areas, such as wine or cheese tasting: 1) the use promotes and markets only agricultural products grown or processed in Sonoma County, 2) the use is compatible with existing agricultural production activities in the area, and 3) the use will not require the extension of sewer and water.”

The above policies clearly include winery tasting rooms as a means of promotional and marketing the product from the vineyards on the Cornell property and elsewhere in the area.

The following Goals, Objectives and Policies of the Sonoma County General Plan apply to other issues of this project, namely geology, hydrology, and safety.

**GOAL LU-7:** Prevent unnecessary exposure of people and property to environmental risks and hazards. Limit development on lands that are especially vulnerable or sensitive to environmental damage.

**Objective LU-7.1:** Restrict development in areas which are constrained by the natural limitations of the land, including by not limited to, flood, fire, geologic hazards, groundwater availability, and septic suitability.

**GOAL PS-1:** Prevent unnecessary exposure of people and property to risks of damage or injury from earthquakes, landslides and other geologic hazards.

**Objective PS-1.2:** Regulate new development to reduce the risks of damage and injury from known geologic hazards to acceptable levels.

**Policy PS-1f:** Require and review geologic reports prior to decisions on any project which would subject property or persons to significant risks from the geologic hazards shown on Figures PS-1a through PS-1i and related file maps and source documents. Geologic reports shall describe the hazards and include mitigation measures to reduce risks to acceptable levels. Where appropriate, require an engineer’s or geologist’s certification that risks have been mitigated to an acceptable level and, if indicated, obtain indemnification or insurance from the engineer, geologist, or developer to minimize County exposure to liability.

**GOAL PS-3.1:** Prevent unnecessary exposure of people and property and property to risks of damage or injury from wildland and structural fires.

**Objective PS3.2:** Regulate new development to reduce the risks of damage and injury from known fire hazards to acceptable levels.

**Policy PS-3b:** Consider the severity of natural fire hazards, potential damage from wildland and structural fires, adequacy of fire protection and mitigation measures consistent with this element in the review of projects.

**Policy PS-3i:** Require on-site detection and suppression, including automatic sprinkler systems, where available services do not provide acceptable levels of protection.

The project is located in an area subject to wildfire and geologic hazards. The winery building is located on a knoll where substantial brush clearing has occurred, providing a significant buffer around the proposed facility. The building itself would be constructed of fire-resistant materials such as stone and stucco. The project must conform to Fire Safe Standard requirements for commercial uses related to fire sprinklers, emergency vehicle access, and water supply. In addition to the fire safety requirements, the applicant is required to mitigate potential geologic hazards by complying with the geological report prepared by the applicant and reviewed by the County-retained geology consultant. (See below and Issue #6 discussion.) These provisions reduce the potential exposure to people or structures to a less than significant level.

In addition to the Open Space and Resource Conservation Element, GP 2020 contains a new Water Resources Element. Some policies contained in the new element are derived from policies previously in the Resource Conservation Element. The following GP 2020 policies apply to the protection of the quality of groundwater and surface water.

**GOAL OSRC-11:** Promote and encourage soil conservation and management practices that

maintain the productivity of soil resources.

**OSRC-11b:** Include erosion control measures for any discretionary project involving construction or grading near waterways or on lands with slopes over 10 percent.

**OSRC-11d:** Require a soil conservation program to reduce soil erosion impacts for discretionary projects which could increase waterway or hillside erosion. Design improvements such as roads and driveways to retain natural vegetation and topography to the extent feasible.

**GOAL WR-1:** Protect, restore and enhance the quality of surface and groundwater resources to meet the needs of all reasonable beneficial uses.

**Policy WR-1g:** Minimize deposition and discharge of sediment, debris, waste and other pollutants into surface runoff, drainage systems, surface water bodies, and groundwater.\*

**Policy WR-1h:** Require grading plans to include measures to avoid soil erosion and consider upgrading requirements as needed to avoid sedimentation in stormwater to the maximum extent practicable.

The project contains Erosion Control Measures, some already in place at the site, including wattles and mats. Project Mitigation Measures address distribution of roof runoff water. In addition, the requirements of the Regional Water Quality Control Board and the County Drainage Review staff will result in best management practices being implemented on the grading plans as a part of the grading permit and inspection process.

The impact of vineyards and wineries on groundwater basins is a matter of concern to residents in the area of the project. The new General Plan Water Resources Element contains the following text regarding groundwater rights.

*Except for groundwater flowing in subterranean streams, there is no statewide statutory regulation of groundwater in California. Landowners overlying groundwater have rights to share the groundwater under their property with other overlying landowners without obtaining a permit from any State agency. Groundwater may also be used on lands that are not overlying, but this right is subordinate to the prior use of any overlying landowners. Surface water can be diverted or pumped into aquifers for later extraction, with State Water Resources Control Board (SWRCB) approval.*

*The courts have held that cities and counties may regulate groundwater use under their police powers to protect the public's health, safety and welfare....Several California counties have adopted groundwater regulation programs. Litigation has also resulted in court decrees regulating groundwater use in some cases....*

*Public concerns over depletion of groundwater supplies have increased as development increases and uses groundwater supplies, but limited factual data about existing groundwater levels and use is currently available upon which to fully assess the problem or to formulate a comprehensive management strategy. Complicating the problem is the proprietary nature of well drilling data, the inconsistent character of the County's varied geology, and water rights law.*

*In response to reports that groundwater levels have declined in some areas, the County has initiated a long term program to increase the available data on groundwater resources and to systematically organize and use it as development is planned and new well permits are sought. Programs are underway to assess the available groundwater in the County's major basins. As these data collection and monitoring efforts begin to produce better information, County decision makers will be in a better position to determine what further measures may be appropriate in order to properly manage these resources.*

While the Board of Supervisors has initiated steps that could lead to a Groundwater Management Program, no such program is in effect in the Mark West Creek area. Policies related to groundwater extraction and management include the following:

**GOAL WR-2:** Manage groundwater as a valuable and limited shared resource.

**Objective WR-2.1:** Conserve, enhance and manage groundwater resources on a sustainable

basis that assures sufficient amounts of clean water

**Policy WR-2a:** Encourage and support research on and monitoring of local groundwater conditions, aquifer recharge, watersheds and streams where needed to assess groundwater quantity and quality.\*

**Policy WR-2d:** Continue the existing program to require groundwater monitoring for new or expanded discretionary commercial and industrial uses using wells. Where justified by the monitoring program, establish additional monitoring requirements for other new wells.\*

**Policy WR-2e (formerly RC-3h):** Require proof of groundwater with a sufficient yield and quality to support proposed uses in Class 3 and 4 water areas. Require test wells or the establishment of community water systems in Class 4 water areas. Test wells may be required in Class 3 areas. Deny discretionary applications in Class 3 and 4 areas unless a hydrogeologic report establishes that groundwater quality and quantity are adequate and will not be adversely impacted by the cumulative amount of development and uses allowed in the area, so that the proposed use will not cause or exacerbate an overdraft condition in a groundwater basin or subbasin. Procedures for proving adequate groundwater should consider groundwater overdraft, land subsidence, saltwater intrusion, and the expense of such study in relation to the water needs of the project.

The protection of Mark West Creek watershed was raised by the project appellant on the previous Use Permit application for the adjacent property to the northeast. RGH Consultants prepared a Groundwater Availability report dated July 15, 2004, but the appellant contended that the study did not adequately address project impacts and cumulative impacts to the Mark West Creek watershed. As a result, a Geologic Report addressing groundwater availability was prepared by Todd Engineers, dated August 2006, along with subsequent update and clarification letters dated April 27, 2007, and June 12, 2007. According to the original Todd report, "Cornell Farms plans to pump approximately between 3.82 and 3.98 acre feet per year (AFY; equivalent to about 2.5 gallons per minute [gpm] year-round) of groundwater from the two existing water supply wells. This usage includes irrigation for the 20-acre vineyard (2.28 gpm or 3.69 AFY) and for crushing and bottling operations, and light industrial requirements (0.18 gpm or 0.29 AFY)." In the April 27, 2007, supplement, Todd concludes:

"There will be no direct and short-term hydraulic impacts to Mark West Creek or its tributaries due to project groundwater pumping. The area of influence of the pumping well could be a radial distance that ranges between 102 and 505 feet from the well after 18 hours of pumping.... The distance between the well and Mark West Creek and its tributaries is greater than 500 feet. Groundwater pumped for the project is derived ultimately from precipitation on the local watershed and percolation of that water through the unsaturated zone to the water table through the pores and fractures of the underlying rock. Groundwater pumped for the project is not derived from surface water of Mark West Creek or its tributaries.

"However, we recognize that long-term and cumulative indirect impacts to Mark West Creek and its tributaries may occur from project groundwater pumpage to surface water courses over tens of decades. This long-term impact results from removing groundwater from the aquifer that would ordinarily and eventually support the base flows of Mark West Creek and its tributaries. The project requires about 4 acre feet per year of water and return flows to the aquifer are about 2 AFY; therefore, the net usage or a loss of base flow contribution is about 2 AFY. Considering that Mark West Creek has an average annual flow of 42,671 AFY and a dry year flow of 17,600 AFY....the net loss of 2 AFY is insignificant."

Todd's June 12, 2007, letter further states: "... the Cornell Farms LLC project will have no significant direct or indirect short- or long-term or cumulative hydrologic or hydraulic impact to groundwater or surface water resources in the Mark West Creek watershed."

These Todd Engineer reports were reviewed by the County's peer reviewer, Kleinfelder, who, in a letter dated March 5, 2008, stated: "We believe Todd makes a clear and concise description of the relationship between potential groundwater, groundwater conditions and withdrawals, and their interaction with the Mark West Creek. Their approaches are sound and are within what would be considered acceptable practice and standard of care....Our opinion is that the approach, description, calculations, and arguments in the reply Todd makes are well founded. They present a logical argument that the potential quantity of cumulative groundwater usage is a small percentage of the Mark West Creek contribution is a reasonable statement."

It should be noted that the amount of water required for the winery operation (0.29 AFY) is

approximately one-tenth of the water required for the vineyard, and approximately 0.00165 percent of the 17,600 AFY dry year flow of Mark West Creek.

**Issue #2:** Consistency with Franz Valley Area Plan

The project site is within the Franz Valley Area Plan (FVP), which was minimally updated to be consistent with GP 2020. The project site is located within the “Resource Conservation” planning unit of the FVP, although access to the property is through the “St. Helena Road” planning unit. The FVP Land Use Map designates the winery site as “Resource Conservation” and the access is through parcels designated as “Open Land/Residential.”

The text of the 1979 version of the FVP describes the “Resource Conservation” designation as follows:

“The majority of the study area is in the Resource Conservation land use category. The goal is to keep options open for resource development and conservation by not permitting residential uses or other types of development which would preclude the best use of the land. Environmental constraints play an important role because residential development could be damaging to the environment and result in increased public service costs. These lands are not needed to accommodate residential growth in the County over the next two decades.”

The above description was dropped from the 1993 update, and the Land Use Plan Overview was modified to read:

“The only areas which are generally suitable for residential development are suitable for and currently committed to agriculture. This is recognized in the General Plan which places these areas, specifically Knights and Franz Valleys, and along Chalk Hill Road, in agricultural designations. The Franz Valley plan reinforces the County’s policy of protecting agriculture. Different residential densities were assigned to agricultural lands, according to type of agriculture and parcel size.

“Most of the area has been placed in a resource conservation designation, recognizing the resource suitabilities, environmental and public service constraints, and natural sensitivities of the area. The General Plan termed these areas “Resources and Rural Development,” where the land is characterized by a low level of human utilization, primarily related to the use of the land. This plan recognizes that these lands are best used for extensive agriculture, timber and woodlot management, geothermal development, wildlife habitat, watershed conservation, and related uses.”

This revised language is in the 2008 Franz Valley Area Plan. While the Franz Valley land use map retains the Resource Conservation designation, in addition to the Resource and Rural Development designations, the newest General Plan designates the land as Resource and Rural Development.

So, even though the subject property is not designated for agriculture specifically in the FVP, the plan does consider land in the Resource Conservation area as suitable for agriculture. On that basis, the project can be found consistent with the Franz Valley Area Plan.

Relevant policies from the FVP that affect this project include:

1. Obtain site specific geologic reports. The project applicant obtained reports on on-site geologic hazards, as well as conducted a hydrogeologic study. Both reports were reviewed by a geologist firm on contract to PRMD, i.e. Kleinfelder. (See geologic report analysis discussion in Issue #6)
2. Enforce protection of riparian corridors through adoption of riparian standards in revision to zoning ordinance. Major riparian corridors have a 200-foot setback from the stream bank. Minor riparian corridors have a 100-foot setback. These setback requirements are more restrictive than those in GP 2020. The winery site is approximately 1,700 feet to the main branch of Mark West Creek, a major riparian corridor, and it is 1,900 feet to the North Fork of Mark West Creek, also a major riparian corridor. Thus, the project complies with both GP 2020 and FVP riparian setback standards.
3. Any proposed disposal systems within slide area or on a fault will require careful study by a qualified geologist to determine suitability for a leach field. The RGH Consultants report discusses landslides and concludes that “...it is currently geologically and geotechnically

feasible to construct a winery and related improvements at the planned site.” The Kleinfelder review also discusses landslides and concludes that RGH “has adequately identified the existing and potential geologic hazards at the site and that they have demonstrated geotechnical feasibility for a winery project, from a preliminary or planning viewpoint.”

Staff did not identify any policies within the FVP with which the project would conflict.

**Issue #3:** Zoning consistency

Section 26-10-005 of the County Zoning Code provides implementation of the General Plan policies in the RRD zone district. It states:

*Permitted Uses: Single family dwellings, resource management and enhancement activities including but not limited to... **crop production...**, Lodging, campgrounds, and similar recreational and **visitor serving uses** provided that they shall not be inconsistent with the purpose and intent of this category...*

*...The category also allows resource related employee housing, **processing facilities** related to resource production as well as incidental equipment and materials storage, provided that the use is consistent with any applicable resource management plans...*

- (d) *The outdoor growing and harvesting of shrubs, plants, flowers, trees, vines, fruits, vegetables, hay, grain and similar food and fiber crops, including wholesale nurseries.*

Uses permitted with a Use Permit in the RRD zoning district include:

- c) *Agricultural cultivation in the following areas for which a management plan has not been approved pursuant to Section 26-10-010(d),*
- (1) *Within one hundred feet (100') from the top of the bank in the Russian River Riparian Corridor,*
  - (2) *Within fifty feet (50') from the top of the bank in designated flatland riparian corridors,*
  - (3) *Within twenty-five feet (25') from the top of the bank in designated upland riparian corridors,*
- (e) **Tasting rooms for agricultural products which are grown or processed on site;**
- (g) **Processing of any agricultural product of a type grown or produced on site or in the immediate area, storage of agricultural products grown or processed on site, and bottling or canning of any agricultural product grown or processed on site;** (emphasis added)

Agricultural Processing is defined as:

*"Facilities for the processing of any agricultural product grown or produced primarily on site or in the local area, storage of agricultural products grown or processed on site, and bottling or canning of any agricultural product grown or processed on site."*

Therefore, the project is consistent with the RRD zoning designation. The applicant has stated that grapes grown on the site and adjacent property will be used to make the wine. The 540 square foot kitchen and pantry use will be limited to preparing dinners for wine industry sales and marketing representatives at a frequency not to exceed ten dinners per year with a maximum number of ten dinner guests at one time. This limited use can be found consistent with the visitor serving allowances in the Zoning Ordinance. A very small portion of the site is designated BR (Biotic Resource) related to serpentine soils. This area is over 600 feet from the proposed winery site. All construction must meet Best Management Practices (BMPs) which include erosion control methods. Due to distance and construction requirements, any potential impacts to the area designated BR (Biotic Resource) are less than significant.

**Issue #4:** Traffic and Parking

Access to the site is by way of St. Helena Road, a county-maintained road that links Calistoga Road on the west to Napa County on the east. According to the County's "Traffic Volumes" report, when

checked on Wednesday, August 6, 2006, St. Helena Road had a 24-hour volume of 621 trips eastbound and 603 trips westbound, with AM peaks of 44 eastbound trips and 47 westbound trips and PM peaks of 58 trips eastbound and 62 trips westbound. Project trips would consist of the daily trips for up to seven employees, trips associated with tastings by appointment, trips with the dinners for ten, and normal deliveries, which, according to the Proposal Statement, will be infrequent, averaging less than one per month. This would include delivery of barrels and other supplies four to six times annually. With the proposed winery, a reduction of agricultural truck traffic will occur since grapes from the adjacent vineyard will no longer be shipped off-site for processing. It is anticipated that the winery will have FedEx or UPS deliveries one to two times per week.

Even with projected increase in traffic volumes attributable to the winery operation traffic (as opposed to vineyard operation), St. Helena Road would continue to operate at Level of Service (LOS) A overall. The County General Plan requires that a LOS C be maintained as a standard.

The immediate site is served by Wappo Road, a private gravel road off of St. Helena Road northeast of the City of Santa Rosa. The road serves several properties, passing between two off-site residences downhill from the winery, and then proceeding on to the adjacent Cornell lands that have vineyard and residences.

The Sonoma County Department of Transportation and Public Works (DTPW) has reviewed the project and found it to be acceptable from the Traffic Engineer's standpoint. The project is conditioned with a requirement that Traffic Mitigation Fees must be paid to offset potential impacts on area roads.

One issue that was raised with the previous Use Permit application (UPE03-0092) was that the use of double-trailer trucks was prohibited because of the narrow and curvy roadway. That condition has been carried over to this Use Permit.

The proposed 22 parking spaces adjacent to the winery building are adequate to serve the use.

**Issue #5:** Neighborhood Compatibility

The primary noise source for the winery is the grape crush and refrigeration units. The proposed winery is centrally located on a 40 acre parcel. The closest neighbor is over 1,300 feet away. Therefore, noise is mitigated by distance. There will be no visual impact, as the winery will not be visible from public roads or neighboring residences with the possible exception of one residence located on a hilltop approximately 3/4 mile to the northeast.

Public roads in the project vicinity have been determined to be adequate for the proposed winery by the Traffic Engineer for the County DTPW. Ten dinner events per year with a maximum of ten guests and tasting by appointment only with a maximum of 15 people at any one time would limit the traffic impacts on neighboring properties. Lighting is required to be down cast, fully shielded and not allowed to wash out off-site or into the night sky. Therefore, the project should not be detrimental to the neighborhood.

**Issue #6:** Geologic Stability

One of issues raised with the previous Use Permit application related to slope stability as there are several landslides in the Wappo Road area. The project involves approximately 3,000 cubic yards of grading to terrace the property for the winery, as well as substantial excavation to create the cave for barrel storage. The access road to the property is already in place, but some driveways will be added to provide vehicular access to the lower floor of the winery building.

The Schematic Map of Areas Subject to Safety Policy Requirements of the General Plan (Figure PS-1e) indicates that the site is within the area of high to moderate potential for landslides. The RGH report notes that previous mapping indicates three major landslides in the vicinity. In addition, RGH encountered active, dormant, and ancient landslides on the property. "The dormant landslide on the north-northeast extends onto the northern end of the new proposed winery configuration, a portion of the cave, and roadway...Preliminarily, we estimate the middle and lower portions of this landslide to be in the 15- to 25-foot depth range but will need to be verified during a site specific geotechnical study." The report observes that "Creep and creep prone soils and shallower landslides can be mitigated during the normal course of grading. Avoiding or setting structures back from landslides is also a feasible mitigation. The dormant translational landslide on the north-northeastern portion of the proposed winery will require reconstructing portions or the entire landslide, depending on the planned grading, as drained, buttressed fills bearing below the landslide plane." The use of

buttressed fills and reconstructing landslides are to be addressed during a detailed site-specific report.

To address this, the applicant will comply with all recommendations contained in the Preliminary Geologic Study prepared by RGH Consultants, Inc. dated April 22, 2008, that was peer reviewed by the County-retained consulting firm of Kleinfelder, which concurred with the ultimate recommendations of RGH. Compliance with these recommendations would reduce geology and soils impacts to a less-than-significant level environmental impact. In addition, a detailed, site-specific Geotechnical Study shall be prepared and submitted with grading and construction plans. Said study shall address all issues raised in the Preliminary Geologic Study and review by Kleinfelder, and shall insure that the construction of the winery is engineered to eliminate the probability of downward creep, erosion, landslides, and soil/bedrock expansion.

**Issue #7:** Cultural Resources

A Cultural Resources Survey was conducted by Eileen Steen and Thomas M. Origer, M.A. dated March 12, 2007. According to the survey, at the time of European settlement, the project area is located near the boundary between the Southern Pomo and the Wappo Native American tribes however, no cultural resources were found within the 10-acre portion of the site that is proposed to be developed. Standard conditions are included in the Conditions of Approval to address accidental discovery of cultural or archaeological resources.

**STAFF RECOMMENDATION**

Staff recommends that the Board of Zoning Adjustments adopt the Mitigated Negative Declaration and approve the Use Permit request for a winery with a maximum annual production capacity of 10,000 cases after making the following findings and subject to conditions in Exhibit "A".

**FINDINGS FOR RECOMMENDED ACTION**

1. The proposal is consistent with the General Plan land use designation of RRD (Resource and Rural Development) which allows for wineries, defining them as processing facilities related to resource production. The project is also consistent with other General Plan objectives and policies.
2. The proposal is consistent with the Franz Valley Specific Plan since the project avoids critical habitat areas, will not be visible from public roads or scenic vistas, will be geologically stable and will not disturb cultural resources.
3. The proposal is consistent with the RRD (Resource and Rural Development) zoning designation, which allows processing of agricultural products of a type grown or produced in the immediate area, if a Use Permit is obtained.
4. The proposal is consistent with the BR (Biotic Resource) Combining District and the proposal will not be detrimental to the critical habitat area on- and off-site since all development will be located at least 600 feet from the designated Biotic Resource critical habitat area located southeast of the development site. The winery site itself has already been grubbed, but does not contain the soil type (serpentine) to support the Biotic Resource designation.
5. According to the professional engineer's hydrology report, and the subsequent peer review by the County's retained reviewer, Kleinfelder, there will be no significant direct or indirect short term, long term or cumulative hydraulic impacts to Mark West Creek or its tributaries due to the project. Winery water use would amount to less than 0.002 percent of the dry year flow of Mark West Creek.
6. According to the RGH Consultants Preliminary Geologic Study, and the subsequent peer review by the County's retained reviewer, Kleinfelder, the project can be engineered to

ensure  
geologic  
stability relative  
to landslides in  
the area with  
incorporation of  
the Mitigation  
Measures  
agreed to by  
the applicant  
that are  
included as  
Conditions of  
Approval of the  
Use Permit.

7. Based upon the information contained in the Initial Study included in the project file, it has been determined that there will be no significant environmental effect resulting from this project, provided that Mitigation Measures are incorporated into the project. The Mitigated Negative Declaration has been completed in compliance with CEQA, State and County guidelines, and the information contained therein has been reviewed and considered.
8. The establishment, maintenance or operation of the winery will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood, nor be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the area. The particular circumstances in this case are: (a) traffic generated by the use will not have a significant effect on local public roads; (b) potential noise impacts will be insignificant due to the approximate distance of 1,300 feet to the closest receptors; (c) the winery will not be visible from public viewsheds; and (d) conditions require that lighting is required to be down cast, fully shielded and not allowed to wash out off-site or into the night sky.

#### **LIST OF ATTACHMENTS**

- EXHIBIT A: Draft Conditions of Approval
- EXHIBIT B: Planning Application
- EXHIBIT C: Proposal Statement
- EXHIBIT D: General Plan Land Use Map
- EXHIBIT E: Vicinity Map
- EXHIBIT F: Zoning Map
- EXHIBIT G: Topography Map
- EXHIBIT H: Quad Map
- EXHIBIT I: Aerial Photo
- EXHIBIT J: Site Plan and Partial Site Plan (2)
- EXHIBIT K: Floor Plans (3)
- EXHIBIT L: Building Elevations (3)
- EXHIBIT M: Site Photographs (13)
- EXHIBIT N: Letter of Opposition from Jim Doerksen
- EXHIBIT O: Letter of Opposition from Stephen Krimel for Citizens' Committee to Save Mark West Creek
- EXHIBIT P: Draft Resolution

Separate Attachments for Commissioners: Mitigated Negative Declaration