

MENDOCINO COUNTY DEPARTMENT OF PLANNING AND BUILDING SERVICES

STAFF REPORT FOR MINOR USE PERMIT

**#U_2014-0003
APRIL 9, 2015
PAGE ZA-1**

OWNER: JEFFREY BORD
PO BOX 1676
LAYTONVILLE, CA 95454

APPLICANT: J DAVID SPIRITS
900 CHERRY CREEK ROAD
WILLITS, CA 95490

REQUEST: Use Permit for a distillery operation consisting of the construction of a 7,560 sq. ft. structure to include barrel room, fermenting, distillery, tasting room, mezzanine, storage. Private tasting up to 60 people and 10 employees. Also to be constructed at a future date, a 8,000 sq. ft. storage building.

DATE DEEMED COMPLETE: 2/6/2015

LOCATION: 15± miles north of Willits, lying on the north side of Cherry Creek Road (private), 1± mile north of the intersection of Irvine Lodge Road (private) and Highway 101 North. Located at 900 Cherry Creek Road, Willits; APN 036-010-26.

TOTAL ACREAGE: 85± Acres

GENERAL PLAN: Rangeland- 160 acre minimum (RL160)

ZONING: Rangeland- 160 acre minimum (RL160)

SUPERVISORIAL DISTRICT: 3

ENVIRONMENTAL DETERMINATION: Mitigated Negative Declaration

RECOMMENDATION: Approve with conditions

PROJECT DESCRIPTION: The property owner Mr. Jeffrey Bord is requesting a Minor Use Permit per Mendocino County Code Section (MCC Sec) 20.060.020 D- Packing and Processing – general within the Rangeland -160 (RL-160) zoning district. The use permit would allow for the legal establishment of a distillery operation. The applicant is proposing the construction of a 7,200 sq. ft. building to include barrel room, fermenting, distillery, tasting, office, mezzanine, storage and bathroom. Also to be included will be a waste water facility to comply with Regional Water Quality requirements. Water for the project will be from a private well located on the site. At the distilleries busiest times up to 10 employees will be on site. While the distillery will not be open to the public, private events are requested which will host up to 60 people.

As a second phase of the project, the applicant would request construction of an additional 8,000 sq. ft. building for the storage of supplies, equipment and barrels.

APPLICANT'S STATEMENT: The applicant has responded to Staff's request for additional information that was not included within the application request. The details are as follows:

How much water will be required for the distillery operation? The average gallons used per day, per month and per year?

"Gallons used per day/month/year. Answer: 4000 Gallons per week will be used, 2,400 gallons for beer wort production. Wash-down and cleaning/bottling will use the rest. The brew-house has a cip (clean-in-place) system to clean and recirculate cleaning liquids so the only water is used to lightly rinse the tanks between closed circuit cleaning tanks."

4000 x 52 weeks = 208,000 Gallons per year. The initial well was capable of producing 300,000 Gallons without service interruption even in drought years. There is now a second well and a spring is also assists the well in the winter. Water bladder bags have been considered for storing long term water in the winter for annual use."

(The Consulting Engineering firm of Brelje & Race, have prepared an application and report which was submitted, on behalf of the applicant, to the North Coast Regional Water Quality Board. Brelje & Race have determined that the weekly water usage for domestic use, distillery production use and for employee use will be 2800 Gallons per week or 2800 x 52 = 145,600 Gallons per year)

How will the solid and liquid waste be treated?

"Solid and liquid waste will be disposed of to farmers as a co-product of the brewing process for cattle feed. Any other excess will be composted for on-site garden use not for resale. No waste will go down the drain from raw materials input. Yeast, spent grains, and all liquids will go to feed cattle with valuable protein/carbohydrate content included."

The brewery will be able to recycle chemicals from a cip (clean-in- place) system and will not be entering the sewage system in an non-diluted form. A small amount will be flushed with rinse water and is very small amount far diluted beyond pH adjustments to be needed."

Estimated number of vehicles (trucks, vans, etc.) used for deliveries and distribution?

"8 semi loads per month well deliver to Highway 101 rest area. They will be transferred to a f250 pulling a 20' trailer or flatbed truck, 27' flatbed commercial truck."

Estimated number of persons to attend private person exhibitions?

"A bus tour would be the maximum number of people or 60± people to visit the property with small vans shuttling them in smaller numbers to avoid large vessels on the neighborhood roads for private exhibitions."

Provide a narrative of the distillery process that will be used from delivery of grains and/or liquid concentrates to bottling and distribution.

"All materials are put on to company truck/trailer and brought up to the distillery. The produces are unloaded and raw materials are fed into the system of processing, be it brewing, wine making, etc. Materials are sent out to be field composted or sent off to farmers as co-products. Wort is sent to the fermenters and fermented. Wort is sent to the still and distilled. Stillage is added back to the grains for protein content for farm animal feed. Washing is done with recirculating cip system. Spirits are collected 60 gallons at a time and then stored into a separate area, to be kept cool and aroma free, away from still. The bottles are filled by hand and labeled with a bottle filler. Placed on pallets in cases and sent to a distributor who is also met down at the rest area for easy loading on pallets."

In the event there are private events, portable toilets will be provided. Parking is prevalent. Neighboring properties are very far away. The brewer is several thousand feet from neighboring residences.”

How many employees will you have? Where will they park?

“Largest employee quantity is 10. Parking is available all across the area for more than 50 cars.”

(Staff later discovered that the planned average number of employees is 3; the figure 10, which is referenced above, would be the number of employees needed for a special event.)

SITE CHARACTERISTICS: The subject site is located 15± miles north of Willits, lying on the north side of Cherry Creek Road (private), 1± mile north of the intersection of Irvine Lodge Road (private) and Highway 101 North. The property takes direct access off of Cherry Creek Road. The site is 85± acres of hilly oak studded terrain. The property extends from Highway 101/Long Valley Creek to the west from an elevation of 1368 feet to an elevation of 2,200± feet on the east. The parcel is rectangular in shape having dimensions of 1,300 feet by 2,600 feet. The slopes of the parcel vary from 10 % to 25% with the average slope of approximately 15%. The distillery building site is located in the northeast corner of the parcel where the slopes are close to 10%.

Located on the site are an existing single family residence, garage and barn. The residence is served by onsite septic and well. There is also an existing second well.

The closest residence to the proposed distillery is located over 0.5 miles to the south.

SURROUNDING LAND USE AND ZONING:

	GENERAL PLAN	ZONING	LOT SIZES	USES
NORTH	RL 160	RL	50± to 120± acres	Williamson Act (AG)
EAST	RL 160	RL		Residential
SOUTH	RL 160	RL	180± acres	Residential
WEST	RL 160	RL	109± acres	HWY 101/Williamson Act (AG)

SERVICES:

Access: The subject property is located on the north side of Cherry Creek Road (private) approximately one mile northeast of the intersection of Irvine Lodge Road (private) and Highway 101. Cherry Creek Road provides access to over 30 residentially developed parcels to the south and east of the subject property, however all of these parcels beyond the subject property and wouldn't be impacted by additional traffic generated by the commercial distillery.

Fire District: LONG VALLEY

Water District: NONE

Sewer District: NONE

School District: LAYTONVILLE

REFERRAL AGENCY COMMENTS: Agency comments relevant to this application are listed within the Issues Section of this report and are noted within the Conditions of Approval. Otherwise, most of the reviewing agencies had no comment regarding the proposed project.

REFERRAL AGENCIES	NOT RETURNED	"NO COMMENT"	COMMENTS
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Department of Transportation		X	
Environmental Health-Ukiah			X
Building Services-Ukiah PBS		X	
Assessor	X		
Agricultural Commissioner		X	
Caltrans	X		
CalFire			X
Sonoma State University-NWIC			X
Archaeological Commission			X
Long Valley Fire District	X		
Regional Water Quality Control Board			X
State Dept. of Fish & Wildlife	X		
Alcoholic Beverage Control	X		

KEY ISSUES:

Issue #1- General Plan and Zoning Consistency:

General Plan Policy # DE-17: Land Use Category: RL-Rangeland states in part:

General Uses: Residential uses, agricultural uses, forestry, cottage industries, residential clustering, uses determined to be related to and compatible with ranching, conservation, processing and development of natural resources, recreation, utility installations.

Packing and Processing-winery is a permitted use in the RL (Rangeland) zoning district as a use that is compatible with processing and development of natural uses.

Packing and Processing-General allows for distilleries and breweries in the RL zoning district with a minor use permit.

Agricultural Resources Policy General Plan Policy # RM-109 states in part: *Building envelopes, clustered development, and commercial, industrial, civic, and sensitive uses shall be designed with buffers or setbacks from lands classified Agricultural or Rangelands. Buffers are defined generally as a physical separation of 200-300 feet (depending on pesticide application impacts) with the potential for a reduced separation when a topographic feature, substantial tree-stand, landscaped berm, watercourse, or similar existing or constructed feature is provided and maintained.*

The development of a distillery is considered an Agricultural Type Use as Packing and Processing-General, however the use could also be considered an industrial type use and therefore staff wants to assure that the building envelope for the distillery will be at least 200 feet from the adjoining range land which is also within an agricultural preserve. In addition to the 200 foot buffer, there is a dense growth of pine trees on the property line which separates the distillery building envelope from the agricultural preserve.

Issue #2- Soils and Water Quality:

The applicant and his consultant Brelje & Race, Consulting Engineers, have been working with The North Coast Regional Water Quality Control Board (NCRWQCB) to gain assurance that the Waste Discharge Requirements for the distillery and the Construction Storm Water Permit and General Industrial Storm Water Permit requirements have either been waived or approved by the NCRWQCB. No building permits for the proposed distillery structure will be approved until the NCRWQCB requirements are met. See Conditions # 4 and # 5.

In addition, the sanitary sewer system for domestic use and employee use must meet the requirements of the Mendocino County Division of Environmental Health. See Condition #6.

Issue #3 – Transportation:

Access to the subject parcel is by way of a private road (Cherry Creek Road) that serves approximately 30 residential lots. Cherry Creek Road is well maintained and has sufficient width and grades that are under 15%.

The subject parcel is within one mile of Highway 101 and is the first parcel served by the private road. The project will result in an increase in vehicular trips but there will be no additional traffic that will directly impact the 30 existing residential lots.

The applicant and his engineering consultant estimate that there will be an average of 3 (three) employees driving to the distillery on workdays and that there will be approximately eight (8) semi tractors making supply deliveries and pick-ups every month. The access road and the applicant's driveway are not designed for semi tractors and the trucking companies will not deliver directly to the distillery. The applicant has arranged to transfer the supplies from the semi tractors to either a pick-up truck with a 20' trailer or to a 27' flat-bed truck. This transfer will be made at a turn-out on the flat section of Cherry Creek Road and out of the traffic way. The turn-out location is close to Highway 101 and will be easily accessible to the drivers of the semi tractors.

The Mendocino County Department of Transportation has reviewed the proposed project and has no comments.

Staff recommends that, if there is a home-owners road maintenance contract for Cherry Creek Road, the applicant shall be a participant and the applicant shall provide the Mendocino County Department of Planning and Building Services with a copy of that agreement. See Condition # 9.

RECOMMENDATION: The Zoning Administrator makes the following findings, therefore Adopting the Mitigated Negative Declaration and Approves Minor Use Permit #U 2014-0003 for the development of a distillery in the RL (Rangeland) Zoning District with the recommended Conditions of Approval:

Environmental Findings: The Zoning Administrator finds that the environmental impacts identified for the project can be adequately mitigated through the conditions of approval or features of the project design so that no significant adverse environmental impacts will result from this project; therefore, a Mitigated Negative Declaration is adopted.

General Plan Consistency Finding: As discussed under pertinent sections of the staff report, the proposed project is consistent with applicable goals and policies of the General Plan as subject to the conditions of approval.

Project Findings: The Zoning Administrator approval of U_2014-0003 subject to the conditions of approval recommended by staff further finding:

1. That the establishment, maintenance or operation of a use or building applied for is in conformity to the General Plan;
2. That adequate utility, access roads, drainage and other necessary facilities have been or are being provided.
3. That the proposed use will not constitute a nuisance or be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in or passing through the neighborhood or such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.
4. That such use preserves the integrity of the zoning district.

RECOMMENDED CONDITIONS OF APPROVAL: Conditions which must be met prior to use and/or occupancy and for the duration of this permit:

Aesthetics

- **1. All informational signs shall not exceed four (4) square feet in size. Sign locations shall be subject to the approval of the Director of the Department of Planning and Building Services.
- **2. Elevation drawings of all signs, including visual appearance and method of illumination, shall be submitted to the Department of Planning and Building Services for review and approval.
- **3. No signs shall be allowed within any public right-of-way/roadway.
- **4. All off-site signs shall comply with Mendocino County Code Off Site Sign Standards Section 20.184.010.
- **5. All external lighting shall be shielded and downcast to prohibit light from being cast beyond the property boundaries. The number of exterior lighting fixtures shall be kept to the minimum required for safety.

Air Quality

- **6. The access road from Cherry Creek Road, parking area and interior circulation routes shall be surfaced with, at minimum, gravel. Prior to the installation of the surfacing material, the natural grade shall be prepared in accordance with good engineering practices to insure long surface life.
- **7. The access road from Cherry Creek Road, parking area and interior circulation routes shall be treated with a dust suppressant and maintained in such a manner as to insure minimum dust generation subject to the Air Quality Management District's dust regulations.

Cultural Resources:

- **8. In the event that archaeological resources are encountered during normal operation activities at the site, work in the immediate vicinity of the find shall be halted until all requirements of Chapter 22.12 of the Mendocino County Code relating to archaeological discoveries have been satisfied.

Geology and Soils:

- **9. The discharge from the process wastewater system shall be regulated by the Regional Water Board, through the issuance of or enrollment under, Waste Discharge Requirements (WDRS) or a Waiver of WDRs Order. No discharge to the process wastewater treatment and disposal system may take place until WDR or Waiver of WDR coverage has been obtained from the Regional Water Board.
- **10. The distillery shall apply for coverage under the State Water Resource Control Boards (SWRCB) Industrial Stormwater General Permit.
- **11. The discharge of domestic waste water originating from the distillery will be discharged to an existing on-site septic tank and leachfield system serving the residence which is overseen and regulated by the County of Mendocino, Environmental Health.

Hazards and Hazardous Materials:

- **12. Written verification shall be submitted by CalFire which indicates that the conditions that are outlined in CalFire File # 66-14 and dated 3/17/2014 and CalFire File # 98-14 and dated April 22, 2014 have been met.

Transportation/Traffic:

- **13. If there is a home-owner's road maintenance contract for Cherry Creek Road, the applicant shall

be a participant and the applicant shall provide the Mendocino County Department of Planning and Building Services with a copy of that agreement.

Standard Conditions:

14. Water quality for the proposed distillery shall meet standards, if any are required, for commercial distillery use.
15. The applicant shall secure all required permits from the Building Services Division of the Department of Planning and Building Services for all construction, structural modifications, grading, change of occupancy for the conversion of structures into commercial uses, establishment of signs, and compliance with handicapped accessibility for the facility if required.
16. A detailed parking and circulation plan shall be prepared and submitted to the Department of Planning and Building Services for approval. The plan shall provide adequate area for both parking and circulation movements outside public rights-of-way and private ways not intended for that purpose or use.
17. A valid Mendocino County Business License for the subject property shall be issued by the Mendocino County Tax Collector, and a copy of said license shall be submitted to the Department of Planning and Building Services prior to the operation of the business.
18. This permit shall become effective after all applicable appeal periods have expired or appeal processes exhausted. Failure of the permittee to make use of this permit within one year or failure to comply with payment of any fees within specified time periods shall result in the automatic expiration of this permit.
19. The use and occupancy of the premises shall be established and maintained in conformance with the provisions of Title 20 of the Mendocino County Code unless modified by conditions of the use permit.
20. That the application along with supplemental exhibits and related material be considered elements of this entitlement and that compliance therewith be mandatory, unless a modification has been approved by the Zoning Administrator.
21. In the event that the use of the facility should cease operation for a period exceeding one year or more, the use shall be deemed invalid and a new use permit will be required for the operation as approved by U_2014-0003.
22. The applicant shall grant access to the property during hours of operation to permit County representatives or any consultants hired by the County for inspection, enforcement, or monitoring activities deemed desirable by the County. The applicant shall designate an individual who is to be available at all times for purposes of supplying information deemed necessary by the authorized County representatives in connection with such work during working hours
23. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one (1) or more of the following grounds:
 - a. The permit was obtained or extended by fraud.
 - b. One or more of the conditions upon which the permit was granted have been violated.
 - c. The use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.Any such revocation shall proceed as specified in Title 20 of the Mendocino County Code.
24. The applicant shall endeavor to protect and maintain as much vegetation on the site as possible, removing only as much as required to conduct the operation.

- 25. That the application along with supplemental exhibits and related material be considered elements of this entitlement and that compliance therewith be mandatory, unless a modification has been approved by the Planning Commission. This permit authorized J.David Spirits, LLC to operate a distillery within a 7,200 square foot commercial building, allowing for private product exhibition and business related product awareness for friends and wholesalers be conducted a maximum of twice a month with no more than 25 visitors at a time. There will be no public tastings or tours or retail sales from the premises.
- 26. That this permit be subject to securing of all necessary permits for the proposed development and eventual use from County, State and Federal agencies having jurisdiction. An requirements imposed by an agency having jurisdiction shall be considered a condition of this permit.
- 27. This permit shall be subject to revocation or modification by the Planning Commission upon a finding of any one (1) or more of the following grounds:
 - a. That such permit was obtained or extended by fraud
 - b. That one or more of the conditions upon which such permit was granted have been violated.
 - c. That the use for which the permit was granted is so conducted as to be detrimental to the public health, welfare or safety, or as to be a nuisance.

Any such revocation shall proceed as specified in Title 20 of the Mendocino County Code.
- 28. This permit is issued without a legal determination having been made upon the number, size or shape of parcels encompassed within the permit described boundaries. Should, at any time, a legal determination be made that the number, size, or shape of parcels within the permit described boundaries are different than that which is legally required by this permit, this permit shall become null and void.
- 29. It shall be the responsibility of the applicant to ensure that contractors engaged to perform work on the site are aware of the conditions of this permit and that all work performed is in compliance with applicable conditions.

{DATE}

FRED TARR

FT/at

Mitigated Negative Declaration
Appeal Fee: \$910.00
Appeal Days: 10 days

APPENDIX A

Environmental Review/Initial Study

ATTACHMENTS:

- A. Location Map
- B. Topographic Map
- C. Aerial Photo
- D. Plot Plan
- E. Site Plan
- F. Floor Plan
- G. Mezzanine Plan

- H. Adjacent Property Owners
- I. Zoning Map
- J. General Plan Map
- K. Fire Hazard Maps
- L. Soil Types
- M. Williamson Act Map