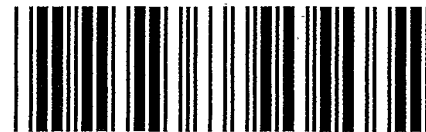


Planning

Cover Sheet

APN	032080-039-000
Permit #	488687
Program	APEL
DocType	STR
Street #	
Street Name	
Year	



NAPA COUNTY
CONSERVATION, DEVELOPMENT AND PLANNING DEPARTMENT

USE PERMITS

DEPARTMENT REPORT AND RECOMMENDATION

Commission Meeting of May 6, 1987

Agenda Item: 9

APPLICATION DATA:

APPLICANT: Whitbread of California, Inc.
Use Permit Request #U-488687 Date Filed: March 10, 1987

REQUEST FOR: Approval to establish a 450,000 gallons per year winery with no public tours or tastings and to construct related waste disposal ponds.

LOCATION: On 680 acres south and east of the terminus of Soda Canyon Road in Foss Valley within an AW (Agricultural Watershed) District. (APN 32-040-40, 32-080-29 & 30)

FINDINGS:

SPECIAL INFORMATION:

1. Details of the proposal are contained in the attached supplemental information sheet.
2. Comments and recommendations from various County departments and other agencies are attached.
3. This application is a request to relocate a winery approved by the Commission on May 7, 1986 under Use Permit #U-278586 to a new location approximately one mile west of the approved site and one-half mile from Soda Canyon Road.

ENVIRONMENTAL ANALYSIS:

4. The project will not result in significant environmental effects, either individually or cumulatively. A Negative Declaration containing 15 signed mitigation measures is recommended. See attached copy.

PLANNING AND ZONING ANALYSIS:

5. The Commission has the power to issue a Use Permit under the Zoning Regulations in effect as applied to the property.
6. The procedural requirements for a Use Permit set forth in Title XII of the Napa County Code (zoning regulations) have been met.
7. The grant of the Use Permit, as conditioned, will not adversely affect the public health, safety or welfare of the County of Napa.

EXHIBIT PD-26

PAGE 8 OF 43

WHITBREAD OF CALIFORNIA
#U-488687

1. The Commission added two additional Mitigation Measures (Attachment 2) for a total of 17.

2. The Commission modified the size of the winery as follows:

Phase 1 - 25,000 sq. ft.

Phase 2 - 22,000 sq. ft.

Total 47,000 sq. ft.

3. The Commission modified Condition of Approval #10 to read:

Use Permit #U-278586 for the original winery location shall become null and void subject to compliance with Section 12806(b) of the Napa County Code.

EXHIBIT PD-26

PAGE 8-A OF 43

Page 2
Report and Recommendation

Meeting Date: May 6, 1987
Use Permit #U-488687

8. The proposed use complies with applicable provisions of the Napa County Code and is consistent with the policies and standards of the Napa County General Plan.
9. The proposal is in conformance with the General Plan designation of Agriculture, Watershed and Open Space and the AW District Zoning specified for the property.

RECOMMENDATION:

ENVIRONMENTAL:

1. Adopt a Negative Declaration.
2. Find that the Commission has read and considered the Negative Declaration prior to taking action on the proposed project.

PLANNING:

3. APPROVAL with Findings and subject to the attached Conditions of Approval:

CONDITIONS OF APPROVAL

Agenda Item: 9

Meeting Date: May 6, 1987

Use Permit: #U-488687

1. The permit be limited to the construction of a 450,000 gallons/year winery with related waste disposal ponds. The size of the winery structure shall not exceed 34,000 sq. ft. and the winery caves 36,000 sq. ft.

Any expansion or changes in use to be by separate Use Permit submitted for Commission consideration.

2. Submission of a detailed landscaping, fencing and parking plan to the Department for review and approval indicating names and locations of plant materials, method of maintenance and location of off-street parking spaces. Said plan to be submitted prior to issuance of the Building Permit. Landscaping, fencing and parking to be completed prior to finalization of Building Permit. Landscaping shall be permanently maintained in accordance with the approved landscape plan.
3. Provisions for a minimum of 30 off-street parking spaces on a dust free all weather surface approved by Public Works.
4. Plans for any outdoor signs be submitted to the Department for review and approval with regard to design, area, height and placement.
5. Compliance with all applicable building codes, zoning standards and requirements of various County departments and agencies.
6. Compliance with Mitigation Measures #1 thru #15 contained in the attached Negative Declaration.
7. Except as permitted by County ordinance, only private tours and tastings shall be permitted. Private tours and tastings shall mean tours and tastings that are limited to members of wine trade, persons invited by the Winery who have pre-established business with the Winery or its owners, and persons who have made unsolicited prior appointments for tours or tastings. Tours or tastings that are available to the general public or are advertised as open to the general public by any means of communication are expressly prohibited. No tasting shall be conducted in conjunction with or prior to retail sales unless it constitutes a private tasting. The sale of merchandise of any kind other than wine is expressly prohibited.

The applicant shall install a sign at the winery entrance from the public roadway to the Winery reading, "Tours and Tasting By Appointment Only". The sign shall be commercially made by a sign contractor which complies with the following standards:

EXHIBIT PD-26

PAGE 9-A OF 43

Type: Free-standing double-sided sign.

Location: The sign shall be installed perpendicular to the public roadway at the Winery entrance.

Height: Not less than 3 nor more than 5 feet off the ground.

Size: 12" x 36"

Sign Lettering: A minimum of 3" high.

Sign Color: White weatherized lettering on a dark-green background or such other color as may be approved by the Planning Director that will accomplish the intent of this requirement.

Placement: Tours and Tasting By Appointment Only sign shall be installed prior to finalization of any building permit issued by the County in connection with this Use Permit with the following exception: If the Winery owner/operator does not have or chooses not to install a sign or identify in any way the existence of the Winery on the site, the installation of the Tours and Tasting By Appointment Only sign may be deferred until such time as a winery identification sign is installed.

The sign shall be permanently installed and maintained in a readable condition.

8. Except as permitted by County ordinance, no outside social activities including picnicking, outside dining, wine tasting, live music, outdoor festivals, or other activities of a similar nature.
9. Retail sales shall be limited to wine produced and bottled by the winery. Retail sales may commence following the construction of the winery.
10. Use Permit #U-278586 for the original winery location shall become null and void upon issuance of a Building Permit for this Use Permit (#U-488687).

Whitbread of California
P.O. Box 5660
Napa, CA 94581
707-252-7971

February 10, 1987

RECEIVED
FEB 10 1987

The Commissioners
Napa County
1195 Third St.
Napa, CA 94559

Napa County Conservation,
Development & Planning Department

Gentlemen:

Our permit, no. U-278586 was granted on May 7, 1986 for the construction of a 450,000 gallon winery on our Atlas Peak vineyard property at the end of Soda Canyon Road.

Only a few weeks after this permit was granted, we acquired an adjoining 120 acres from William Hill & Co. (parcel no. 32-080-29) as part of the final settlement with William Hill for our purchase of the vineyard (parcel nos. 32-080-05, 14, 30, and 32-04-40). William Hill had a division map pending to split the 120 acres into three 40 acre building lots. We have continued that plan and it is nearly ready for recording.

The more we study the overall site, the more we realize that the winery should be located on the newly acquired 120 acre piece instead of at the site originally planned and approved by yourselves. One of the major factors in favor of the new site is that it allows the construction of bored caves in the nearby hillside. The caves will be more economic to operate than buildings because air conditioning and heating will not be required. In addition, we expect that the increased humidity in the caves will minimize wine loss through evaporation. A further benefit to the newly proposed site is that the road serving it will be significantly shorter than that serving the previous site.

We understand that this new permit, when issued, would replace the existing permit. However, we ask that you extend our existing permit until such time as this permit is approved in accordance with our letter to you dated January 12, 1987. Mr. Hickey has suggested that the commission consider our request for extension of the existing permit at the same time as our request for a permit at the new location. We agree to that time saving action on the understanding that it will not prejudice the validity of our existing permit.

EXHIBIT PD-26

PAGE 10-A OF 43

We apologize for the inconvenience to the Commission and staff that this change in location of our winery creates. However, we are convinced that the new site is significantly better for the long term prosperity of our project and we appreciate your consideration.

Very truly yours,


James Barnes
Vice President

RECEIVED
FEB 10 1987

Napa County Conservation,
Development & Planning Department

EXHIBIT PD-26

PAGE 11 OF 43

WHITBREAD

OF CALIFORNIA, INC.

P.O. Box 5660
Napa, CA 94581

January 12, 1987

Napa County
Conservation, Development, & Planning Commission
1195 Third St.
Napa, CA 94558

Gentlemen:

We refer to the permit that you granted on ^{May} ~~March~~ 7, 1986 for the construction of a 450,000 gallon per year winery at our vineyard location: East of terminus of Soda Canyon Road in the Foss Valley within an AW district to have no public tours and tastings. (Permit number U278586).

As a result of our slowing our program for providing a "vintage" crop from our property, it is not practical for us to ^{start} construction of the winery prior to the expiration of our permit (~~March~~ ^{May} 7, 1987). We, therefore, ask in the terms of section 12807 of the Napa County Code for a 12 month extension of our permit so that it will expire on ~~March~~ ^{May} 7, 1988.

If you have any questions relating to this request, please call James Barnes at 252-7971.

Thank you for your consideration,

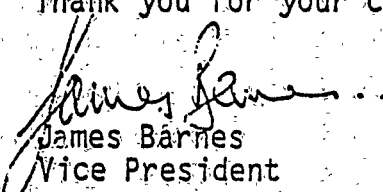

James Barnes
Vice President

EXHIBIT PD-26

PAGE 11-A OF 43

RECEIVED
JAN 16 1987

Napa County Conservation,
Development & Planning Department

Whitbread of California
P.O. Box 5660
Napa, CA 94581
707-252-7971

RECEIVED
FEB 10 1987

Napa County Conservation,
Development & Planning Department

Project Description

It is our intention to construct a new premium winery during the next two years. Ultimate production is planned to reach 180,000 cases (450,000 gallons) per year. The property consists of 1,176 acres located at the end of Soda Canyon Road on 5 parcels (AP Nos. 32-08-29, 32-08-5, 32-08-14, 32-08-30, and 32-04-40), 170 acres of which are planted with varietal wine grapes. The proposed winery site is located on a hillside overlooking Foss Valley and the planted vineyards (see site plan). The site is gently sloping with an adequate slope for drainage.

Preliminary refraction seismic tests have been performed and a geologic review of the site has been prepared by Wallace, Van Alstine & Kuhl. A more detailed soils investigation will be performed prior to preparation of structural drawings for the facility. The site will be prepared for construction in accordance with the final recommendations of the soils engineer.

The building will be constructed with concrete slabs on grade, tilt-up concrete or concrete masonry walls, partially faced with finish materials compatible with the winery image and the site, and a timber roof framing system with a fire proof roof. The building's orientation, utilization of roof and wall insulation, and the use of night air cooling to assist a mechanical system, will minimize energy requirements for the facility.

Fire protection will be provided by the Division of Forestry. The Napa County Sheriff's office will provide police protection. Existing reservoirs on the property of 120 acre feet capacity and future planned capacity of 800 acre feet will provide additional fire protection. It is our present intention that the winery building will be fire-sprinkled.

A new road will be constructed to the winery site from the entrance to the property along with parking for employees and wine industry visitors. The road will be designed by a licensed civil engineer.

Water for the winery will be stored in a large holding tank that will be supplied by wells on the property.

The sanitary waste will be disposed of in a septic tank and

leach field system designed by a licensed engineer. Percolation tests have not been taken at this time. However, on the 1,100+ acres there are many areas with good draining soil. The industrial waste water system will be designed by a sanitary engineer. An aerated pond system is envisioned. However, we intend to work with the County and our consultants to come up with the best system for our situation.

As a result of the long aging requirements of the wine and time frame required for market development, the winery will be constructed in more than one phase. The first phase will be approximately of a 75,000 case (188,000 gallons) annual production capacity. Ultimate plantings would support the ultimate planned production of the facility of 180,000 cases annually.

The licenses and permits required for this project, in addition to the Napa County agencies, include the standard permits for a winery from the Alcoholic Beverage Control Board and the Bureau of Alcohol, Tax & Firearms. The Regional Water Quality Control Board will also be granting a waste discharge permit as the project proceeds.

Because the winery will not be open to the public for tours or tasting and because the grapes will come from only our own vineyards, the winery will generate very little traffic. In fact, without a winery on the parcel, wine grapes would have to be hauled down to the Napa Valley floor during harvest season for processing. This would create periodic high truck traffic densities on the Soda Canyon access road.

It is our intention to construct a premium varietal winery that will be an asset to the California wine industry. The wine will be estate bottled from our own grapes and we will maintain complete control of the quality of our product. Because of the remoteness of the site and our desire to be "low profile", there will be no public tours or tastings. We will instead prepare occasional special wine tastings and dinners for wine distributors, restaurant owners and other industry groups or individuals.

SUPPLEMENTAL INFORMATION SHEET
USE PERMIT APPLICATION

EXHIBIT PD-26

PAGE 13 OF 43
* DOES NOT INCLUDE C

1. DESCRIPTION OF PROPOSED USE:

USE: Winery

PRODUCT OR SERVICE PROVIDED: Wine Making

FLOOR AREA: EXISTING STRUCTURES 0 SQ. FT. NEW CONSTRUCTION 34,000 SQ. FT. *

ceiling: approx 36000 sq. ft.

INDICATE SQUARE FOOTAGE ON EACH FLOOR DEVOTED TO EACH SEPARATE USE WITHIN AN EXISTING

AND/OR PROPOSED BUILDING: See attached plan.

SEATING CAPACITY: RESTAURANT N/A BAR N/A OTHER N/A

EXISTING STRUCTURES OR IMPROVEMENTS TO BE REMOVED: None

RELATED NECESSARY CONCURRENT OR SUBSEQUENT PROJECTS ON THE SITE OR IN SURROUNDING

AREAS: None

2. NEW CONSTRUCTION:

PROJECT PHASING: Phase I: Site Preparation 1987 Construction 1988 Future Phase: At undetermine date

CONSTRUCTION TIME REQUIRED (EACH PHASE): Approximately 1 year

TYPE OF CONSTRUCTION: concrete walls, wood roof structure, tile roof

MAX. HEIGHT (FT.): EXISTING STRUCTURES 0 PROPOSED STRUCTURES 35 fe

DESCRIPTION OF PROPOSED EXTERIOR NIGHT LIGHTING: safety lighting only

3. AVERAGE OPERATION:

HOURS OF OPERATION 8 A.M. TO 6 P.M. DAYS OF OPERATION Mon-Fr

NUMBER OF SHIFTS: 0 (CURRENTLY) EMPLOYEES PER SHIFT: 0 (CURRENTLY) FULL TIME 0 PART TIME 0

NUMBER OF SHIFTS PROPOSED: 1 TOTAL EMPLOYEES PER SHIFT PROPOSED: 20 FULL TIME X PART TIME 0

NUMBER OF DELIVERIES OR PICK-UPS: PER DAY 3 PER WEEK 15

NO. VISITORS ANTICIPATED: PER DAY 20 PER WEEK 100

ARE THERE SPECIAL OPERATIONS? PLEASE DESCRIBE ON SEPARATE PAGE

4. LANDSCAPING AND PARKING:

EXISTING LANDSCAPING PLAN SUBMITTED: YES 0 NO X

PROPOSED LANDSCAPING PLAN SUBMITTED: YES 0 NO X

PARKING SPACES: EXISTING SPACES 0 EMPLOYEE 0 CUSTOMER 0

PROPOSED SPACES 30 EMPLOYEE 25 CUSTOMER 5

5. UTILITIES:

WATER SUPPLY SOURCE: Well METHOD OF SEWAGE DISPOSAL: Septic

IS ANNEXATION TO A SPECIAL SERVICE DISTRICT PROPOSED? YES _____ NO X

NAME OF DISTRICT: _____

6. LICENSES OR APPROVALS REQUIRED:

DISTRICT County REGIONAL _____

STATE A.B.C. FEDERAL B.A.T.F.

7. WINERY OPERATION:

X CRUSHING X FERMENTATION X STORAGE/AGING X BOTTLING/PACKING

X SHIPPING: VIA: _____; X ADMINISTRATIVE: _____ TOURS/PUBLIC TASTING

OTHER: _____

GALLONS OF WINE TO BE PRODUCED: INITIAL ~~OR CURRENT~~ PRODUCTION 18,000 GALLONS/YR ^{in 1988}
REQUESTED PRODUCTION CAPACITY 45,000 GALLONS/YR

METHOD OF DOMESTIC WASTE DISPOSAL: Septic System

METHOD OF INDUSTRIAL WASTE DISPOSAL: Treatment ponds

GALLONS OF DOMESTIC WASTE PRODUCED: 700 PER day (ultimate)

GALLONS OF INDUSTRIAL WASTE PRODUCED: 3,600,000 PER year (ultimate)

METHOD OF SOLID WASTE DISPOSAL: Discd into vineyards

CAPACITY OF WATER SUPPLY: 50,000 GALLONS.

WATER AVAILABILITY: 300 GALLONS PER MINUTE. (To be verifie

ON-SITE FIRE PROTECTION:

EMERGENCY WATER STORAGE: 260 million GALLONS.

TYPE OF STORAGE FACILITY: irrigation reservoirs (planned) (39 million gallons existing

8. SPECIFIC INFORMATION FOR RESIDENTIAL CARE FACILITY/DAY CARE CENTERS:

TYPE OF CARE: N/A

TOTAL NUMBER OF GUESTS/CHILDREN: EXISTING: _____ PROPOSED: _____

NUMBER OF BEDROOMS: EXISTING: _____ PROPOSED: _____

IS FACILITY LOCATED WITHIN 300 FEET OF ANOTHER FACILITY?: _____

NUMBER OF EMPLOYEES: FULL TIME: _____ PART TIME: _____

EXHIBIT PD-26

PAGE 13-A OF 43

PROPOSED
NEGATIVE DECLARATION

The County of Napa has tentatively determined that the following project would not have a significant effect on the environment. Documentation supporting this determination is on file for public inspection at the Napa County Conservation, Development and Planning Department Office, 1195 Third St., Room 210, Napa, California 94559. For further information, contact the Napa County Environmental Protection Section at (707) 253-4416.

WHITBREAD OF CALIFORNIA
#U-488687

To establish a 450,000 gal/yr winery with no public tours or tastings and to construct waste disposal ponds located on 680 acres southeast of the terminus of Soda Canyon Road in Foss Valley in the AW (Agricultural Watershed) District. (APN 32-040-40, 32-080-29 & 30)

Mitigation measures included in the subject project are specified in Attachment 1 to the appended Initial Study.

DATE: April 15, 1987

BY THE ORDER OF

JAMES H. HICKEY

Director - Napa County Conservation, Development and Planning Department

:7f

EXHIBIT

PD-26

PAGE

14

OF

43

COUNTY OF NAPA
 CONSERVATION, DEVELOPMENT AND PLANNING DEPARTMENT
 1195 Third St., Rm. 210
 Napa, California 94559
 (707) 253-4416/4376

INITIAL STUDY

PROJECT NAME: Whitbread of California
 FILE NO: #U-488687

PROJECT DESCRIPTION: To establish a 450,000 gal/yr winery with no public tours or tastings and to construct waste disposal ponds located on 680 acres southeast of the terminus of Soda Canyon Road in Foss Valley in the AW (Agricultural Watershed) District. (APN 32-040-40, 32-080-29 & 30)

JURISDICTIONAL BACKGROUND:
Public Plans and Policies

Based on an initial review completed by the Environmental Protection Section, the following findings were made for the purpose of the Initial Study and do not constitute a final finding by the County in regard to the question of consistency.

	YES	NO	N/A
Is the project consistent with:			
a) Regional and Subregional Plans and Policies?	<u>X</u>	---	<u>X</u>
b) LAFCOM Plans and Policies?	<u>---</u>	---	<u>X</u>
c) The County General Plan?	<u>X</u>	---	<u>---</u>
d) Appropriate City General Plans?	<u>---</u>	---	<u>X</u>
e) Adopted Environmental Plans and Goals of the Community?	<u>X</u>	---	<u>---</u>
f) Pertinent Zoning?	<u>X</u>	---	<u>---</u>

Responsible Agencies

ENVIRONMENTAL SETTING: Nearly level to steeply sloping area (slopes 2.5% to 50%) at elevation 1440 to 1960 feet MSL, located on the southwestern side of Foss Valley. Soils consist of Aiken, Bale, Hankright/Rock Oatcrop; Maxwell and Perkins with slow to very rapid runoff and slight to high erosion hazard. The winery site is shown as slight to moderate erosion hazard. Landslide indications on the property do not appear to threaten the building site. Vegetation consists of vineyard, and annual grasses, shrubs, oaks and possibly digger pine. Existing and surrounding land uses include vineyard, rural residential, open, watershed and habitat.

ENVIRONMENTAL EFFECTS:

Normally Significant Individual Impacts

YES	NO	
	<u>X</u>	(Geology)
<u> </u>	<u> </u>	1. Exposure of new site users to substantial life and/or property hazards from geologic processes (eg., severe settlement, sliding, faulting, intense seismically induced ground shaking, seismically-induced ground failures, etc.).
<u> </u>	<u> </u>	2. Exposure of existing area occupants to substantially increased life and/or property hazards from geologic processes.
<u> </u>	<u> </u>	3. Damage, destruction or burial of any unique or scientifically important geologic or geomorphologic feature.
	<u>X</u>	(Meteorology)
<u> </u>	<u> </u>	4. Substantial modification of climatic or microclimatic conditions (eg., temperature, rainfall, wind, shadow patterns, etc.).
	<u>X</u>	(Hydrology)
<u> </u>	<u> </u>	5. Exposure of new site users to substantial life and/or property hazards from flooding (eg., stream flooding, tsunamis, seiches, dam or levee failure, etc.).
<u> </u>	<u> </u>	6. Exposure of existing area occupants to substantially increased life and/or property hazards from flooding.
<u>X</u> *	<u> </u>	7. Substantial temporary construction period increase in erosion and/or sedimentation.
<u>X</u> *	<u> </u>	8. Substantial permanent increase in erosion and/or sedimentation.
<u> </u>	<u> </u>	9. Substantial depletion of groundwater resources or significant interference with groundwater recharge.
	<u>X</u>	(Water Quality)
<u> </u>	<u> </u>	10. Substantial degradation of the quality of waters present in a stream, lake, or pond.
<u> </u>	<u> </u>	11. Substantial degradation of the quality of groundwater supplies.
<u> </u>	<u> </u>	12. Substantial contamination of a public or private water supply.
	<u>X</u>	(Air Quality)
<u> </u>	<u> </u>	13. Exposure of new site users to substantial health hazards from breathing polluted air.
<u> </u>	<u> </u>	14. Exposure of existing area occupants to substantially increased health hazards from breathing polluted air.
<u> </u>	<u> </u>	15. Substantial degradation of local or regional air quality.
<u> </u>	<u> </u>	16. Exposure of new site users or existing area occupants to annoyance from dust and/or highly objectionable odors.
	<u>X</u> *	(Noise)
<u>X</u>	<u> </u>	17. Exposure of new site users to health hazards from noise levels in excess of those recognized as necessary to protect public health and welfare.

* Mitigated (see Mitigation Measures below)
o Cumulatively Significant Only

- | YES | NO | |
|--------------|--------------|--|
| <u> </u> | <u> X </u> | 18. Exposure of existing area occupants to health hazards from noise levels in excess of those recognized as necessary to protect public health and welfare. |
| <u> </u> | <u> X </u> | 19. Exposure of people to high construction noise levels for substantial periods of time. |
| <u> </u> | <u> X </u> | 20. Exposure of existing area occupants to annoyance from substantially increased ambient noise levels. |
| | | (Ecosystem) |
| <u> </u> | <u> X </u> | 21. Substantial reduction in the number of a rare or endangered species of plant or animal or damage or restriction of the habitat of such a species. |
| <u> </u> | <u> X </u> | 22. Destruction of or substantial damage to a unique, scarce, or particularly productive biological area (eg., marshes, riparian galleries, vernal pools, etc.). |
| <u> </u> | <u> X </u> | 23. Substantial reduction in habitat for plants, fish, and/or wildlife. |
| <u> </u> | <u> X </u> | 24. Substantial modification in the number or diversity of plant or animal species present. |
| <u> </u> | <u> X </u> | 25. Substantial interference with the movement of a resident or migratory fish or wildlife species. |
| | | (Social) |
| <u> </u> | <u> X </u> | 26. Disruption or division of an established community. |
| <u> </u> | <u> X </u> | 27. Displacement of a large number of people. |
| | | (Aesthetic) |
| <u> </u> | <u> X </u> | 28. Blockage or substantial degradation of important public or private views. |
| <u> </u> | <u> X </u> | 29. Exposure of new site users or existing area occupants to annoyance from increased nighttime light levels or glare. |
| <u> </u> | <u> X </u> | 30. Creation of a litter problem. |
| | | (Cultural) |
| <u> </u> | <u> X </u> | 31. Destruction of or substantial damage to a recognized archaeological site. |
| <u> </u> | <u> X </u> | 32. Destruction of or substantial damage to the historical character of a recognized historical structure, facility, or feature. |
| <u> </u> | <u> X </u> | 33. Elimination of or conflict with the established recreational, educational, religious, or scientific uses of the project site or surrounding properties. |
| | | (Traffic) |
| <u> X </u> | <u> </u> | 34. Exposure of new site users to substantial life and/or property hazards from traffic accidents. |
| <u> X </u> | <u> </u> | 35. Exposure of the existing users of the roads providing access to the project site to substantially increased life and/or property hazards from traffic accidents. |
| <u> X </u> | <u> </u> | 36. Exposure of the users of the roadways providing access to the project site to annoyance from noticeably increased traffic congestion. |

YES NO.

- X ___ 37. Increase in traffic on the roadways providing access to the project site which is substantial in relation to the existing traffic load and capacity of the street system.
- ___ X 38. Creation of a substantial local parking problem.

(Energy)

- ___ X 39. Increase in the demand for energy which is substantial in relation to the existing energy demands of the area.
- ___ X 40. Creation of a facility or development which will use fuel or energy in a wasteful manner.
- ___ X 41. Creation of a facility or development which will use substantially higher than average amounts of fuel or energy for transportation purposes.

(Public Health)

- X ___ 42. Exposure of new site users to substantial health hazards from contaminated drinking water, inadequately treated sewage and/or insect or rodent pests.
- ___ X 43. Exposure of existing area occupants to substantially increased health hazards from contaminated drinking water, inadequately treated sewage and/or insect or rodent pests.
- X ___ 44. Exposure of new site users to substantial life and/or property hazards from fire.
- ___ X 45. Exposure of existing area occupants to substantially increased life and/or property hazards from fire.
- ___ X 46. Exposure of new site users to substantial life and/or property hazards from air crashes.
- ___ X 47. Exposure of existing area occupants and/or existing air or heliport users to substantially increased life and/or property hazards from air crashes.
- ___ X 48. Exposure of new site users or existing area occupants to substantial annoyance from insect or rodent pests.

(Community Services)

- ___ X 49. Increase in the demand for a community service (eg., sewer, water, fire protection, schools, etc.) which is substantial in relation to the currently existing uncommitted capacity of the agency involved to provide such a service.

(Commercial Resources)

- ___ X 50. Perclusion of the development of aggregate, rock product, or mineral resources of current or potential importance.
- ___ X 51. Removal of a substantial amount of agricultural or grazing land from current or potential production.

(Fiscal)

- ___ X 52. Creation of a development to which it would cost the community substantially more to provide services than it would return in taxes.

(Growth Induction)

- ___ X 53. Induction of substantial residential, commercial, or industrial development.

Mandatory Findings of Significance

YES NO

Does the project:

- | | | | |
|----|---|---|----------|
| a) | Have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? | — | <u>X</u> |
| b) | Have the potential to achieve short-term, to the disadvantage of long-term, environmental goals? | — | <u>X</u> |
| c) | Have possible environmental effects which are individually limited but cumulatively considerable? | — | <u>X</u> |
| d) | Have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly? | — | <u>X</u> |

NOTE: The conclusions and recommendations contained herein are professional opinions derived in accordance with current standards of professional practice.

Impact Discussion (Optional)

Exhibit A "Sources of Initial Study Information" is located in the permanent file and is available for public review.

MITIGATION MEASURES:

Included By Applicant As Part of Project

Identified By This Study

DETERMINATION:

Agency Staff Participating in the Initial Study:

Resource Evaluation: JAMES O'LOUGHLIN Date: Apr. 7, 1987

Site Review By: _____ Date: _____

Planning/Zoning Review By: _____ Date: _____

EXHIBIT PD-26

PAGE 16-A OF 43

On the basis of this preliminary evaluation:

 I find that the project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

 X I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described on an attached sheet have been added to the project. A NEGATIVE DECLARATION WILL BE PREPARED.

 I find the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

DATE: April 15, 1987 BY: S. O.

ATTACHMENT 1

Mitigation Measures for
Whitbread of California (AP# 32-080-29, 30, 32-040-40)
(#U-488687)

NOISE

1. Construction activities shall be limited to daylight hours between 7:30 AM and 6:30 PM during weekdays, and shall be prohibited in the evenings and during weekends.
2. Installation or reinstallation as needed of the state-of-the-art muffler systems required by current law on the construction equipment used. Proper maintenance of said muffler systems shall be provided.
3. Placement of noisy stationary construction equipment such as compressors away from developed areas off-site and/or the provision of acoustical shielding around such equipment.
4. Selection consistent with sound construction practice of construction techniques, staging plans and equipment designed to produce a minimum amount of noise.
5. Grading and construction equipment shall be shut down when not actively in use.

LIGHT & GLARE

6. All exterior lighting on the site shall be properly shielded and directed downward to preclude glare conditions that might impact nearby residential uses.
7. Low-level lighting shall be utilized in the parking areas, as opposed to elevated high-intensity light standards.

CIRCULATION

8. The applicant agree to participate in the construction of a left turn lane in Silverado Trail for use of south bound traffic turning into Soda Canyon Road. (Such participation be in the form of a payment to County equivalent to the cost of added pavement required for a left turn lane). We have established the amount of \$25,000.00 as being a proper contribution to this project.

Also, the applicant agree to finance pavement improvement and right of way widening along Soda Canyon Road in an amount of up to \$10,000.00. Such improvement and widening to be determined at sole discretion of County.

9. The access road serving the winery from the terminous of Soda Canyon Road be a minimum width of 20 feet and consist of a minimum structural section equivalent to 5 inches of Class II Aggregate Base plus a double seal coat.

EXHIBIT

PD-26

PAGE 17-A OF 42

At his option the applicant may defer 4 of the above 20 feet until such time in the future the County deems the full 20 feet to be necessary.

10. All construction within the County road right of way be in accordance with an encroachment permit issued by the Department of Public Works.
11. Hauling by trucks on public roads shall not be allowed Monday through Friday, between 7:00 AM - 9:00 AM and also between 2:00 PM - 4:00 PM on school days, to minimize hazardous conditions during school busing times.

WATER QUALITY & PUBLIC SAFETY

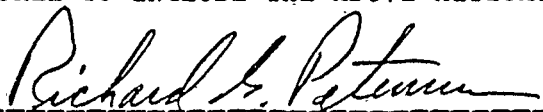
12. Comply with Napa County Dept. of Environmental Health memorandum of March 26, 1987.
13. Comply with Napa County Mosquito Abatement District Guidelines of June, 1982.
14. Comply with California Dept. of Forestry requirements.

ARCHEOLOGY

15. Placement in the specifications covering this project of a stipulation binding the applicant, his employees, and/or contractor(s) to stop all work within 35 feet if buried archaeological or historic materials (e.g., worked stone, greasy soil, bone, charcoal, building foundations, historic dumps, etc.) are encountered outside the boundaries of the leach field, leach field expansion, and force main trench areas. A qualified professional archaeologist shall be employed to collect the artifacts uncovered, evaluate their significance, and make recommendations to reduce any damage that would be involved to a non-significant level. All such recommendations shall, with the concurrence of the County Planning Director, be implemented.

I understand and explicitly agree that with regards to all CEQA and Permit Streamlining Act (i.e., GCS 63920-63962) processing deadlines, this revised application will be treated as a new project. The new date on which said application will be considered complete is the date this project revision statement is received by the Napa County Conservation, Development and Planning Department.

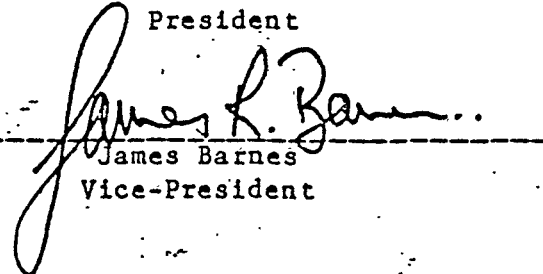
I AGREE TO INCLUDE THE ABOVE MITIGATION MEASURES IN THE PROJECT.



Dr. Richard G. Peterson
President

4-10-87

Date



James Barnes
Vice-President

4/9/87

Date

EXHIBIT PD-26

PAGE 18 OF 43

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JUN 24 1987

ATTACHMENT II

Additional Mitigation Measures for
Whitbread (#U-488687 & #U-278586 Extension)

NAPA CO. CONSERVATION
DEVELOPMENT & PLANNING

1. The well which is located near the gate to the property will not be the source for general winery use. Water for general winery use, approximately 8 acre /feet per year at maximum winery operation, will come from existing wells near the center of the vineyard property or from reservoirs.
2. Hauling by winery trucks on Soda Canyon Road while the school bus is on the road shall not be allowed Monday through Friday on school days. The applicant shall stay in contact with the Napa Valley Unified School District, Transportation Department to ascertain the bus schedule and revise trucking schedules accordingly.

I Understand and explicitly agree that with regards to all CEQA and Permit Steamlining Act (i.e., GCS 63920-63962) processing deadlines, this revised application will be treated as a new project. The new date on which said application will be considered complete is the date this project revision statement is received by the Napa County Conservation, Development and Planning Department.

I AGREE TO INCLUDE THE ABOVE MITIGATION MEASURES IN THE PROJECT.

James R. Barnes
James Barnes, Vice President

23rd June 1987.
Date

Richard S. Peterson
Richard Peterson, President

23 June 1987
Date

:7k

EXHIBIT PD-26

PAGE 18-A OF 43



NAPA COUNTY

HARRY D. HAMILTON
Director of Public Works
County Surveyor — County Engineer
Road Commissioner

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APR 2 1987

DEPARTMENT OF PUBLIC WORKS
Napa County Conservation,
1195 THIRD STREET • ROOM 201 • NAPA, CALIFORNIA 94559-306
Development & Planning Department
AREA CODE 707/253-4351

April 2, 1987

Napa County Department of
Conservation, Development and
Planning
1195 Third Street - 210
Napa, CA 94559

RE: SODA CANYON ROAD
U-488687

WHITBREAD OF CALIFORNIA
WINERY IS#2701

Commissioners:

This application is to construct a 450,000 gallon/year winery with no public tours and tasting. Construction of waste disposal ponds is also included.

It is recommended that:

1. The applicant agree to participate in the construction of a left turn lane in Silverado Trail for use of south bound traffic turning into Soda Canyon Road. (Such participation be in the form of a payment to County equivalent to the cost of added pavement required for a left turn lane.) We have established the amount of \$25,000.00 as being a proper contribution to this project.

Also, the applicant agree to finance pavement improvement and right of way widening along Soda Canyon Road in an amount of up to \$10,000.00. Such improvement and widening to be determined at sole discretion of County.

2. The access road serving the winery from the terminous of Soda Canyon Road be a minimum width of 20 feet and consist of a minimum structural section equivalent to 5 inches of Class II Aggregate Base plus a double seal coat.

At his option the applicant may defer 4 of the above 20 feet until such time in the future the County deems the full 20 feet to be necessary.

3. Visitor and employee parking areas shown on the site plan and any additional areas required by the commission have a minimum structural section equivalent to 5 inches of Class II Aggregate Base plus a double seal coat.

4. Any necessary storm drainage improvements be constructed.

EXHIBIT PD-26
PAGE 19 OF 43

5. All the above improvements be constructed according to plans prepared by a registered civil engineer and reviewed and approved by this department. A plan check and inspection fee in an amount equal to 3% of the estimated cost of construction of the above improvements be paid this department.

6. All construction within the County road right of way be in accordance with an encroachment permit issued by this department.

Very truly yours,

HARRY D. HAMILTON, P.E.
Director of Public Works

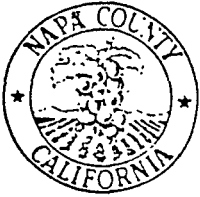
by 
J.B. Klein, P.E.
Civil Engineer

cc: Whitbread of California
Lance Heide

JBK:lks
4/87:6

EXHIBIT PD-26

PAGE 19-A OF 43



NAPA COUNTY

TRENT CAVE, R.S.
Director of Environmental Health

DEPARTMENT OF
ENVIRONMENTAL HEALTH

1195 THIRD STREET, ROOM 205 • NAPA, CALIFORNIA 94559
AREA CODE 707/253-4471

RECEIVED
MAR 27 1987

Napa County Conservation,
Development & Planning Department

EXHIBIT PD-26
03-26-87 PAGE 20 OF 43

MEMORANDUM

To: Napa County Planning Department - James Hickey, Director
From: Department of Environmental Health - Tim Snellings, R.S.
Subject: Use Permit Application of Whitbread Winery

Located at Soda Canyon Road

A.P.# 32-080-29 FILE # U-488687 I.S.# 2701

We have reviewed the above proposal and recommend approval of the use permit providing the following are included as conditions of approval :

- 1) Plans for the proposed private sewage disposal system shall be designed by a licensed Civil Engineer and be accompanied by complete design criteria based upon local conditions and shall be subject to approval by the Department of Environmental Health prior to issuance of any permits.
- 2) That a permit for the sewage disposal systems be secured from the Department of Environmental Health prior to issuance of a building permit.
- 3) The applicant shall maintain regular monitoring of the waste water system as required by the Department of Environmental Health and submit the reports as required. An annual permit is required.
- 4) That the use of the drainfield area be restricted to activities which will not contribute to compaction of the soil with consequent reduction in soil aeration. This includes equipment storage, traffic, livestock, etc., over the system.
- 5) That all solid waste be stored and disposed of in a manner to prevent nuisances or health threats from insects, vectors and odors.
- 6) That the water supply system comply with the California Safe Drinking Water Act. This will require an annual permit from the Department of Environmental Health. A plan review of the water system will also be required.
- 7) Since the proposed winery wastewater system is to be installed on a separate parcel from the facility it is to serve, an agreement to grant a sewage easement must be filed with the Department of Environmental Health prior to issuance of sewage permits.



NAPA COUNTY

CONSERVATION — DEVELOPMENT AND PLANNING DEPARTMENT

JAMES H. HICKEY
DIRECTOR

1195 THIRD STREET, ROOM 210 • NAPA, CALIFORNIA 94558
AREA CODE 707/253-4416

PERMIT APPLICATION AND INITIAL STUDY REQUEST FOR COMMENTS

TO: Blady Insp.
APPLICATION TITLE: Whitbread of California FILE #: U-488687
RESPONSE REQUEST DATE: 3-12-87 RESPONSE RETURN DATE: 3-26-87

This application (see enclosed project description and/or maps) is being sent to you for your review and comment. With respect to environmental analysis, the County is assuming Lead Agency status for the project and will be preparing the necessary environmental documents.

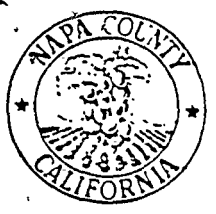
Please advise us as to which of your permits is required, your environmental concerns, and whether you recommend that a Negative Declaration or an Environmental Impact Report be prepared on this project. Due to the provisions of AB 334, it is essential that we receive your comments within the next 10 days.

General Questions

1. Do you have jurisdiction by law over this project Yes No
2. Do you recommend: Approval Denial No Recommendation
3. Recommend conditions-of-approval (use additional page if needed):
OWNER SHALL SUBMIT PLANS AND TAKE OUT ALL REQUIRED BUILDING PERMITS PRIOR TO START OF CONSTRUCTION
4. Are you a responsible agency? Yes No. If yes, indicate required permits: BUILDING, PLUMBING, MECHANICAL AND ELECTRICAL PERMITS
5. Indicate areas of environmental concern and availability of appropriate technical data:
6. Do you recommend: Negative Declaration Environmental Impact Report
7. Have you previously reviewed an application on any portion of this project?
 Yes No
8. Name of contact person: Bill J. CRENshaw Telephone: 253-4376

EXHIBIT PD-26

Response Prepared by: R. J. Crenshaw
Title: Super Blg Insp
Date: 4-1-87



NAPA COUNTY

JAMES H. HICKEY
DIRECTOR

CONSERVATION — DEVELOPMENT AND PLANNING DEPARTMENT

1195 THIRD STREET, ROOM 210 • NAPA, CALIFORNIA 94558
AREA CODE 707/253-4416

RECEIVED
MAR 24 1987

PERMIT APPLICATION AND INITIAL STUDY
REQUEST FOR COMMENTS

Napa County Conservation,
Development & Planning Department

TO: Napa Co Mosquito Abatement Dist
APPLICATION TITLE: Whitbread of California FILE #: U-488687
RESPONSE REQUEST DATE: 3-12-87 RESPONSE RETURN DATE: 3-26-87

This application (see enclosed project description and/or maps) is being sent to you for your review and comment. With respect to environmental analysis, the County is assuming Lead Agency status for the project and will be preparing the necessary environmental documents.

Please advise us as to which of your permits is required, your environmental concerns, and whether you recommend that a Negative Declaration or an Environmental Impact Report be prepared on this project. Due to the provisions of AB 334, it is essential that we receive your comments within the next 10 days.

General Questions

1. Do you have jurisdiction by law over this project Yes No
2. Do you recommend: Approval Denial No Recommendation
3. Recommend conditions-of-approval (use additional page if needed);

SEE ATTACHED GUIDELINES

4. Are you a responsible agency? Yes No. If yes, indicate required permits: _____

5. Indicate areas of environmental concern and availability of appropriate technical data: _____

6. Do you recommend: Negative Declaration Environmental Impact Report
7. Have you previously reviewed an application on any portion of this project?
 Yes No
8. Name of contact person: KEN CARDEN Telephone: 226-3915

EXHIBIT PD-26 Response Prepared by: KEN CARDEN
PAGE 21 OF 43 Title: FOREMAN
Date: 2-23-87

2

NAPA COUNTY
Mosquito Abatement District
P. O. Box 655 - 964 Imola Avenue West
Napa, California 94558

226-3915

GUIDELINES FOR MOSQUITO PREVENTION,
WEED CONTROL AND MAINTENANCE IN WASTEWATER PONDS

A. Access to ponds for maintaining Mosquito Control, Weed Control, and Aquatic Midge (gnats) Control.

1. Good access road to ponds.
2. All levees, cross levees, and dikes wide enough for vehicular traffic (minimum 12 feet).
3. Keys to locks or a place for Mosquito Abatement District lock on any gate to ponds.
4. Fences on outside of levees enough to facilitate vehicular traffic.
5. All levees, cross levees, and dikes clear of obstructions (pipes, pumps, electrical boxes, fuel tanks, etc.) to permit vehicular traffic.

B. Weed Control

1. Property owners shall furnish soil sterilant (Aatrex, Krovar, Karmex, etc.).
2. Mosquito Abatement District will apply on yearly basis.

C. Aquatic Midge Control

1. Be able to launch boat in ponds (or lakes) for midge control.

NOTE: Any pond, lake, or reservoir, is a good potential midge source.



NAPA COUNTY CONSERVATION — DEVELOPMENT AND PLANNING DEPARTMENT

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APR 9 1987

1195 THIRD STREET, ROOM 210 • NAPA, CALIFORNIA 94558
AREA CODE 707/253-4416

JAMES H. HICKEY
DIRECTOR

Napa County Conservation,
Development & Planning Department

PERMIT APPLICATION AND INITIAL STUDY REQUEST FOR COMMENTS

TO: Town of Yountville
APPLICATION TITLE: Whitbread of California FILE #: U-488687
RESPONSE REQUEST DATE: 3-12-87 RESPONSE RETURN DATE: April 9, 1987

This application (see enclosed project description and/or maps) is being sent to you for your review and comment. With respect to environmental analysis, the County is assuming Lead Agency status for the project and will be preparing the necessary environmental documents.

Please advise us as to which of your permits is required, your environmental concerns, and whether you recommend that a Negative Declaration or an Environmental Impact Report be prepared on this project. Due to the provisions of AB 334, it is essential that we receive your comments within the next 10 days.

General Questions

- Do you have jurisdiction by law over this project Yes No
- Do you recommend: Approval Denial No Recommendation
- Recommend conditions-of-approval (use additional page if needed);

- Are you a responsible agency? Yes No. If yes, indicate required permits: _____

- Indicate areas of environmental concern and availability of appropriate technical data: _____

- Do you recommend: Negative Declaration Environmental Impact Report
- Have you previously reviewed an application on any portion of this project?
 Yes No
- Name of contact person: ROBERT MYERS Telephone: 944-8851

EXHIBIT PD-26 Response Prepared by: ROBERT MYERS
Title: TOWN PLAN
Date: 4-7-87

DEPARTMENT OF FORESTRY
 Lake-Napa Ranger Unit
 1572 Railroad Avenue
 St. Helena, CA 94574

RECEIVED
 MAR 23 1987



Napa County Conservation,
 Development & Planning Department
 Date: March 20, 1987

Subject: Whitbread of California
 File #: U-488687
 IS #: 2701

Napa County Conservation,
 Development & Planning Commission
 Room 210
 1195 Third Street
 Napa, CA 94558

Gentlemen:

We have reviewed the subject application and offer the following comments:

This project was tentatively reviewed by this department on March 21, 1986 and comments were offered at that time with regard to fire protection. The recommendations are still valid with the following additions:

1. The stated fire flow of 3,500 gpm is still valid. It should be stressed that the minimum pressure from the two (2) required hydrants should be 20 psi. The new permit application mentions the use of reservoirs for fire protection water storage. While this type of storage is entirely acceptable, the water flow to the actual hydrant locations will require sufficient means of movement to address the required 20 psi.
2. The new application also lists that the intention is to install fire sprinklers in the winery building. The need for a sprinkler system exists in the office/tower complex also. The system will also need an alarm system to alert of it's use when the complex is not manned, such as non-working hours.

Should this department be of any further assistance, please contact Battalion Chief Tom Tarp at 255-5221.

BYRON J. CARNIGLIA
 Ranger-In-Charge

BY: *Don Ferguson by D.O.*
 Don Ferguson
 Operations Officer

DF:lo

EXHIBIT PD-26

PAGE 22-A OF 43

DEPARTMENT OF FORESTRY

Lake/Napa Ranger Unit
1572 Railroad Avenue
St. Helena, CA 94574
(707) 963-3601

MAR 25 1986

Date: March 21, 1986

Subject: Whitebread, N.A. Inc
Use Permit # 278586
IS# 2237

Napa County Conservation,
Development & Planning Commission
Room 210
1195 Third Street
Napa, CA 94558

Gentlemen:

We have reviewed the subject application and offer the following comments:

See attached sheet.

BYRON J. CARNIGLIA
Ranger-In-Charge

BY:

Don
Don Ferguson
Operations Officer

EXHIBIT PD-26
PAGE 23 OF 43

1. A minimum fire flow of 3,500 gpm at a minimum of 20 psi dynamic pressure through two (2) standard hydrants. The actual placement of said hydrants will be coordinated with this department upon installation.
2. Water storage of 210,000 gallons will be required. This amount will be in addition to domestic/commercial or irrigation needs. The placement of the storage as explained this date should allow a gravity means to accomplish the minimum pressure requirements.
3. All plumbing and valves must be of sufficient size to accomplish the necessary fire flow.
4. A full NFPA approved fire sprinkler system and a full NFPA approved fire alarm/detection system is needed to offset excessive attack times due to project locale. The terminus for the alarm systems shall be at the Napa County Fire Department Emergency Command Center.

Should this department be of any further assistance, please contact Battalion Chief Tom Tarp at 707-255-5221.



NAPA COUNTY
 We will review your project report & have no comment at this time.
 Regional Manager
 Department of Fish & Game
 Region III
 Date:

JAMES H. HICKEY
 DIRECTOR

[Signature]

RECEIVED

APR 1 1987

CONSERVATION — DEVELOPMENT
 AND PLANNING DEPARTMENT
 1195 THIRD STREET, ROOM 210 • NAPA, CALIFORNIA 94558

Napa County Agency
 Development & Planning Department
 Phone 707/253-4416

FISH & GAME

MAR 27 1987

YOUNTVILLE

PERMIT APPLICATION AND INITIAL STUDY
REQUEST FOR COMMENTS

TO: Department of Fish and Game

APPLICATION TITLE: Whitbread of California FILE #: U-488687

RESPONSE REQUEST DATE: 3-12-87 RESPONSE RETURN DATE: 3-26-87

This application (see enclosed project description and/or maps) is being sent to you for your review and comment. With respect to environmental analysis, the County is assuming Lead Agency status for the project and will be preparing the necessary environmental documents.

Please advise us as to which of your permits is required, your environmental concerns, and whether you recommend that a Negative Declaration or an Environmental Impact Report be prepared on this project. Due to the provisions of AB 334, it is essential that we receive your comments within the next 10 days.

General Questions

1. Do you have jurisdiction by law over this project Yes No.
2. Do you recommend: Approval Denial No Recommendation
3. Recommend conditions-of-approval (use additional page if needed);

4. Are you a responsible agency? Yes No. If yes, indicate required permits: _____

5. Indicate areas of environmental concern and availability of appropriate technical data: _____

6. Do you recommend: Negative Declaration Environmental Impact Report
7. Have you previously reviewed an application on any portion of this project?
 Yes No
8. Name of contact person: _____ Telephone: _____

EXHIBIT PD-26 Response Prepared by: _____
 Title: _____
 Date: _____



NAPA COUNTY

CONSERVATION — DEVELOPMENT AND PLANNING DEPARTMENT

JAMES H. HICKEY
DIRECTOR

RECEIVED

MAR 20 1987

1195 THIRD STREET, ROOM 210 • NAPA, CALIFORNIA 94558
AREA CODE 707/253-4416

**Napa County Conservation,
Development & Planning Department**
PERMIT APPLICATION AND INITIAL STUDY
REQUEST FOR COMMENTS

TO: S. F. Bay Regional Water Quality Control Board

APPLICATION TITLE: Whitbread of California FILE #: U-488687

RESPONSE REQUEST DATE: 3-12-87 RESPONSE RETURN DATE: 3-26-87

This application (see enclosed project description and/or maps) is being sent to you for your review and comment. With respect to environmental analysis, the County is assuming Lead Agency status for the project and will be preparing the necessary environmental documents.

Please advise us as to which of your permits is required, your environmental concerns, and whether you recommend that a Negative Declaration or an Environmental Impact Report be prepared on this project. Due to the provisions of AB 334, it is essential that we receive your comments within the next 10 days.

General Questions

- Do you have jurisdiction by law over this project Yes No
- Do you recommend: Approval Denial No Recommendation
- Recommend conditions-of-approval (use additional page if needed);
The applicant should obtain a permit from the Napa County Environmental Health Department for its waste disposal system.

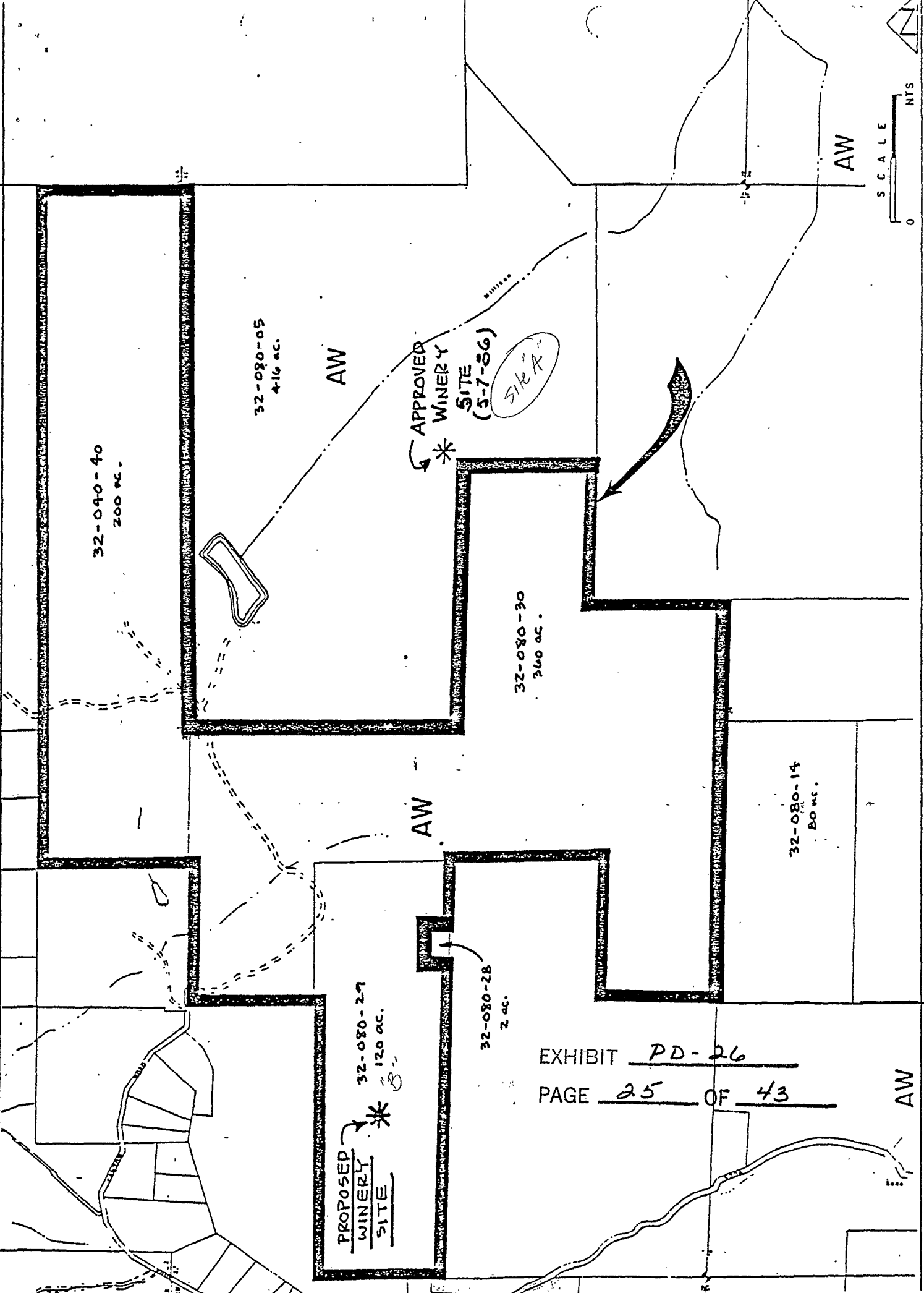
- Are you a responsible agency? Yes No. If yes, indicate required permits: _____

- Indicate areas of environmental concern and availability of appropriate technical data: _____

- Do you recommend: Negative Declaration Environmental Impact Report
- Have you previously reviewed an application on any portion of this project?
 Yes No
- Name of contact person: Randy Lee Telephone: (415)464-1309

EXHIBIT PD-26 Response Prepared by: Randy Lee
Title: Area Engineer

WHITBREAD



SCALE
0 NTS

PROPOSED
WINERY
SITE

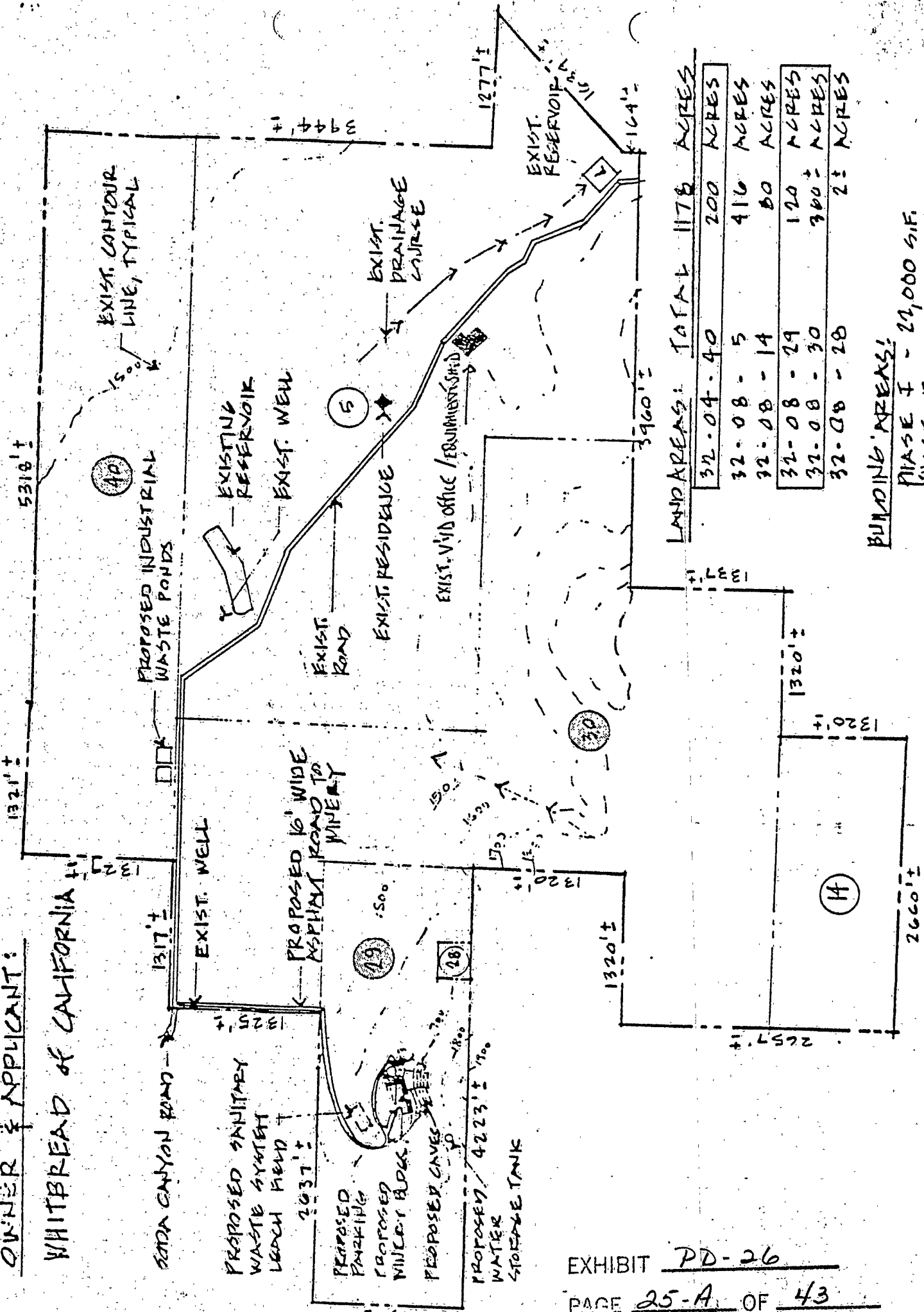
APPROVED
WINERY
SITE
(5-7-86)

EXHIBIT PD-26
PAGE 25 OF 43

WHITBREAD

OWNER & APPLICANT:

WHITBREAD of CALIFORNIA

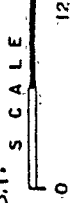


LAND AREAS: TOTAL 1178 ACRES

32-04-40	200 ACRES
32-08-5	416 ACRES
32-08-14	80 ACRES
32-08-29	120 ACRES
32-08-30	380 ± ACRES
32-08-28	2 ± ACRES

BUILDING AREAS:

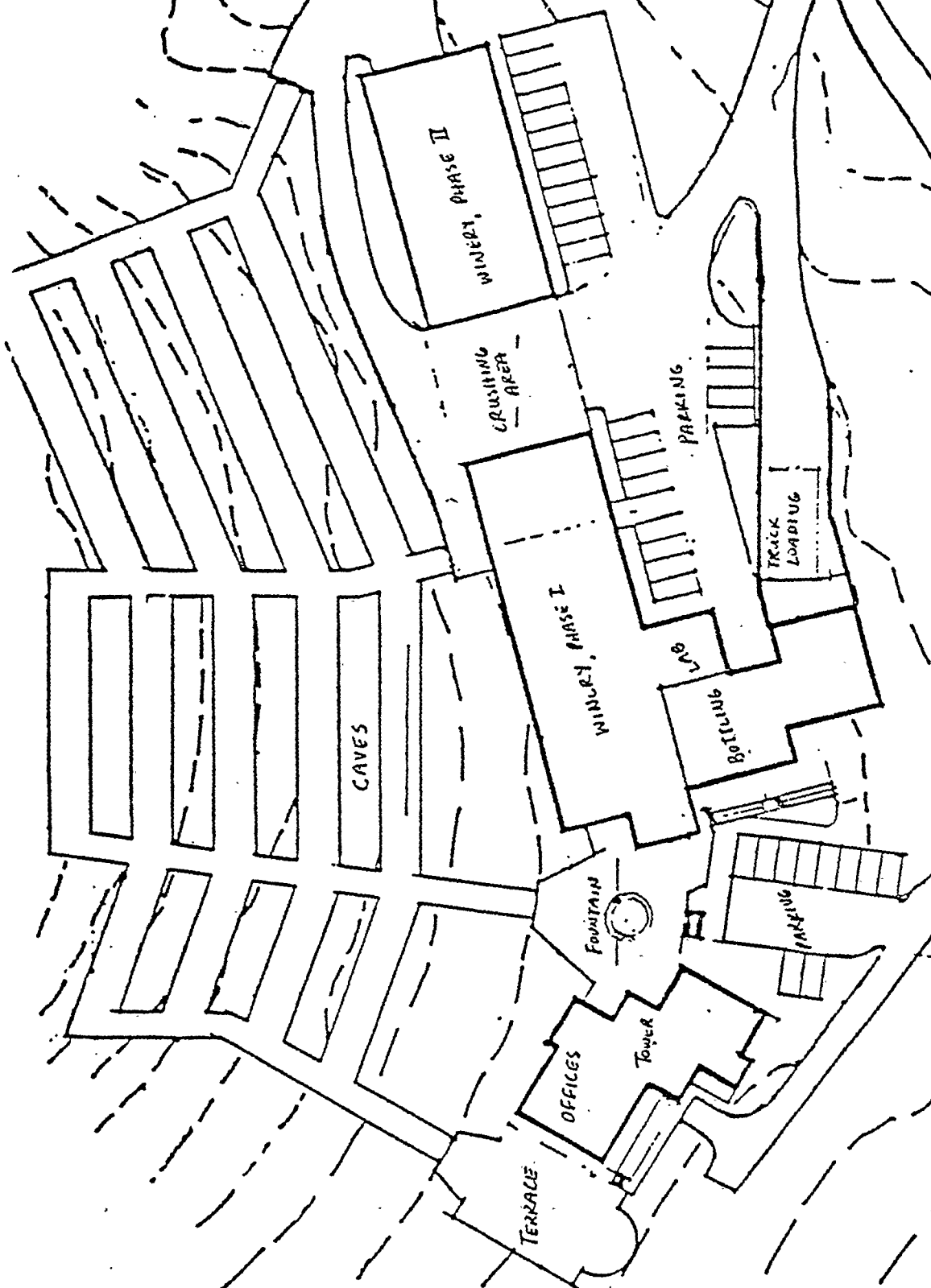
PHASE I - 22,000 S.F.
PHASE II - 12,000 S.F.



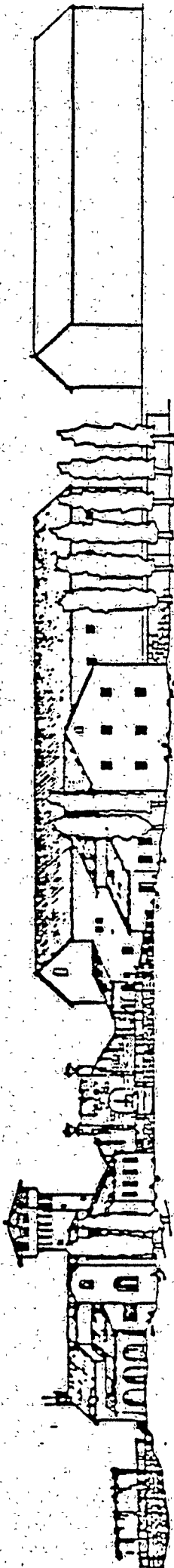
LAND USE PERMIT PLAT PLAN

EXHIBIT PD-26

PAGE 25-A OF 43

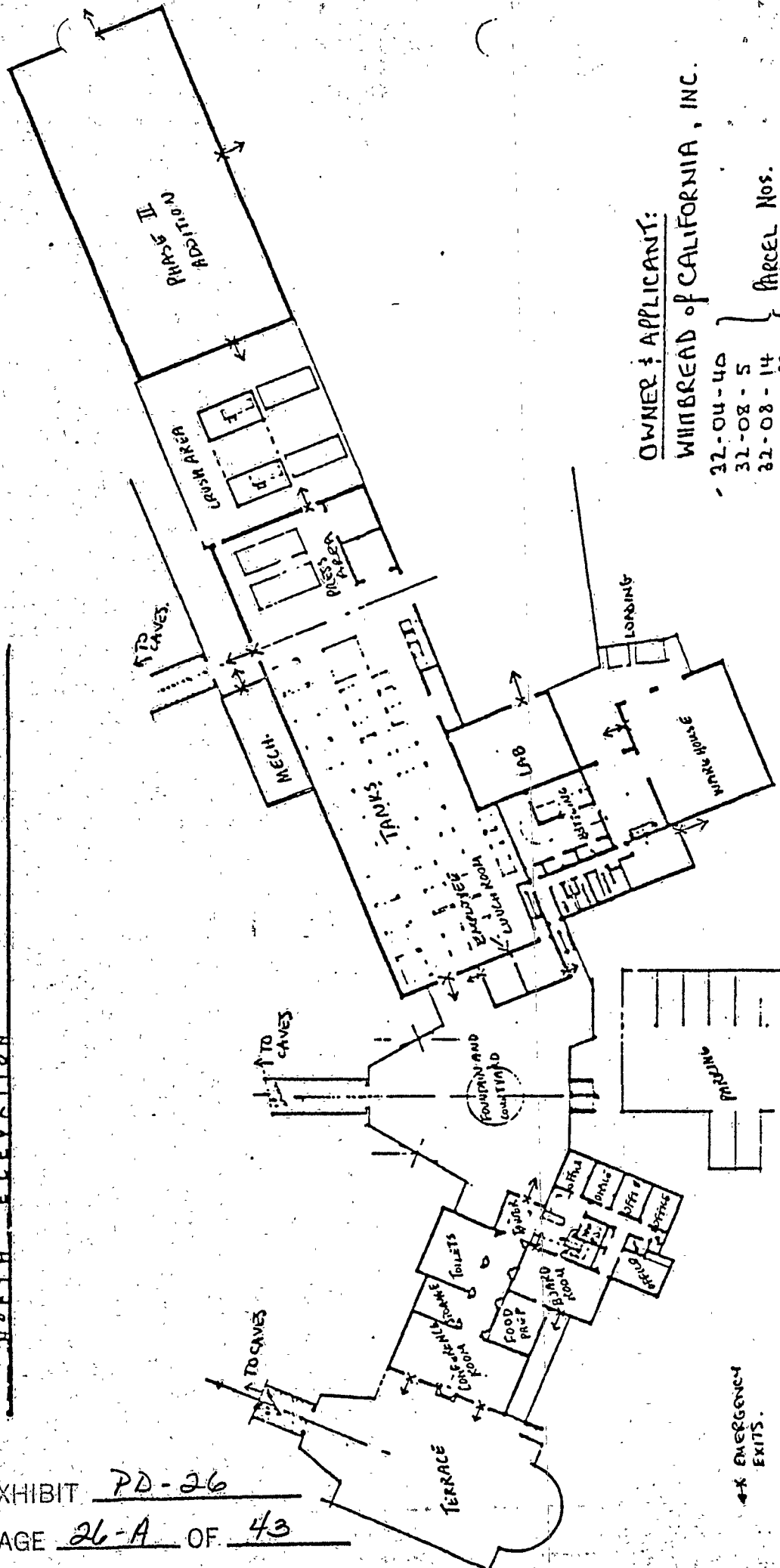


WHITBREAD



NORTH ELEVATION

EXHIBIT PD-26
PAGE 26-A OF 43



OWNER & APPLICANT:
WHITBREAD OF CALIFORNIA, INC.

32-04-40	} PARCEL NOS.
32-08-5	
32-08-14	
32-08-29	
32-08-30	
31-08-18	

SCALE

FLOOR PLAN

LAW OFFICES
MILLER, STARR & REGALIA
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

EDMUND L. REGALIA*
HARRY D. MILLER*
LUANA S. MILLER*
WILLIAM KELLY
WILSON F. WENDT*
LESLIE A. JOHNSON*
TIMOTHY L. CLACK
JOHN G. SPRANKLING
LAWRENCE A. CALLAGHAN
GARY E. ROSENBERG
ROBERT F. KIDD
PAUL D. MARIENTHAL
LISE A. PEARLMAN
AMY MATTHEW
JAMES V. JOYCE
DIANE L. GIBSON
WILLIAM R. PLAPINGER
NANCY LUNDEEN
STEVEN J. ADAMSKI
JEAN H. DUNKIRK
TAMSEN L. MCCrackEN
DEBRA E. KELLER
DANIEL R. MILLER

MARVIN B. STARR*
BURCH FITZPATRICK*
DAVID M. VAN ATTA*
JEFFERSON FRAZIER*
JACK C. PROVIN*
EUGENE H. MILLER*
JOHN K. SUTHERLAND*
JAMES FRASSETTO
RICHARD B. BEAUCHESNE
GEORGE B. SPEIR
KARL E. GEIER
RICHARD G. CARLSTON
MICHAEL H. ZISCHKE
MARK A. CAMERON
MICHAEL H. LEWIS
MARK HARTMAN
LESLIE A. BURTON
PAUL N. DUBRASICH
PETER B. MEHRBERG
SONDRA E. WELDEN
LAURENCE W. PARADIS
MICHAEL E. DIGERONIMO
MILES A. WOODLIEF

101 YGNACIO VALLEY ROAD
SUITE 401
WALNUT CREEK, CALIFORNIA 94596
(415) 935-9400
FAX NO.
415-933-4126

ONE KAISER PLAZA
ORDWAY BUILDING, SUITE 1600
OAKLAND, CALIFORNIA 94612
TELEPHONE (415) 465-3800
FAX NO. 415-465-1202

101 CALIFORNIA STREET
SUITE 2200
SAN FRANCISCO, CALIFORNIA 94111
TELEPHONE (415) 982-3838
FAX NO. 415-956-6564

June 16, 1987

*A PROFESSIONAL CORPORATION

Napa County Planning Commission
County Administration Building
1195 Third Street
Napa, California 94559

Re: Whitbread of California - Vesting of Rights
Pursuant to Use Permit No. U-278586

Ladies and Gentlemen:

On behalf of Whitbread of California, this letter is to set forth our position regarding the vesting of their rights to develop a winery pursuant to Use Permit No. U-278586, which use permit was initially approved on or about May 7, 1986. Pursuant to Section 12806(b) of the Napa County Code, Whitbread has constructed a foundation for the winery, and that foundation has been approved by the County. In brief, it is our position that this vests in Whitbread the right to develop the winery as specified in Use Permit No. U-278586, because that use permit remained valid and subject to perfection and vesting when Whitbread's application to extend the permit was continued to this hearing.

I. FACTUAL BACKGROUND:

On or about May 7, 1986, the Napa County Conservation, Development and Planning Department issued Use Permit No. U-278586 to Whitbread of California for the construction of a winery in Soda Canyon. Pursuant to Section 12806 of the Napa County Code, this use permit would remain in effect for one year and ten calendar days, unless a shorter period was stated in the permit. In May, 1987, Whitbread applied to the County for an extension of this original use permit, and also for the issuance of a new permit for development of a similar, but smaller, winery at an adjacent location. The Planning Commission met on May 6, 1987, to discuss these applications. At the May 6th meeting, at the request of attorney Victor Fershko and over the objections of Whitbread, action on both of these matters was continued until the Planning Commission meeting on June 17, 1987.

EXHIBIT PD-26

PAGE 29 OF 43

At the May 6th Planning Hearing, Deputy County Counsel Robert Westmeyer stated the County's position that, if the application to extend the initial permit were continued, then the initial permit would remain in effect as a result of the filing of a request for an extension until such time as the request for extension was finally acted upon. At the hearing, Victor Fershko agreed and confirmed that this was his understanding of the effect of the extension.

Mr. Westmeyer specifically stated at the hearing that "the one year period in which to expend money and thereby activate the permit if a request for an extension is filed is automatically extended until such time as it is heard." In response, Mr. Fershko stated that "yes... it was not my intention to pull a technical move on [Mr. Rodeno, Whitbread's attorney]. We simply want a month to study and bring forward to you some facts, and we would be willing to stipulate that that interpretation that Mr. Westmeyer has effected on that provision be our understanding as well."

Following the hearing, on May 8th, Whitbread applied to the Planning Department for a minor modification of the use permit to divide phase 1 of the permit into phases 1(a) and 1(b). This minor modification was approved, and plans for phase 1 of the winery were submitted to the County on May 26th. On or before June 11, the foundation had been completed pursuant to these plans, and the foundation had been approved by the County. This approval was in the form of a signature on the back of the building permit to the effect that the foundation had been constructed in accordance with the terms of the permit.

II. DISCUSSION: WHITBREAD HAS A VESTED RIGHT
TO DEVELOP THE WINERY PURSUANT TO THE INITIAL USE PERMIT

Whitbread's installation of a foundation and County approval of that foundation satisfy the requirement for a vesting of Whitbread's rights to construct the winery. This conclusion is supported by the relevant provisions of the Napa County Code, California case law governing the vesting of development rights, and customary practice in the County regarding use permits.

Generally, California law and court decisions clearly provide that a property owner acquires a vested right to construct buildings on its land when the owner has performed

substantial work or incurred substantial liabilities in good faith reliance upon a building permit issued by the local government for the particular improvement in question. Avco Community Developers, Inc. v. South Coast Regional Commission (1976) 17 Cal.3d 785; Appeal Dism. 51 L.Ed.2d 529, 97 S.C. 1089 (1977). This "vested rights test" has been restated numerous times by California courts, and requires both that a valid building permit be issued, and that substantial expenditures or development be made or undertaken in reliance upon that building permit. In the past, California courts have held that actions such as clearing a site or erecting temporary or permanent structures are sufficient expenditures in reliance on a building permit to trigger the vesting of rights. Kissinger v. Los Angeles (1958) 161 Cal.App.2d 454; Griffin v. County of Marin (1958) 157 Cal.App.2d 507. In this case, Whitbread's valid building permit together with the approved installation of a foundation are clearly sufficient to result in a vesting of Whitbread's development rights.

This conclusion is supported by the Napa County Code provisions on vesting. Section 12806(b) provides that a permit will expire unless it is "used" by "securing a building permit for the project and commencing construction prior to the expiration date provided." If the project includes the construction of a foundation system, the "foundation must be constructed and approved by the [Planning] Department prior to the expiration date." Section 12806(b) goes on to state that grading and grading expenses alone are not sufficient to constitute a "use" of the permit and thus a vesting of rights. In this case, Whitbread has completed a foundation, and that foundation has been approved by the County, thus satisfying the general requirement of Section 12806(b) for commencing construction and specifically satisfying the requirement that a foundation must be constructed if it is included within the scope of the permit.

Finally, Whitbread has vested rights because the use permit remained in effect and capable of perfection or vesting during the time between May 6, 1987, and this hearing, to which the application for extension was continued at the request of Mr. Fershko. Section 12806(a) provides that a permit will not expire within one year if an extension of time is granted pursuant to Section 12807, and it is the consistent and customary practice of the County that, if an application for extension of a

Napa County Planning Commission

June 16, 1987

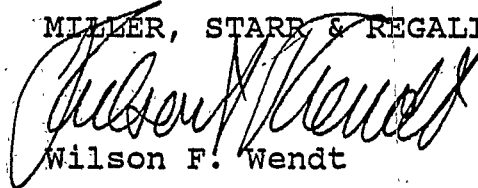
Page 4

use permit is filed, the use permit is automatically valid for all purposes at least until the date of the County's action on the application. This interpretation was agreed to by Mr. Fershko at the May 6th meeting. Accordingly, we assert that the permit remained valid and capable of "use", or perfection of the permit such that development rights would vest. We further assert that Mr. Fershko and those whom he represents have waived their right to assert any different reading of the legal effect of the continuance, as they agreed to the foregoing interpretation at the May 6th hearing.

In sum, Whitbread currently has a vested right to build the winery in conformity with the initial use permit, Permit No. U-278586. Whitbread's right to develop this property in accordance with the permit is no longer subject to legal challenge or environmental review, because the statute of limitations for such challenge has expired, and the environmental review was conducted in connection with the initial permit. Because Whitbread obtained a building permit, Whitbread constructed the foundation, and the County approved the foundation, Whitbread has a vested right to develop a winery as specified in the original permit conditions.

Very truly yours,

MILLER, STARR & REGALIA



Wilson F. Wendt

WEW:jw

EXHIBIT PD-26
30-A OF 43

LAW OFFICES OF
VICTOR A. FERSHKO
1005 COOMBS STREET
NAPA, CALIFORNIA 94559-2591
(707) 226-9928

RECEIVED
MAY 5 1987

Napa County Conservation,
Development & Planning Department
May 5, 1987

Hon. Will Nord, Chairman
Napa County Conservation, Development
and Planning Commission
1195 Third Street, Room 210
Napa, CA 94559

Re: Whitbread of California, Inc. Use Permit Request
Number U-488687 and U-278586
Agenda Items numbers 9 and 10

Dear Chairman Nord:

On Monday, May 4, 1987, I was retained by Mr. Fletcher Benton to represent him in all matters pertaining to the above-mentioned agenda items. Mr. Benton owns property immediately contiguous to the projects before you.

The purpose of my letter is to request a ~~continuance~~ from your Planning Commission meeting of May 6, 1987, to your regularly scheduled meeting of ~~June 3, 1987~~. I request this continuance in order to give me and my client an adequate opportunity to fully study this proposal and inquire with regard to some of the potential significant environmental effects that this project may cause. In particular, I would like the opportunity to explore some of the following issues:

- A. What will this project's impact be on traffic circulation on what is already a dangerous road, Soda Canyon Road?
- B. What will the impact be on the neighboring properties' watertable as a result of this project?
- C. The runoff and drainage from this project apparently ends up in Rector Reservoir which is the water source for the Yountville Veteran's home, and in Lake Milliken, the water source for the City of Napa. In what way will this project jeopardize the water quality on both Reservoirs?
- D. What will the effect be in building the caves for this project (e.g. - geologic problems, landslides, water problems)?

EXHIBIT PD-26

PAGE 27 OF 43

Will Nord, Chairman
May 5, 1987
Page Two

- E. What will the noise impact be on properties that are immediately contiguous to this project? The original project is located a fair distance away from these homes, but the relocation of the project will locate it very close to several residences.

There are several other issues of concern to my client and me for which I am seeking additional time for further study.

Since this project has not been continued from any previous meeting, and since the notices were first published and mailed out as recently as April 23, 1987, I see no justifiable reason for not giving the neighbors an adequate opportunity to look into these matters and continue a project of this magnitude for yet another month. Please keep in mind that the project applicant has known all of the details of this project for a considerable period of time, but the neighbors have not had the same advantage until April 23, 1987. Moreover, the staff report was not available to the neighbors until the end of last week. Please keep in mind that I am unavailable to appear before the Commission at its next regular meeting of May 20, 1987.

I thank you for your consideration.

Very truly yours,


VICTOR A. FERSHKO

VAH/kf

cc: Fletcher Benton

RECEIVED

MAY 29 1987

LAW OFFICES OF
VICTOR A. FERSHKO
1005 COOMBS STREET
NAPA, CALIFORNIA 94559-2591
(707) 226-9928

NAPA CO. CONSERVATION
DEVELOPMENT & PLANNING DEPT.

May 27, 1987

Mr. James Hickey, Director
Conservation, Development & Planning Department
1195 Third St.
Napa, California 94559

Re: Whitbread of California
Use Permit # U-278586

EXHIBIT PD-26

Dear Jim:

PAGE 28 OF 43

As you know, I represent several of the neighbors of the proposed winery to be developed by Whitbread of California pursuant to use permit # U-278586, approved on or about May 7, 1986.

I am in receipt of the applicant's letter to you of May 8, 1987, and your response of May 14, 1987. I am somewhat disappointed that the County has gone ahead and approved the applicant's proceeding with Phase I (a).

You may recall that at the public hearing before the Napa County Conservation, Development & Planning Commission on May 6, 1987, this use permit was the subject of a request by the applicant for a one year extension. At that time, I requested a continuance for approximately one month in order to give us an adequate opportunity to ~~study the potential environmental effects~~ of both the original project that is the subject of the above-mentioned use permit, as well as the relocation of the winery that is the subject of use permit # U-488687. Both agenda items were continued to June 17, 1987.

We are presently developing data to be shared with the Planning Commission on June 17, 1987, that supports our position that the negative declaration that was issued for use permit # U-278586 is no longer apropos. That is, under the State EIR Guidelines, we feel that an ~~EIR should be prepared~~ to deal with the impacts that this project would inevitably cause prior to issuing any extension for the use permit, and prior to issuing any building permits in order to implement said use permit (see Section 15162 of said Guidelines). It is for this reason that I am ~~disappointed that the County has gone ahead and permitted the implementation of a portion of the use permit~~, albeit a minor aspect of the use permit, prior to hearing the evidence which we feel would support this position.

Mr. James Hickey
May 27, 1987
Page Two

I wonder if you would send a supplemental letter to the applicant, making it absolutely clear that it was not the County's intention to confer vested rights to the applicant by virtue of permitting the commencement of Phase I (a). Although it is our position that no vested rights would mature in any event, we feel it prudent to make it clear to the applicant that if that is what was intended by proceeding with Phase I (a), then the applicant proceeds at its own risk.

Very truly yours,



VICTOR A. FERSHKO

VAH/kf

cc: Mr. and Mrs. Fletcher Benton
Mr. Joe Schroeder
Mr. Gregory R. Rodeno, Esq.
Whitbread of California
Mr. Robert Westmeyer, Esq., Deputy County Counsel



CONSTRUCTION APPLICATION AND PERMIT

CERTIFICATE OF EXEMPTION FROM WORKERS' COMPENSATION INSURANCE

This section need not be completed if the permit is for two hundred dollars (\$200) or less.

I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the Workers Compensation Laws of California.

Applicant: _____

NOTICE TO APPLICANT: If, after making the Certificate of Exemption, you should become subject to the Workers' Compensation provisions of the Labor Code, you must forthwith comply with such provisions or this permit shall be deemed revoked.

WORKERS' COMPENSATION DECLARATION

I hereby affirm that I have a certificate of consent to self-insure, or a certificate of Workers' Compensation Insurance, or a certified copy thereof.

Policy No. _____
 Expiration Date _____ Company _____

- Certified copy is hereby furnished;
- Certified copy is filed with the county building inspection department or county _____ department.

Applicant: _____

LICENSED CONTRACTORS DECLARATION

I hereby affirm that I am licensed under the provisions of Chapter 9 (commencing with section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

License Class _____ License Number _____

Contractor: _____

Building Address: 3700 SODA CANYON ROAD

Owner: WHITBREAD OF CALIFORNIA Phone: 707-252-7971
 Mailing Address: 3700 SODA CANYON ROAD
NAPA, CA 94558

CONTRACTORS

LIC. NO. / PHONE

General Address: SELF
 Electrical _____
 Plumbing _____
 Mechanical _____
 Architect Address _____
 Engineer Address _____

PROCEDURE	BY	DATE	ISSUE CLEARANCE
Plans Not Required	LEM	05/19/87	
Plans Received			
Site Checked			
Plans Reviewed			
	LEM	05/19/87	VARIANCE NO. _____ USE PERMIT NO. _____
Application Approved			

NOTE: When properly validated, this form constitutes a building permit. This permit expires and becomes null and void should work not be commenced within 180 days from validation date or should authorized construction be suspended or abandoned or not receive an inspection for a period of 180 days after work is commenced. A request for an extension of time must be requested in writing from the Building Codes Administrator within the first 180 days of the Permit Issue date.

OWNER-BUILDER DECLARATION

I hereby affirm that I am exempt from the Contractor's License Law for the following reason:

- I, as owner of the property, will construct the dwelling and the dwelling is not intended for sale.
- I, as owner of the property, will do the work myself and I will not employ any person in any manner so as to become subject to the Workers Compensation Laws of California.
- I, as owner of the property, am exclusively contracting with licensed contractors to construct the project.
- I am exempt under Sec. 3800 of the California Labor Code, Minor Work Under \$200.

Owner: _____

CONSTRUCTION LENDING AGENCY

I hereby affirm that there is a construction lending agency for the performance of the work for which this permit is issued.

Lender's Name _____
 Lender's Address _____

I certify that I have read this application and state that the above information is correct. I agree to comply with all city and county ordinances and state laws relating to building construction, and hereby authorize representatives of this county to enter upon the above-mentioned property for inspection purposes. I (We) agree to save, indemnify and keep harmless the County of Napa against liabilities, judgments, costs and expenses which may in any way accrue against said County in consequence of the granting of this permit.

Signature of Applicant: _____ Date: 5/20/87

DEPARTMENT USE ONLY

PERMIT NO.: 0040872
 PARCEL NO.: 032-080-0500
 DATE ISSUED: 05/19/87
 VALUATION \$: _____
 VALIDATED BY: _____
 RECEIPT NO.: 81667

DESCRIPTION OF WORK

WORK: NEW
 PERMIT: GRADING
 CATEGORY: Building
GRADING (8' 500' CUBIC YARD)
S)

ZONING: AW SIZE: _____ SQ. FT.
 PROPOSED USE: MISC. PERMITS
 OCCUPANCY TYPE: _____
 TYPE OF CONSTRUCTION: _____ NO. OF STORIES: _____
 SIZE OF ELECTRICAL SERVICE: _____

REQUIRED INSPECTION CODES (See Reverse Side for Inspection Description)	FEE	FEE
<u>010 440</u>	<u>Building</u> 189.00	<u>PLAN REVIEW</u> 30.00
TOTAL FEES		219.00

EXHIBIT PD-26
 PAGE 31 OF 43

TOTAL FEES 219.00
 TOTAL



**CONSTRUCTION
 APPLICATION AND PERMIT**

CERTIFICATE OF EXEMPTION FROM WORKERS' COMPENSATION INSURANCE

This section need not be completed if the permit is for two hundred dollars (\$200) or less.

I certify that in the performance of the work for which this permit is issued, I shall not employ any person in any manner so as to become subject to the Workers' Compensation Laws of California.

Applicant: _____

NOTICE TO APPLICANT: If, after making the Certificate of Exemption, you should become subject to the Workers' Compensation provisions of the Labor Code, you must forthwith comply with such provisions or this permit shall be deemed revoked.

WORKERS' COMPENSATION DECLARATION

I hereby affirm that I have a certificate of consent to self-insure, or a certificate of Workers' Compensation Insurance, or a certified copy thereof.

Policy No. PC 989 568
 Expiration Date 08/31/87 Company REPUBLIC INDEMN

- () Certified copy is hereby furnished.
- () Certified copy is filed with the county building inspection department or county department.

Applicant: X _____

LICENSED CONTRACTORS DECLARATION

I hereby affirm that I am licensed under the provisions of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and my license is in full force and effect.

License Class _____ License Number _____
 Contractor X

Building Address 3700 SODA CANYON ROAD

Owner WHITBREAD OF CALIFORNIA Phone 707-252-7971
 Mailing Address 3700 SODA CANYON ROAD
NAPA, CA 94558

OWNER-BUILDER DECLARATION

I hereby affirm that I am exempt from the Contractor's License Law for the following reason:

- () I, as owner of the property, will construct the dwelling and the dwelling is not intended for sale.
- () I, as owner of the property, will do the work myself and I will not employ any person in any manner so as to become subject to the Workers' Compensation Laws of California.
- () I, as owner of the property, am exclusively contracting with licensed contractors to construct the project.
- () I am exempt under Sec. 3800 of the California Labor Code, Minor Work Under \$200.

Owner: X _____

CONSTRUCTION LENDING AGENCY

I hereby affirm that there is a construction lending agency for the performance of the work for which this permit is issued.

Lender's Name _____
 Lender's Address _____

I certify that I have read this application and state that the above information is correct. I agree to comply with all city and county ordinances and state laws relating to building construction, and hereby authorize representatives of this county to enter upon the above-mentioned property for inspection purposes. I (We) agree to save, indemnify and keep harmless the County of Napa against liabilities, judgments, costs and expenses which may in any way accrue against said County in consequence of the granting of this permit.

Signature of Applicant X _____ Date 5/26/87

DEPARTMENT USE ONLY

PERMIT NO. 0040100
 PARCEL NO. 032-080-0500
 DATE ISSUED 05/26/87
 VALUATION \$ 214,000
 VALIDATED BY RIC
 RECEIPT NO. 81720

DESCRIPTION OF WORK

WORK: NEW
 PERMIT: WINERY
 CATEGORY: COMBINATION
(EXPEDITED PLAN PROCESSING - EPPS)

WINERY (PHASE 1-A)

ZONING: AW SIZE 654A
 PROPOSED USE: INDUSTRIAL BUILDINGS
 OCCUPANCY TYPE: B2
 TYPE OF CONSTRUCTION: I-N NO OF STORIES _____
 SIZE OF ELECTRICAL SERVICE: _____

CONTRACTORS		LIC. NO. / PHONE
General Address	<u>SELF</u>	
Electrical		
Plumbing		
Mechanical		
Architect Address		
Engineer Address		

PROCEDURE	BY	DATE	ISSUE CLEARANCE
Plans Not Required			USE PERMIT 05/07/86 PLAN DEPT CLEAR 05/14/87 PUB WKS CLEAR 05/19/87 ENV HEALTH CLR 05/20/87 DEPT FORESTRY 05/20/87 NAPA SCH DIST 05/20/87 E P P S 05/22/87
Plans Received	<u>LEM</u>	<u>05/15/87</u>	
Site Checked			
Plans Reviewed	<u>EDW</u>	<u>05/26/87</u>	
Application Approved	<u>EDW</u>	<u>05/26/87</u>	VARIANCE NO. <u>270500</u> USE PERMIT NO. _____

NOTE: When property validated, this form constitutes a building permit. This permit expires and becomes null and void should work not be commenced within 180 days from validation date or should authorized construction be suspended or abandoned or not receive an inspection for a period of 180 days after work is commenced. A request for an extension of time must be requested in writing from the Building Codes Administrator within the first 180 days of the Permit issue date.

REQUIRED INSPECTION CODES	FEE\$	FEE\$
(See Reverse Side for Inspection Description)		
030 050 060 061 070	Strong Motion Tax 14.98	Building 788.50
090 100 210 220 250	Electrical 642.00	Plumbing 125.50
260 440 450 460 480		
490 510 520 530 570	PLAN REVIEW 1,436.00	MICROFILMING 39.80

EXHIBIT PD-26
 PAGE 31-A OF 43

TOTAL FEES 3,046.78
 TOTAL

NAPA COUNTY
CONSERVATION, DEVELOPMENT AND PLANNING COMMISSION
1195 Third Street
Napa, California

MINUTES

May 6, 1987

A complete tape recording of this meeting is on file in the office of the Conservation, Development and Planning Department and will be retained for a period of five years. Specific Commission actions on the tape are identified by a reference number following the title of that item.

The CONSERVATION, DEVELOPMENT AND PLANNING COMMISSION met in regular session on May 6, 1987, at 9:00 a.m. in the Board of Supervisors Meeting Room, Napa County Administration Building, Napa, CA, with the following Commissioners in attendance: R. Lewis, G. Kay, L. McGrew, and W. Nord, Chairman. Absent: M. Luce. Ex-Officio and Advisory Staff present: J. Hickey, P. Crundall, T. McClimans, J. Cool, R. Westmeyer.

The meeting was called to order at 9:09 a.m.

WHITBREAD OF CALIFORNIA, INC. - USE PERMIT REQUEST (#U-488687)
ENVIRONMENTAL DETERMINATION: Negative Declaration prepared and recommended for adoption. REQUEST: Approval to establish a 450,000 gallons per year winery with no public tours or tastings and to construct related waste disposal ponds located on 680 acres south and east of the terminus of Soda Canyon Road in Foss Valley within an AW (Agricultural Watershed) District. (Assessor's Parcels #32-040-40, 32-080-29 and 30). (Agenda Item #9)

REQUEST OF WHITBREAD OF CALIFORNIA, INC., FOR APPROVAL OF A ONE-YEAR EXTENSION OF TIME in which to use Use Permit #U-278586 approved to construct a 450,000 gallons per year winery with no public tours and tasting with related waste disposal ponds located on 856 acres east of the terminus of Soda Canyon Road in Foss Valley within an AW (Agricultural Watershed) District. (Assessor's Parcels #32-080-05, 14 and 30). ENVIRONMENTAL DETERMINATION: Categorically Exempt from the California Environmental Quality Act. (Agenda Item #10)

The Commission accepted public comment on the request for continuance.

Speakers:

Vic Fershko
Attorney at Law
1005 Coombs
Napa, CA

Gregory Rodeno
Attorney at Law
2140 Jefferson Street
Napa, CA

Bruce Burton
50 D Street, Rm. 205
Santa Rosa, CA

James Barnes
3429 Crestview Ct.
Napa, CA

Ray Martinez
3150 Soda Canyon Rd.
Napa, CA

Ray Tokareff
2411 Soda Canyon Rd.
Napa, CA

Richard McCabe
3366 Soda Canyon Rd.
Napa, CA

Fletcher Benton
3398 Soda Canyon Rd.
Napa, CA

Discussion:

Vic Fershko, attorney representing the Bentons, Bests (phon.), Schepps (phon.), Schreuders, and Laytons, said he was hired Monday and had not an opportunity to review the project. He said testimony could be presented today concerning how the winery project would impact the neighboring properties, but the information is incomplete and requested a one-month continuance to study the environmental issues related to traffic, noise, and water supply. He said the relocation of the winery as proposed is significantly different from the winery location approved a year ago. Concerning water supply, he said there could be significant impacts on Lake Milliken, a water supply for the City of Napa, and Rector Reservoir, a water supply for the Veterans Home in Yountville. Another issue, he said, is the geologic consequences of excavation proposed for cave storage.

He said the applicant has been working on the project for a long time and has an advantage over the neighbors who were apprised of the project through normal noticing procedures on April 23, 1987, and it would be appropriate to grant a continuance under those circumstances. He said under current noticing procedures, only neighbors living within 300 feet would have been individually noticed, many lay people don't pay close attention to public notices published in the newspapers, and many neighbors in opposition were not aware of the project a year ago when first considered by the Commission.

Concerning the extension of time request, Fershko said the original application had an environmental classification of categorically exempt and the current relocation proposal has a recommendation for a Negative Declaration; the applications are similar and the initial studies are almost identical. He said the relocation application resurrects the environmental issues because the project must be found to not be detrimental to the health, safety and welfare of the neighborhood. He said, in his opinion, the environmental issues are significant and would require an EIR.

EXHIBIT 7D-26
PAGE 32-A OF 43

Answering questions on noise impacts, Fershko said the one-month continuance would provide time to conduct an ambient noise study related to the winery operation and additional traffic. He said the tours and tastings by appointment only can easily be abused since there is no limitation on the number of appointments, how many people or how often, which can increase the noise and traffic potential.

Gregory Rodeno, attorney for the applicant, said the extension request is separate from the relocation request and the CEQA issues raised by Fershko are not supported by the statutes or by CEQA guidelines. He said an environmental review of the original project was completed and the County could have granted a two-year use permit instead of one, eliminating the need for an extension. He said the use permit expires on May 7, 1987, and if a continuance were granted, he believed Fershko would be arguing then that the use permit had expired. He said the applicant could pull a building permit today and thereby activate the use permit.

Rodeno said a continuance would present a financial hardship on the applicant.

Rodeno said the noticing procedures as authorized by state law and County ordinance were properly accomplished and if consideration were given in this case as to "inadequate" newspaper-published notices, then it would be precedent setting and anyone could protest at any time that they said they were inadequately noticed.

He said the opportunity to challenge the CEQA determination and factual determinations made by the Commission expired approximately six months ago. He said he opposed a continuance on both items.

Westmeyer advised that the use permit would not expire if there was a continuance was under active consideration by the Commission.

Fershko agreed with Westmeyer that the use permit would not expire if a continuance were granted.

Rodeno said there may be other people who would not agree with that stipulation and raise it as an issue.

James Barnes, applicant, presented historical information concerning the winery and extension request. He said the property was purchased last June with the understanding that a use permit for a winery must first be approved. He said the first year's grape crop lacked the quality to justify processing. He said they bought the adjacent parcel which he believed to be a better, more efficient location for the winery and proceeded to process an application to use that property before pulling a building permit and activating the original use permit. He said the winery building construction must soon be started to be completed in time for fall's crush. He said construction has been delayed awaiting the outcome of environmental determinations on the alternate site and said he is satisfied those issues have been adequately addressed. He said he has attempted to contact the neighbors to address their concerns and complaints and responded to suggestions he has received.

Fershko said he understood the winery had an agreement with the Co-op to crush grapes this fall. He said any applicant can plead financial hardship in an effort to expedite processing of his application. He said approval of the extension request is not automatic or it would not be before the Commission for consideration. He said the extension provides an opportunity to review environmental impacts to the neighborhood.

He said one month is not an unreasonable request and would provide the neighbors time to gather information on pesticide use, run-off from the vineyard, and winery waste products as pollutants to domestic water supplies, plus the other issues previously raised. He said the sulfur used in the vineyards undergoes chemical reactions and becomes a carcinogen.

Richard Peterson, president of Whitbread of California, said there is a company called Whitbread of North America in New York that has an agreement with the Co-op for wine processing and there is no relationship between his company and Whitbread of North America and no

EXHIBIT PD-26
PAGE 33 OF 43

agreement with the Co-op to process Whitbread of California's grapes. He disagreed with Fershko's statement concerning sulfur.

Bruce Burton, California Department of Health Services, Sanitarian Engineering Branch, said the agency is interested in protecting the public water systems of Lake Milliken and Rector Reservoir. He said the agency became aware of the project May 5, 1987, and a review of the files indicates no environmental documentation on the project. He requested the continuance be granted so that the agency could review the project or that the applicant agree to a review and implementation of mitigation measures the agency recommends. He said the Veterans' Home of California and Town of Yountville are under the agency's regulatory control. He answered Commission questions concerning the agency's jurisdiction and said the agency does not issue permits for projects. He said the Regional Quality Control Board has direct control over any waste water discharges. He said the agency's interest is in regulating potable drinking water systems to meet State requirements.

Westmeyer said the County only needs to send notices of projects to responsible agencies that have approval power.

Fershko said the agency's review may provide the environmental information in question. He said the mitigation measures may not be sufficient to meet the CEQA, Negative Declaration, and Categorical Exemption issues and totally mitigate the environmental issues.

Ray Martinez said the fact that the winery is proposed to be relocated a quarter mile away does not change the impact on the environment and considers the extension and relocation request not as two separate issues. He said his property does not abutt the winery property and he was not notified of the project a year ago, but did receive notice of the second winery application. He said the 300-ft. notice requirement is insufficient when dealing with large parcels of land. He said the one-month continuance will not significantly impact the project and should be granted to review environmental issues.

Rodeno said legal notice requirements were complied with and the applicant should not be made to suffer financial hardship because neighbors did not take note of the newspaper announcement. He said applicant has fulfilled all requirements to grant the extension of the existing use permit.

James Barnes said the upcoming crush is integral to the operation and a continuance would delay construction of the proposed caves, pads, and installation of equipment. He estimated a financial loss of \$100,000 if the crush is not done this year. He said the contractor who will excavate for the caves is not a local resident and has other projects in line; the contract for the caves needs to be closed by May 15th; the caves will save the operation three to four hundred thousand dollars as compared to shipping the grapes out for processing, totalling approximately \$500,000 financial impact.

Rodeno said if the relocation project is continued, the applicant will be compelled to go forward with the original winery project and terminate the application for relocation.

Richard McCabe said there is a group of about fifteen mailboxes and all could have received notices last year. He said he lives downstream and his well is within one hundred feet of the creek that the winery will discharge into if relocation is approved.

Fletcher Benton said approximately 150 families in the area are being sacrificed in order to protect a one-hundred-thousand-dollar grape harvest. He said the human element should also be considered.

Ray Tokareff said applicant has not complied with Condition #11 of the original use permit prohibiting truck traffic during the hours of 7-9 a.m. and 2-4 p.m. on school days and questioned applicant's intention to comply with other conditions.

Commissioner Kay said noticing requirements had been satisfied and was not an issue. Concerning the extension request, he said the Commission needs to find the proposal is consistent with the General Plan and zoning and that the project will not detrimentally affect

EXHIBIT PD-26
PAGE 33-A OF 43

public health, safety and general welfare. He said at this point sufficient data had been presented to require further environmental information and would support the request for continuance since it would not adversely impact the validity of the use permit.

Commissioner McGrew agreed and said continuances have in the past been granted at applicants' requests and similar courtesy should be extended to opponents.

Chairman Nord said continuance on the basis of noticing procedures would be counterproductive and there is an individual responsibility to keep current on advertised projects and issues. He said the applicant is entitled to a one-year extension.

Commissioner Lewis said the point was moot because the use permit had been approved and the winery will be built whether or not the extension is granted.

Action:

MOTION BY MCGREW

Motion to continue the use permit request for relocation and extension of time request for Whitbread of California to June 3, 1987.

Rodeno said he would be unavailable on June 3 and requested June 17.

The motion was so amended.

SECONDED BY KAY

The motion was approved on the following vote:

AYES: Lewis, Kay, McGrew
NOES: Nord
ABSTAIN: None
ABSENT: Luce

Westmeyer advised opening individual public hearings on each item to take action on the continuance requests.

The public hearing for Agenda Item #9, Use Permit Request #U-488687, was opened at 11:32 a.m.

Action:

MOTION BY MCGREW, SECONDED BY KAY

Motion to continue Agenda Item #9 to June 17, 1987.

The motion was approved on the following vote:

AYES: Lewis, McGrew, Kay
NOES: Nord
ABSTAIN: None
ABSENT: Luce

MOTION BY MCGREW, SECONDED BY KAY

Motion to continue Agenda Item #10 to June 17, 1987.

The motion was approved on the following vote:

AYES: Lewis, Kay, McGrew
NOES: Nord
ABSTAIN: None
ABSENT: Luce

MOTION BY LEWIS, SECONDED BY KAY

Motion directing Staff to write a letter to the Department of California Health Services concerning Bruce Burton's appearance.

EXHIBIT

PD-26

PAGE

-34

OF 43

The motion was approved on the following vote:

AYES: Lewis, Kay, McGrew, Nord

NOES: None

ABSTAIN: None

ABSENT: Luce

CONTINUED

EXHIBIT PD-26

PAGE 34-A OF 43

NAPA COUNTY
CONSERVATION, DEVELOPMENT AND PLANNING COMMISSION
1195 Third Street
Napa, California

MINUTES

June 17, 1987

A complete tape recording of this meeting is on file in the office of the Conservation, Development and Planning Department and will be retained for a period of five years. Specific Commission actions on the tape are identified by a reference number following the title of that item.

The CONSERVATION, DEVELOPMENT AND PLANNING COMMISSION met in regular session on June 17, 1987, at 9:00 a.m. in the Board of Supervisors' Meeting Room, Napa County Administration Building, Napa, CA, with the following Commissioners in attendance: M. Luce, G. Kay, L. McGrew, and W. Nord, Chairman. Absent: R. Lewis. Ex-Officio and Advisory Staff present: J. Hickey, P. Crundall, B. Klein, T. Snelling, R. Westmeyer, N. Gresham.

The meeting was called to order at 9:06 a.m.

WHITBREAD OF CALIFORNIA, INC. - USE PERMIT REQUEST (#U-488687)
ENVIRONMENTAL DETERMINATION: Negative Declaration prepared and recommended for adoption. REQUEST: Approval to establish a one (1) bedroom Bed and Breakfast facility within an existing residence located on a 17 acre parcel on the northeast side of State Hwy. 29 and Dunaweal Lane within an AP (Agricultural Preserve) District.
(Continued from May 6, 1987) (Agenda Item #6)

PCR

CDPC Tape #105884, Tracks #2, 3, and 4:
Public Hearing:

The continued public hearing was opened at 9:15 a.m.

Commissioners Luce, Kay, McGrew, and Nord said they had visited the project site.

Senior Planner Grundall presented correspondence from Sally Lewis dated 6-10-87 in opposition.

Grundall presented the Staff Report and Recommendation.

RECOMMENDATION:

ENVIRONMENTAL:

1. Adopt a Negative Declaration.
2. Find that the Commission has read and considered the Negative Declaration prior to taking action on the proposed project.

PLANNING:

3. APPROVAL with Findings and subject to Conditions of Approval #1 through #10.

Speakers:

Opponents of EIR:

Gregory Rodeno
Attorney at Law
2140 Jefferson St.
Napa, CA

Dick Peterson
President
Whitbread of California, Inc.

James Barnes
Vice-President
Whitbread of California, Inc.

Wendy Lockwood
Environmental Science Associates
760 Harrison St.
San Francisco, CA

June Townsend
3149 Soda Canyon Rd.
Napa, CA

Paul Doucette
3240 Soda Canyon Rd.
Napa, CA

Henry Snyder
3399 Soda Canyon Rd.
Napa, CA

Bill Phillips
Summit Engineering
1400 N. Dutton Ave. #22
Santa Rosa, CA

James C. Hanson
444 North Third Street
Suite 400
Sacramento, CA 95814

Proponents of EIR:

George Alan Prouty
1207 Soda Canyon Rd.
Napa, CA

Victor Fershko
Attorney at Law
1005 Coombs St.
Napa, CA

Wilson Goddard
Goddard & Goddard Engineering
P. O. Box 1096
Upper Lake, CA 95485

Diane Shepp
3580 Soda Canyon Rd.
Napa, CA

Cheryl Hankins
2189 Coronado Ave.
Napa, CA 94559

Richard MacCabe
3366 Soda Canyon Rd.
Napa, CA

Ray Tokareff
2411 Soda Canyon Rd.
Napa, CA

Fletcher Benton
3398 Soda Canyon Rd.
Napa, CA

Ed Sawyer
3148 Soda Canyon Rd.
Napa, CA

EXHIBIT PD-26

PAGE 35-A OF 43

Charles Van Alstine
Wallace, Van Alstine & Kuhl
2742 Industrial Blvd.
West Sacramento, CA 95691

Alison Yerkes
675 Soda Canyon Road
Napa, CA

Jerald R. Hyde
Box 55
St. Helena, CA 94574

Bill Hurrell
Wilbur Smith and Associates
282 Second Street, 2nd Floor
San Francisco, CA 94105-3189

Discussion:

Gregory Rodeno, attorney for the applicant, said applicant is prepared to proceed with the relocation request in light of Staff's complete environmental review of both the original and relocated project sites.

Dick Peterson, President of Whitbread of California, Inc., presented a picture of a model placed on top of a car with the project site in the background which he said depicted the general scale and location of the project. He described the existing vineyard and potential for expansion, as well as the dam under construction. He compared the floor plan footages for Sites A and B (reduced square footage with caves for storage) and said Site B also has the advantages of a shorter driveway and there would be no need to dynamite at Site B to build a foundation.

He said the closest residence to Site B is 3/8 to 1/2 mile away; four neighbors within one mile can see the site; and the site is within view of twelve additional houses beyond one mile. He said noise will be reduced because crushers and refrigeration units will be located underground. He said there is no evidence that wastewater ponds or irrigation of vineyards will contaminate ground water resources, the ponds meet all Federal and State requirements and will not be visible to any neighbor.

He described projected water usage from ground water resources and the reservoir for vineyard irrigation and frost protection.

He reviewed the results of the Wilbur, Smith & Associates 1986 traffic study comparing traffic generated by the proposed site to an alternate winery site downhill to where grapes would be transported by gondola at harvest time. The study concluded there would be less truck traffic generated year-round from the proposed site in transporting filled wine bottles and utilizing round-trips to ship in supplies.

Peterson described recent truck traffic related to construction of the dam. He said water from the reservoir was used by the Forestry Division to fight a fire in the Soda Canyon area and he said Whitbread has offered equipment and water to fight local fires.

He said there will be signs on the gate stating there will be no public tours or tasting.

He said consultants who have studied the project have found no significant adverse environmental impacts associated with the project.

He presented and described a topographical relief map of the area while James Barnes pointed out locations of the winery sites and watersheds in Foss Valley and Soda Canyon.

Peterson said an EIR would be time-consuming and costly and would not provide answers not already apparent from the completed environmental reviews.

Wendy Lockwood of Environmental Science Associates (ESA) said she reviewed the two Negative Declarations prepared by the County and other consultants' reports, visited the site in May, and analyzed the impacts at Sites A and B. She said there would be no change in traffic impact between the two sites except for the distance traveled from the main gate, there would be negligible impacts on ground water

EXHIBIT PD-26

PAGE 36 OF 43

supplies for both sites, no significant effect on downstream flows due to relocating from the Milliken to the Rector watershed, some differences in local geologic conditions between the two sites, and no significant adverse impacts at either site that have not been mitigated. She said noise levels would be similar from either site and average traffic noise levels are projected to increase not more than 2 dBA. She said she was in support of the Negative Declarations.

June Townsend spoke in favor of the project. She said she has a pond on forty acres surrounded on two sides by the vineyard. She said she believes the irrigation of the vineyard has increased the pond's volume. She said the proposed winery is as attractive as those she saw while touring Europe.

George Prouty presented a letter reviewing ground water levels of his property since 1905 and well depths of neighboring properties. He said he does not object to vineyards that use drip irrigation, but said he was concerned with the amount of water that will be used by the winery. He said transporting of grapes by gondola affects traffic on the road just once a year. He said the location of the winery may affect the Milliken or Rector Reservoirs but probably would not affect Soda Canyon water. He said he objects to the constant truck traffic on Soda Canyon Road resulting from the project.

Paul Doucette said he favored construction of the winery and said no one complained about traffic when William Hill bought property on Soda Canyon Road with resulting truck traffic and equipment associated with his vineyard.

Henry Snyder said he favored the project and said he felt using captured watershed run-off from the reservoir would improve the ground water supply.

Victor Fershko, attorney representing Fletcher Benton, the Schreuders, the Shepps, and other property owners in the Soda Canyon area, said even though wineries are considered an agricultural use, this winery is differentiated from others in size and location; it is the seventh or eighth largest winery in the County. He said most large wineries are located on the highway system in more urban settings as opposed to the proposed site which is a quiet rural setting. He described the Soda Canyon area relating to noise levels, commercial activity, density of homes, and existing wildlife, and commented on residential losses due to fire. He said there are blind curves, precipices, and sections of Soda Canyon Road that are eleven feet wide and the road is not suitable for heavy equipment travel and increased traffic related to employee and visitor travel and delivery trucks which will create additional noise. Fershko said refrigeration, air conditioning and aeration of the caves will be additional noise factors. He said the area is so quiet now that you can hear the Yountville whistle and boats on Lake Berryessa and noises associated with the winery will be intrusive.

Fershko quoted decibel figures from the Noise Element on noise levels generated from winery operations and compatibility with residential uses.

Fershko said his clients had evidence to dispute Peterson's comments on ground water supply and quoted sections from CEQA concerning expert testimony on opposing sides of environmental issues in dispute and public controversy.

Fershko said his clients feel the project will deplete and possibly pollute the existing springs and ground water systems. He said even though the square footage of the project is being reduced, the capacity and number of employees and visitors have not been reduced and may even increase. He said the caves may affect the hydrology of the area.

Fershko asked for clarification of "recreational use" of the reservoirs.

Referring to credibility of the applicant to comply with mitigation measures, Fershko said Peterson misrepresented certain facts to the Commission at the May 6th meeting concerning a contract with the Napa

EXHIBIT PD-26
PAGE 36-A OF 43

PS

Valley Co-op to crush grapes for Whitbread of North America, a company which Peterson said was not associated with Whitbread of California. Fershko presented a copy of a letter signed by James Barnes dated June 23, 1986, and copies of two newspaper articles: Friday, April 4, 1986 issue, "People in Business, Winery CEO Hops Jobs; an article by Stan Vaughn, Register Wine Writer.

Klein reported on road widths for Soda Canyon Road.

Westmeyer advised the Commission on CEQA requirements concerning conflicting expert testimony and definition of "substantial environmental effect."

The Commission adjourned at 10:25 a.m. and reconvened at 10:39 a.m.

Wilson Goddard presented a pamphlet describing Goddard & Goddard Engineering and a copy of a 1984 aerial photograph showing the proposed new winery site before land clearance and a stream that would be impacted by construction at the site and referred to an Environmental Impact Assessment report prepared by Goddard Engineering for Fletcher Benton.

Goddard said he conducted ambient noise level surveys which revealed levels below 40 dBA and related an incident where a Whitbread water truck passing Ed Sawyer's property generated 70 dBA due possibly to an inadequate muffler.

Goddard corrected a typographical error located on page ES 2, third paragraph, should read "Section 7.2" instead of "Section 8.3."

Answering Commissioner Luce's question, Goddard said the effects of the cave drilling on the hydrology are unknown and should be studied. He commented on well drilling experiences of Soda Canyon residents located near the project site and fears of damage to the present water supply. He said tests should be conducted for ground water availability, depletion, recharge, and the effects of rechanneling watershed run-off to the reservoirs which may otherwise contribute to recharging the ground water supply.

Goddard said the issue of agricultural chemicals should be addressed. He said pesticide and herbicide residue from the grapes could enter the wastewater discharge.

Goddard said to reduce traffic impacts, the winery could be located downhill limiting travel to transportation of grapes at harvest time. There was a discussion concerning transportation of grape juices and the processing of red wines.

Answering the Director's question, Goddard said he had not contacted anyone in Napa County concerning the use of agricultural chemicals in vineyards; the list of chemical is a representative list provided to him by experts he consulted in Davis and Lake County for agricultural chemicals used in the North Coast areas.

Joe Schreuder, an adjoining property owner, read and presented his letter in opposition to the project based on water supply and traffic considerations. He said the water supply source is unknown, the major aquifer could extend all the way to the Sierra Nevadas, and the percolation of water to the 2000-foot level should be studied for possible effects from the proposed cave excavation. Regarding traffic, Schreuder said an appropriate mitigation measure would be for the applicant to contact the school transportation department regularly to determine bus route schedules for regular and minimum school days. He said there are no limitations restricting people from just casually taking a "nice little drive" up Soda Canyon Road to see the winery, even if there are no tours or tastings allowed.

Schreuder said the 11-foot sections of road referred to by Fershko are on Foss Valley Road, not Soda Canyon Road. He elaborated on comments made at the May 6th hearing concerning sulphur dioxide and sulphites reacting with nitrates in fertilizers leading to the formation of carcinogenic substances (nitrites) and presented a one-page series of chemical reactions entitled "Winery-Vineyard Reactions, Alergenic & Carcenogenic" which he formulated and said further study is needed to

EXHIBIT PD-26

PAGE 37 OF 43

26

verify the reactions and conclusion of potential contamination of public water supply sources.

Diane Shepp read her June 1st, 1987 letter in opposition to the project based on traffic and related a recent event where a schoolbus with children had to back down the steepest part of Soda Canyon Road due to road blockage by trucks associated with the project. She said she is concerned about future increased littering along the roadside, creating a substantial fire hazard, generated from the additional traffic to the winery as well as hazardous drivers leaving the winery after having consumed wine. She asked for clarification of the "recreational use" of the reservoirs. She said she was also concerned about the substantial noise increase created by the winery.

Cheryl Hankins said her parents' home overlooks the vineyards and said she and her parents object to the project because of increased noise levels associated with the winery and resulting traffic. She said construction noise has been incredible and she and her parents are unable to carry on conversation on her parents' patio because of the noise. She said they feel shell-shocked because of the repeated blasting occurring during the construction. She said there should be mitigation measures imposed restricting the times of day for construction noises and requiring installation of mufflers on equipment.

Richard MacCabe expressed his concern on noise and water issues. He said the area is so quiet, you can hear a car crunching road gravel two miles away. He commented on the springs in the area at the 2000 foot level, suggesting that there is a complex water system pushing the water to that level that should be studied.

Ray Tokareff, a member of the Soda Canyon Volunteer Fire Department, said he had responded to numerous traffic accidents on Soda Canyon Road, some fatal, most involving road residents. He said there will be increased numbers of accidents when visitors, unfamiliar with the road, travel to the winery and, in many cases, leave the winery after having tasted the wine.

Fletcher Benton expressed his opposition to the winery project on the grounds of noise, visual aesthetics, exposure to high intensity lighting.

Benton said the area is considered a high fire risk area and residents in the past have used an escape road through Circle S Ranch when Soda Canyon Road was blocked. He asked if there were conflicts with Whitbread for the residents to use that egress in the event of a future major fire. He said increased traffic on the road generated by the winery will result in higher fire risks due to careless tossing of cigarettes and hot exhaust pipes. He said although the winery is considered to be a very beautiful winery, he has a perfect view of it where he lives and he said he does not want to look at it for the rest of his life.

Ed Sawyer, an adjacent property owner, said Whitbread has drilled one new well ten feet from his property line and requested assurance of his water supply.

Fershko presented two petitions signed by Soda Canyon residents requesting an EIR on the issues of traffic, noise, water pollution and water depletion.

Fershko commented on applicant's diversion of watershed run-off from October 15th to April 30th at the rate of 9000 gallons per minute and questioned the impact the diversion would have on the neighboring springs and wells. He questioned the applicant's expert's conclusion that there would be less traffic generated at this winery site as compared to a winery site downhill where grapes would be transported by gondola at harvest time.

George Prouty described several fatal traffic accidents and incidents of wreckless driving and speeding occurring on Soda Canyon Road. He said the traffic problems will be compounded by winery traffic unfamiliar with the road.

EXHIBIT PD-26
PAGE 37-A OF 43

REQUEST FOR CONTINUANCE FOR HILLMAN TOBACCO AND VERNICE GASSER

During a discussion of time considerations and scheduling agenda items, Joseph Peatman, attorney representing Hillman Tobacco and Vernice Gasser, requested a continuance of Agenda Items #9 and #13 to July 15, 1987. Chairman Nord said the public hearings on those matters will be opened and continued to July 15, 1987, during the afternoon session upon completion of the Whitbread item.

Continuing with the Whitbread discussion, Alison Yerkes concurred with previous remarks made concerning traffic, noise, and water. She said a winery of this size is inappropriate for the proposed location on Soda Canyon Road. She said she would not object to a winery of much smaller size.

The Commission adjourned at 11:53 a.m. and reconvened at 1:30 p.m.

Crundall presented letters from George Prouty, Susan Adams, Doreen Leighton, Everett Barnes, Irene and Juanita Doran, and Richard McCabe expressing concern regarding environmental issues; G. McComas expressing concern and opposition; Franklin and Mary Steele, Louis and Linda Best, expressing concern and requesting an EIR; and five letters from Fletcher Benton in opposition to the project.

James C. Hanson said there were three appropriative water rights filings which apply to the project, two of which were filed by William Hill and Company, the third by Whitbread, all prepared by Hanson. He said recreational use of the reservoirs would be for wildlife enhancement and would be incidental to agricultural purposes. He said Whitbread has no intention of using the reservoirs for a commercial recreational operation. He clarified Fershko's statement concerning diversion of Rector watershed run-off and said the 9000 gallons per minute is a maximum rate of diversion when water is available and the total amount to be diverted from October 15th to April 30th is 300 acre feet. He said Whitbread's water rights are subject to prior vested rights of the City of Napa (Milliken Reservoir) and the State of California (Rector Reservoir) and prior appropriators and riparians. He said Whitbread must release its storage of water to Milliken Reservoir if there is insufficient supply to the City.

Charles Van Alstine said the ground water system is complex: There is a sequence of volcanic rocks; surface water traveling through fractures in the rock recharge the ground water supply. He said Harold Gregson of Doshier-Gregson indicated there are several well-defined, identifiable layers that have substantial ground water capacity; there have been wells producing over a hundred gallons a minute drilled by Gregson. He said existing well capacity will not be exceeded.

Van Alstine said the caves are about 200 feet above the valley floor in a thick layer of volcanic conglomerate, relatively impervious, and he said he would not expect to encounter ground water in that area; if groundwater were encountered, the caves would be sealed.

Answering Commission questions, Van Alstine said the 2000-ft. level springs are largely ground water moving through the fracture systems; water will flow uphill under pressure. He said reservoir water will be collected from run-off which ordinarily would not contribute in large measure to recharging the ground water supply due to the impervious nature of the volcanic substructures. He said the overflowing of Mrs. Townsend's pond might be due to vineyard irrigation.

Bill Phillips of Summit Engineering agreed with the conclusion on page 7 of the ESA report that the domestic water discharge is roughly equal to wastewater generation of two single family residences. He said the system will be a standard, below-ground wastewater treatment and disposal facility. He said the County requirements concerning wastewater site setbacks from springs will be met.

EXHIBIT PD-26

PAGE 38 OF 43

PS

Phillips said, generally, evaluations have shown no significant residuals of pesticides or vineyard chemicals in winery wastewater analyses. He said one additional factor to consider is there is a tremendous amount of dilution by rain water, as well as evaporation, and there is a greater area collecting water in this case than there is water surface for evaporation, the two factors balance each other out.

Concerning sulphides leading to the formation of carcinogenic substances, Phillips said analyses have been done in the past on effluent from wastewater treatment ponds, there is no undue concern in the industry about the use of that water on vineyards; the water has been tested and has met the irrigation standards in each instance. He said the wastewater receives several treatment processes: screening, neutralization, and aerobic treatment; it is not strictly a primary treatment process.

Jerald Hyde described a noise measurement program as outlined in his letter of June 11, 1987, and said the baseline noise environment is dominated by vineyard operations and by commercial and private aircraft flying overhead. He said his conclusion was the addition of the winery will not have a significant noise impact to the nearest neighbors or the noise environment in general. He said the intermittent noise levels will be five to ten decibels lower than the maximum criteria established by the Noise Element and there will be no noise impact during the nighttime hours (10 p.m. to 7 a.m.).

Referring to earlier comments concerning the winery creating a continuous hum over a twenty-four-hour period, Hyde said he has been working with the architect to ensure this does not occur; the design will incorporate features so that such noises will not be audible to the nearest neighbors.

Bill Hurrell explained how he arrived at the conclusion that the vineyard and winery would generate less traffic than a vineyard alone with transportation of grapes at harvest time to a winery site downhill. He said he assumed a maximum development of the 650 acres of vineyards to produce at full production 2600 tons of bulk grapes, gondolas can handle roughly 3 to 4 tons of grapes which would equal approximately 1490 one-way trips during a six-week period. With a winery on-site, trips can be economized, empty bottles can be shipped in with the same trucks shipping out filled wine bottles, and there would be approximately 450 one-way trips. He said there would be additional traffic created by the 20 employees and approximately 20 visitors per day, as well as traffic for additional employees during harvest time. He said during harvest time, a high estimate would be 100 automobile trips per day; during the rest of the year, approximately 50 to 60 trips per day. He said scheduling gondola trips would be difficult because grapes would need to be transported as soon as they are picked; it would be easier to schedule the fewer numbers of delivery trucks to the winery to accommodate school bus schedules. He said it would be important that Whitbread maintain contact with the school transportation system to coordinate trucking activities. He also said Whitbread would be able to exercise more control over the types of delivery trucks to be used where it may not have good control during a transport-during-harvest situation. He said Site A and Site B would generate the same amount of traffic.

Phillips suggested school bus stops be clearly marked both at the bus stop and in advance and increased use of speed control or warning signs.

James Barnes, Vice-President of Whitbread of California, said he read all of the letters submitted prior to the meeting and listened to testimony presented at the hearing and said he saw no similarity between the actual project and the concerns expressed by residents.

Barnes said the winery is a private estate winery; admission to the property will be controlled; tours and tasting is a separate business which Whitbread chooses to not engage in. He said the visitors indicated in the application represent a maximum number of trade visitors expected, not people in general coming to the winery to taste wine.

EXHIBIT PD-26
PAGE 38-A OF 43

P9

Barnes said there is no conflict with Circle S Ranch, that the escape route may be used in the event of a major fire.

Barnes said the winery's maximum capacity will not exceed 450,000 gallons per year.

Goddard agreed with Hanson's comment that the ground water system is complex and that is why it should be studied. He said energy conservation can be achieved without burrowing into rock to create caves. He said an EIR is an open process which allows an independent consultant to analyze all environmental issues.

Van Alstine answered Commission questions on the effect of the cave excavation on the ground water supply. He repeated that he would not expect to find water in the volcanic layer at that elevation. He said holes could be drilled to measure for ground water. He said there are wells in the bedrock system from 100 to 600 feet deep, yielding 12 to 300 gallons per minute, which are adequate for residential use.

Referring to in-depth ground water studies, the Director said a two-and-half-year study conducted by the U. S. G. S. of underground aquifers in the vicinity of Silverado Country Club was inconclusive. Van Alstine agreed that in-depth studies can require that length of time and arrive at that conclusion.

Goddard said during the '77 drought, a number of neighbors on the north side of Soda Canyon experienced limited domestic water supply. He said in drought years, there may be a conflict between the amount of water that can be diverted and the amount of water that needs to be allowed to go into the local ground water recharge zones. He suggested monitoring wells for supply and contamination. He said a short study could be conducted within the span of one year. He said the new well drilled near Sawyer's property line may influence other wells and this could be measured by pump testing existing wells. He said the cave excavation may affect the zone of percolation for the springs.

Ed Sawyer, answering Commission questions, said the distance from the newly drilled well and his well is 150 yards.

Hanson said he presented a comprehensive water supply report prior to sale of the property to Whitbread. He said during drought years such as 1977, water would be unavailable in sufficient amounts to divert or pump.

A discussion followed between the Commission and Hyde concerning the difference in noise levels generated by trucks between Site A and Site B. Hyde said noise at Site A would have less impact on the nearest neighbors and that trucks going uphill make more noise because the engines are working harder. Relative to ambient noise levels, Hyde said the intermittent truck noise levels will be 5 to 10 dBA lower than the maximum allowed by the General Plan of 50 decibels on the A scale. He said, due to sound barriers, impact from idling engines would be insignificant.

A discussion followed concerning atmospheric conditions affecting noise levels.

Goddard went into further detail concerning the passing water truck registering 70 decibels when he and others were having a conversation on Sawyer's patio. Commissioner Kay pointed out that Goddard attributed the noise level to possibly a faulty muffler. Sawyer said his patio is approximately 300 yards from the road.

Fershko asked for clarification from Hyde concerning the circumstances under which he conducted his noise level measurements. He said an EIR would provide an unbiased analysis by an independent consultant as opposed to using information provided by applicant's consultants. He said Hanson admitted that a study of run-off characteristics would need to be conducted to determine the effect, if any, of the diversion on streams and ground water. Chairman Nord said that relates to the vineyard operation. Fershko said the winery is an integral part of the vineyard and that water from the reservoir, according to the approved use permit, may be used for the winery. He said Van Alstine

EXHIBIT PD-26

PAGE 39 OF 43

did not study this complex water system and did not provide the answers to the questions posed by concerned neighbors. He said there is no assurance to the residents of the availability of their water supply. He said it would be irresponsible to not study this question based on expense and time. He said Bill Hurrell did not make a quantitative study of automatically contributing to traffic on Soda Canyon Road.

Fershko said the proposed winery compares, when in full production, to a winery such as Inglenook, and with the Whitbread reputation, there will be a traffic impact. He questioned how far applicant's ten thousand dollar donation to improve road conditions will go.

The Commission adjourned at 3:06 p.m. and reconvened at 3:20 p.m.

Answering the question earlier posed concerning noise level test circumstances, Hyde said the weather conditions, dates and time are not critical issues because the test results will average out over the varying conditions. He said the winery project will not substantially increase the noise environment of the adjacent areas. He said he would support a requirement to adequately muffler equipment.

Rodeno commented on CEQA requirements concerning public controversy, disagreement among experts, and demonstrable factual bases for requiring an EIR. He said County Staff, in their two separate environmental reviews, and applicant's consultants have reached the same conclusions. He said the project, as evaluated and mitigated, will not have a significant adverse effect on the environment and there has been no evidence presented to the contrary.

He said the area has been designated under the General Plan as AW. He said he believed the structure of the General Plan requires agricultural uses to be given precedence over residential uses.

Fershko said Staff's analyses may have been made under false assumptions or information and the measures mitigating environmental effects are not applicable to the situation. He said the mitigation measures do not deal with water, traffic, or noise impacts. He said no evidence was presented to show the mitigation measures were inadequate because they do not deal with the issues he and the residents have presented.

Referring to residential versus agricultural use, Fershko said he supports agriculture as a primary goal of the General Plan, but the residents live there now; it is not a case of a proposed subdivision locating next to a farming operation.

Fershko said evidence of traffic accidents has been presented, and previous noise studies have shown it does not take a great deal of noise to disturb the ambient noise level, and intermittent noises cannot be mitigated. He disagreed with Rodeno's interpretation of CEQA guidelines concerning public controversy and disagreement among experts and quoted sections from CEQA.

The public hearing was closed at 3:47 p.m.

The Commission adjourned to closed session at 3:48 p.m. and reconvened at 4:10 p.m.

Westmeyer advised the Commission on CEQA guidelines concerning public controversy, disagreement among experts, and sufficiency of the evidence pointing toward significant adverse effects.

Bill Crenshaw, Building Inspector, said two permits had been issued for the winery: a grading permit and a permit issued for Phase 1(a) of the winery construction. He said there has been a foundation inspection.

Commissioner Luce said sufficient evidence was not presented to demonstrate a significant environmental impact from the project and CEQA doesn't require an EIR just to gather more information. He said he saw no evidence that ground water would be depleted. He said traffic problems can be mitigated and said he favored the argument that traffic can be more easily regulated with an on-site winery. He

EXHIBIT PD-26

PAGE 39-A OF 43

711

said he agreed it is a pristine area, but there was no evidence demonstrating a problem with noise and the project has been designed to mitigate noise. He said the applicant has demonstrated a willingness to address the issues and minimize impacts on the neighborhood. He said the reservoir will be providing water during a fire event which he considered a positive impact and there has been testimony indicating the emergency access road will be available. He said a Negative Declaration is appropriate in this case.

Commissioner Kay said he would in large measure agree with Luce's comments. He said arguments related to the reservoir and its supply of water to the vineyard were not germane to the winery and said he discounted those. He said there is a winery under construction at Site A and the distinction that needs to be drawn is what is going to happen relative to the relocation of the project. He said he saw no differences in traffic and noise impacts. He expressed concern on the ground water issue in relation to the newly drilled well located close to the Sawyer property line. He said arguments concerning the effects of cave excavation on water supply were not substantial, in his opinion.

Kay said Prouty's historical account of ground water levels raises a reasonable doubt and he would favor a focused study on the issue of ground water supply.

Commissioner McGrew said she agreed with Luce's comments and said the traffic concerns have been dealt with by improvements required by Public Works and that evidence was not presented demonstrating a substantial impact attributable to the relocation that would require an EIR. She said she was in favor of adopting a Negative Declaration.

Chairman Nord said he agreed with Commissioner Kay's comments concerning ground water impact in that particular basin area. He also said he was not satisfied that noise impacts for the immediate neighborhood had been properly addressed. He said he would favor an environmental study on ground water and noise.

Action:

MOTION BY KAY, SECONDED BY NORD

Motion to require a focused environmental impact report on the project's impact on ground water supply in the immediate area.

AYES: Kay, Nord
NOES: Luce, McGrew
ABSTAIN: None
ABSENT: Lewis

After a review of the bylaws, the Director said the tie-vote would automatically continue this matter to the next meeting for reconsideration and a vote by the Commission. Westmeyer said Commissioner Lewis would need to listen to the tape recording of the public hearing before voting.

Chairman Nord said the public hearing will not be reopened and the evidence will be made available to Commissioner Lewis.

Rodeno said the applicant would offer a mitigation measure to abandon the well next to the Sawyer property and Site B would use the water designed to be provided for Site A.

MOTION BY MCGREW, SECONDED BY LUCE

Motion to adopt a Negative Declaration with the additional Mitigation Measure as proposed by applicant's attorney.

Fershko objected to the introduction of the proposed mitigation measure at this point in the hearing. He said he understood Commissioner Kay to be concerned with the hydrology of the new location. He said Commissioner Lewis should be given an opportunity to hear the evidence and cast a deciding vote.

EXHIBIT PD-26

PAGE 40 OF 43

P12

The Director reviewed the bylaws and said the matter should be continued to the next meeting.

The motion was withdrawn.

Chairman Nord directed this matter be continued to July 1, 1987, for a reconsideration and vote on the motion for a focused environmental impact report on the issue of ground water.

CONTINUED

REQUEST OF WHITBREAD OF CALIFORNIA, INC. FOR APPROVAL OF A ONE-YEAR EXTENSION OF TIME in which to use Use Permit #U-278586 approved to construct a 450,000 gallons per year winery with no public tours and tasting with related waste disposal ponds located on 856 acres east of the terminus of Soda Canyon Road in Foss Valley within an AW (Agricultural Watershed) District. (Assessor's Parcels #32-080-05, 14 and 30).

ENVIRONMENTAL DETERMINATION: Categorically Exempt from the California Environmental Quality Act. (Continued from May 6, 1987) (Agenda Item #7)

Speakers:

Gregory Rodeno
Attorney at Law
2150 Jefferson St.
Napa, CA

Victor Fershko
Attorney at Law
1005 Coombs St.

Wilson Wendt
Miller, Starr & Regalia
101 Ygnacio Valley Road, Suite 401
Walnut Creek, CA 94596

Discussion:

Gregory Rodeno, attorney for the applicant, said the extension request is moot because applicant has activated the use permit by beginning construction on the foundation for Site A pursuant to Section 12806(b) of the Napa County Code. He said applicant does not wish at this time to withdraw the extension request but asked that the request be dropped from the agenda.

Victor Fershko, attorney representing Fletcher Benton and other Soda Canyon residents, said applicant should either withdraw the extension request or proceed with the public hearing. He said the extension request places the project under CEQA guideline scrutiny and an EIR of the previously approved project may be required. He said applicant's letter of May 8th to the Director requested the ability to proceed with a small aspect of the project, Phase 1(a), in order to crush 50 tons of grapes, which he said is insignificant compared to the maximum production capacity. Fershko read his portions of his May 20th letter to the Director and said the Commission has the authority to stop the work being done under the May 1986 use permit and require a focused EIR. He said applicant has not obtained vested rights and it was made clear at the May 6th meeting that he was asking for an EIR on both the new and old projects, that in his opinion applicant accepted the risk of proceeding with the foundation. Fershko said the fifty tons could be crushed at the Co-op.

Westmeyer advised the Commission concerning vested rights and the applicability of Section 12806(b) in this case.

Wilson Wendt, special counsel for applicant, presented a 4-page position paper, dated June 16, 1987, concerning applicant's vested rights pursuant to Section 12806(b). Westmeyer said he agreed with the legal position set forth in the position paper.

Action:

MOTION BY MCGREW, SECONDED BY LUCE

Motion to remove the extension request from the agenda.

EXHIBIT PD-26
PAGE 40-A OF 43

The motion was approved on the following vote:

AYES: Luce, Kay, McGrew, Nord

NOES: None

ABSTAIN: None

ABSENT: Lewis

REMOVED FROM AGENDA

EXHIBIT PD-26

PAGE 41 OF 43

EXHIBIT PD-26

PAGE 42 OF 43

NAPA COUNTY
CONSERVATION, DEVELOPMENT AND PLANNING COMMISSION
1195 Third Street
Napa, California

MINUTES

July 1, 1987

A complete tape recording of this meeting is on file in the office of the Conservation, Development and Planning Department and will be retained for a period of five years. Specific Commission actions on the tape are identified by a reference number following the title of that item.

The CONSERVATION, DEVELOPMENT AND PLANNING COMMISSION met in regular session on July 1, 1987, at 9:00 a.m. in the Board of Supervisors' Meeting Room, Napa County Administration Building, Napa, CA, with the following Commissioners in attendance: M. Luce, G. Kay, L. McGrew, and W. Nord, Chairman. Absent: R. Lewis. Ex-Officio and Advisory Staff present: J. Hickey, P. Crundall, T. McClimans, B. Klein, T. Snelling, N. Grisham, C. Lober.

The meeting was called to order at 9:15 a.m.

MINUTES:

The minutes of June 17, 1987, were approved, noting the following correction on page 2 concerning the description of the Whitbread project: "REQUEST: Approval to establish a 450,000 gallons per year winery with no public tours or tastings and to construct related waste disposal ponds located on 680 acres south and east of the terminus of Soda Canyon Road in Foss Valley within an AW (Agricultural Watershed) District. (Assessor's Parcels #32-040-40, 32-080-29 and 30)" instead of "REQUEST: Approval to establish a one (1) bedroom Bed and Breakfast facility within an existing residence located on a 17 acre parcel on the northeast side of State Hwy. 29 and Dunaweal Lane within an AP (Agricultural Preserve) District. (Assessor's Parcel #20-180-46) 1183 Dunaweal Lane, Calistoga."

APPROVED

WHITBREAD OF CALIFORNIA, INC. - USE PERMIT REQUEST (#U-488687)
ENVIRONMENTAL DETERMINATION: Negative Declaration prepared and recommended for adoption. REQUEST: Approval to establish a 450,000 gallons per year winery with no public tours or tastings and to construct related waste disposal ponds located on 680 acres south and east of the terminus of Soda Canyon Road in Foss Valley within an AW (Agricultural Watershed) District. (Assessor's Parcels #32-040-40, 32-080-29 and 30). (Continued from May 6 and June 17, 1987. Public Hearing Closed) (Agenda Item #10)

Senior Planner Crundall presented two additional mitigation measures agreed to by applicant: (1) not to use the well located near the Sawyer property as a water source for winery use, (2) applicant to maintain contact with school transportation department and restrict truck deliveries to hours when school buses are not traveling on Soda Canyon Road.

In accordance with the adopted Commission bylaws, the Commission reconsidered its vote on the June 17th motion concerning a focused environmental impact report on ground water supply as follows:

Commissioner Kay said that on June 17th he made a motion to direct the preparation of a focused environmental impact report on ground water because he was concerned about the well next to the Sawyer property line. He said there is a great deal of information in the record concerning the adequacy of the water supply. He said Mitigation Measure #1 relieves his concern and he felt a focused report should not be required.

Grundall said the latest information concerning square footage as outlined in Condition #1 is that the total building structure will not exceed 47,000 square feet.

Action:

MOTION BY LUCE, SECONDED BY KAY

Motion to adopt the Negative Declaration with 17 signed Mitigation Measures and find the Commission has read and considered the Negative Declaration prior to taking action on the proposed project.

The motion was approved on the following vote:

AYES: Luce, Kay, McGrew, Nord
NOES: None
ABSTAIN: None
ABSENT: Lewis

MOTION BY LUCE, SECONDED BY MCGREW

Motion to approve with Findings and subject to Conditions of Approval #1 through #10 as modified (Condition #1 to 47,000 sq. ft. for the winery structure and Condition #6 for compliance with Mitigation Measures #1 through #17).

County Counsel Lober said he agreed with applicant's request to modify Condition #10 to read: "Use Permit #U-278586 for the original winery location shall become null and void subject to compliance with Section 12806(b) of the Napa County Code," requiring construction of a foundation to trigger the new use permit and terminate Use Permit #U-278586.

The motion was amended to include the modification of Condition #10 as stated by County Counsel.

The amended motion was approved on the following vote:

AYES: Luce, Kay, McGrew, Nord
NOES: None
ABSTAIN: None
ABSENT: Lewis

APPROVED

NAPA COUNTY
CONSERVATION, DEVELOPMENT AND PLANNING COMMISSION
1195 Third Street
Napa, California

Closed
MEETING

MINUTES

July 1, 1987

A complete tape recording of this meeting is on file in the office of the Conservation, Development and Planning Department and will be retained for a period of five years. Specific Commission actions on the tape are identified by a reference number following the title of that item.

The CONSERVATION, DEVELOPMENT AND PLANNING COMMISSION met in regular session on July 1, 1987, at 9:00 a.m. in the Board of Supervisors' Meeting Room, Napa County Administration Building, Napa, CA, with the following Commissioners in attendance: M. Luce, G. Kay, L. McGrew, and W. Nord, Chairman. Absent: R. Lewis. Ex-Officio and Advisory Staff present: J. Hickey, P. Crundall, T. McClimans, B. Klein, T. Snelling, N. Grisham, C. Lober.

The meeting was called to order at 9:15 a.m.

MINUTES:

The minutes of June 17, 1987, were approved, noting the following correction on page 2 concerning the description of the Whitbread project: "REQUEST: Approval to establish a 450,000 gallons per year winery with no public tours or tastings and to construct related waste disposal ponds located on 680 acres south and east of the terminus of Soda Canyon Road in Foss Valley within an AW (Agricultural Watershed) District. (Assessor's Parcels #32-040-40, 32-080-29 and 30)" instead of "REQUEST: Approval to establish a one (1) bedroom Bed and Breakfast facility within an existing residence located on a 17 acre parcel on the northeast side of State Hwy. 29 and Dunaweal Lane within an AP (Agricultural Preserve) District. (Assessor's Parcel #20-180-46) 1183 Dunaweal Lane, Calistoga."

APPROVED

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Senior Planner Crundall presented two additional mitigation measures agreed to by applicant: (1) not to use the well located near the Sawyer property as a water source for winery use, (2) applicant to maintain contact with school transportation department and restrict truck deliveries to hours when school buses are not traveling on Soda Canyon Road.

In accordance with the adopted Commission bylaws, the Commission reconsidered its vote on the June 17th motion concerning a focused environmental impact report on ground water supply as follows:

Commissioner Kay said that on June 17th he made a motion to direct the preparation of a focused environmental impact report on ground water because he was concerned about the well next to the Sawyer property line. He said there is a great deal of information in the record concerning the adequacy of the water supply. He said Mitigation Measure #1 relieves his concern and he felt a focused report should not be required.

Crundall said the latest information concerning square footage as outlined in Condition #1 is that the total building structure will not exceed 47,000 square feet.

Action:

MOTION BY LUCE, SECONDED BY KAY

Motion to adopt the Negative Declaration with 17 signed Mitigation Measures and find the Commission has read and considered the Negative Declaration prior to taking action on the proposed project.

The motion was approved on the following vote:

AYES: Luce, Kay, McGrew, Nord
NOES: None
ABSTAIN: None
ABSENT: Lewis

MOTION BY LUCE, SECONDED BY MCGREW

Motion to approve with Findings and subject to Conditions of Approval #1 through #10 as modified (Condition #1 to 47,000 sq. ft. for the winery structure and Condition #6 for compliance with Mitigation Measures #1 through #17).

County Counsel Lober said he agreed with applicant's request to modify Condition #10 to read: "Use Permit #U-278586 for the original winery location shall become null and void subject to compliance with Section 12806(b) of the Napa County Code," requiring construction of a foundation to trigger the new use permit and terminate Use Permit #U-278586.

The motion was amended to include the modification of Condition #10 as stated by County Counsel.

The amended motion was approved on the following vote:

AYES: Luce, Kay, McGrew, Nord
NOES: None
ABSTAIN: None
ABSENT: Lewis

APPROVED

CLOS PEGAS

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BOARD OF SUPERVISORS' AGENDA ITEM SUBMITTAL

1. Date 9-1-87 Agenda # _____ File # _____
CAO/Clerk's Use Only

2. Requested Action (wording to be shown on agenda):
NOTICED PUBLIC HEARING

APPEAL BY VICTOR FERSHKO, ON BEHALF OF BENTON, SAWYER, SCHREUDER, SHEPP AND COHEN, to: (1) the issuance of construction permits #0040072 for grading on May 19, 1987 and #0040100 for winery (phase 1-A) on May 26, 1987 to Whitbread of California for Assessor's Parcel #32-080-05 and (2) a decision by the Conservation, Development and Planning Commission on July 1, 1987 to adopt a Negative Declaration and approve Use Permit #U-488687 of Whitbread of California, Inc. to establish a 450,000 gallons per year winery with no public tours or tastings and to construct related waste disposal ponds located on 680 acres south and east of the terminus of Soda Canyon Road in Foss Valley within an AW (Agricultural Watershed) District. (Assessor's Parcels #32-040-40, 32-080-29 and 30)

3. Financial Impact: Yes ___ No X

If yes, please explain and indicate funding source: _____

4. Background: (If more space is required - attach a separate report.)
ACTION: Conservation, Development and Planning Commission

REVIEW: The Commission reviewed this application at their May 5, June 17, and July 1, 1987 meetings.

Speakers: See attached minutes.

ENVIRONMENTAL: The Commission adopted a Negative Declaration for the project.

ACTION: The Commission approved this application on the following roll call vote:

AYES: Luce, Kay, McGrew, Nord

NOES: None

ABSENT: Lewis

APPROVAL was based on Department Findings and Conditions contained in the attached report.

Material submitted by the applicant and concerned neighbors during a "window period" established for this project by the Board on August 4, 1987 and ending at 5:00 PM, August 24, 1987 and 5:00 PM, August 26, 1987 for rebuttals, has been forwarded to the Board for review.

On August 24, 1987, the applicant's attorney, Victor Fershko, indicted that Whitbread of California was withdrawing that portion of the appeal dealing with construction permit #0040100 for Phase 1-A of the original winery site on Assessor's Parcel #32-080-05.

EXHIBIT PD-26

PAGE 2 OF 43

BOARD OF SUPERVISORS' AGENDA ITEM SUBMITTAL

1. Date 8-4-87 Agenda # _____ File # _____
CAO/Clerk's Use Only

2. Requested Action (wording to be shown on agenda):
PUBLIC HEARING

NOTICE OF APPEAL BY VICTOR FERSHKO, ON BEHALF OF BENTON, SAWYER, SCHREUDER, SHEPP AND COHEN, to: (1) the issuance of construction permits #0040072 for grading on May 19, 1987 and #0040100 for winery (phase 1-A) on May 26, 1987 to Whitbread of California for Assessor's Parcel #32-080-05 and (2) a decision by the Conservation, Development and Planning Commission on July 1, 1987 to adopt a Negative Declaration and approve Use Permit #U-488687 of Whitbread of California, Inc. to establish a 450,000 gallons per year winery with no public tours or tastings and to construct related waste disposal ponds located on 680 acres south and east of the terminus of Soda Canyon Road in Foss Valley within an AW (Agricultural Watershed) District. (Assessor's Parcels #32-040-40, 32-080-29 and 30). Board to decide whether or not to hear the appeal and set the date for a Noticed Public Hearing if the decision is to hear the appeal.

3. Financial Impact: Yes _____ No X

If yes, please explain and indicate funding source: _____

4. Background: (If more space is required - attach a separate report.)

ACTION: Conservation, Development and Planning Commission

REVIEW: The Commission reviewed this application at their May 5, June 17, and July 1, 1987 meetings.

Speakers: See attached minutes.

ENVIRONMENTAL: The Commission adopted a Negative Declaration for the project.

ACTION: The Commission approved this application on the following roll call vote:

AYES: Luce, Kay, McGrew, Nord

NOES: None

ABSENT: Lewis

APPROVAL was based on Department Findings and Conditions contained in the attached report.

Also attached is a list of submittals received in regard to this project. A package containing these submittals will be on file in the County Administrator's Office for review.

EXHIBIT PD-26

PAGE 2-A OF 43

LIST OF SUBMITTALS
Whitbread of California

Letters from Neighbors

- | | | | |
|-----|---------------------------------------|-------------|--|
| 1. | Susan Adams | Foss Valley | Concern for industrial disposal ponds, water availability and traffic. |
| 2. | Everett D. Barnes
Barney E. Barnes | Soda Canyon | Concern for fire safety, water availability. |
| 3. | Fletcher Benton | Soda Canyon | Concern for water contamination and over-usage, fire safety. |
| 4. | Fletcher Benton | Soda Canyon | Concern for water, erosion, aesthetics, traffic, fire hazard. |
| 5. | Fletcher Benton | Soda Canyon | Experiences with the applicant. |
| 6. | Fletcher Benton | Soda Canyon | Indicates that winery at the end of Soda Canyon Rd is a mistake and should be located on the valley floor. |
| 7. | Fletcher Benton | Soda Canyon | Requests investigation of long term effects on environment, safety of road, fire hazard. |
| 8. | Louis & Linda Best | Foss Valley | Concern for industrial disposal ponds, water availability and traffic. |
| 9. | Louis & Linda Best | Foss Valley | Concern for traffic and water. Want EIR. Opposed. |
| 10. | Irene Doran | Soda Canyon | Concern for water availability and traffic. |
| 11. | G. McComas | Soda Canyon | Concern for traffic safety. |
| 12. | Velma A. Hampton | Soda Canyon | Concern for water availability. |
| 13. | Muriel C. Hawkins | Soda Canyon | Concern for water, traffic & noise. Request EIR. |
| 14. | Cheryl A. Hawkins | Napa | Concern for noise. |
| 15. | Muriel C. Hawkins | Soda Canyon | Requests EIR. |
| 16. | Muriel C. Hawkins | Soda Canyon | Concern for noise, traffic, water pollution and availability. Requests EIR. |

- | | | | |
|-----|-----------------------------------|----------------|--|
| 17. | Doreen Leighton | Loma Vista Dr. | Concern for water availability and traffic. |
| 18. | Mrs. Salley Lewis | Soda Canyon | Opposed to winery. |
| 19. | Richard MacCabe | Soda Canyon | Concern for water quality and quantity, traffic. |
| 20. | No name | Soda Canyon | Concern for water, fire hazard, traffic, noise, erosion. |
| 21. | Edmund J. Sawyer | Soda Canyon | Objection to Whitbread Winery. |
| 22. | Joseph Schreuder | Soda Canyon | Concern for water and traffic. |
| 23. | Alan Shepp | Soda Canyon | Concern for traffic. Opposed. |
| 24. | Alan Shepp | Soda Canyon | Concern for water quality, depletion of water table. Request EIR. |
| 25. | Henry Snyder | Soda Canyon | Not in opposition. |
| 26. | Franklin Steele | Soda Canyon | Concern for water quality and quantity, traffic. Wants EIR. |
| 27. | Barbara Stevens | Soda Canyon | Opposed. Concern for increased traffic, water quality. Requests EIR. |
| 28. | A.P. Tallenent
Betty Tallenent | Soda Canyon | Concern for limited water resources vineyard chemicals, and water contamination. |
| 29. | Eleanor Tallenent | Soda Canyon | Concern for water availability and traffic safety. |
| 30. | Ruth Way | Soda Canyon | Concern for traffic. Opposed. |

Petitions requesting preparation of EIR

1. Petition #1 - 90 signatures
2. Petition #2 - 105 signatures

Photograph of Scale Model of Winery

Goddard and Goddard Engineering

1. Environmental Impact Assessment of Whitbread Winery application for Use Permit #U-488687 and extension application for Use Permit #U-278586 - prepared for Fletcher Benton and supporting neighbors.

2. 1984 aerial photograph showing 120 acre proposed new winery site before land clearance.

Whitbread of California

1. Environmental assessment - Environmental Science Associates, Inc.
2. Traffic Impact Study - Wilbur Smith & Associates
3. Ground Water Letter - James C. Hanson, Consulting Engineer
4. Well Water Letter - Doshier & Gregson, Water System Specialists.
5. Ground Water Letter - Wallace Van Alstine & Kubl, Geotechnical Engineer.
6. Effect of caves on Ground Water Letter - Earth Sciences Associates.
7. Sanitary and Process Waste Letter - Summit Engineering, Inc. Consulting Engineers.
8. Letter of Thanks - Napa Valley Unified School District.
9. Environmental Noise Study Letter - Jerald R. Hyde, Physicist, Consultant on Accoustics.

NAPA COUNTY
CONSERVATION, DEVELOPMENT AND PLANNING DEPARTMENT
1195 Third Street, Room 210, Napa, California 94559 (707) 253-4416

NOTICE OF APPEAL IN PERMIT MATTERS

TO BE COMPLETED BY APPELLANT

Appellant's Name: ED SAWYER, JOE SCHNEIDER, DIANE SCHEFF, JOHN COHEN,
Fletcher Benton by Victor A. Fershko Telephone: (707) 226-9928

Address: c/o Victor A. Fershko, Attorney at Law, 1005 Coombs St., Napa, CA 94559
No. Street City State Zip

Status of Appellant to Project: Adjacent property owner by ^{THEIR V.T.} his attorney
project applicant, adjacent property owner, other (describe)
Adoption of a negative declaration and

Action Being Appealed: subsequent approval of use permit Permit No: U-488687
Construction Permits: 0040072 and 0040100

Reason for Appeal (Be Specific): (SEE ATTACHMENT #1)
(attach additional sheet if necessary)

RECEIVED

JUL 14 1987

NAPA CO. CONSERVATION

DEVELOPMENT & PLANNING DEPT.

ATTACH A COMPLETE LIST OF THE NAMES AND ADDRESSES OF ALL PERSONS HAVING AN INTEREST IN THE MATTER. SEE ATTACHMENT #2

[Signature]
Signature of Appellant

7/14/87
Date

Received by: [Signature]
Conservation, Development and Planning Department

Date Submitted: July 14, 1987

Receipt #: _____
(\$50.00, if Board hears appeal)

Date Filed: July 20, 1987

FOR OFFICE USE ONLY

File No: U-488687

Project Applicant's Name: Whitbread of CA, Inc.

Assessor's Parcel No's: 32-040-40 32-080-29 & 30

Project Description: To establish a 450,000 gal/yr
winery with no public tours or tastings and to
construct related waste disposal ponds on 680
ac. south & east of the terminus of Stda Canyon
Pd. in Four Valley

Action Record

Action By: CDPC
(ZA, CDPG, OR OTHER)

Action: approved
(APPROVED/DENIED)

Date: July 1, 1987

EXHIBIT PD-26
PAGE 4-A OF 43

ATTACHMENT #1

1. Construction permits numbers 0040072 and 0040100 are hereby appealed because they were not evaluated for possible environmental effects pursuant to the California Environmental Quality Act of 1970 prior to their issuance. In particular, the grading permit number 0040072 permitting the excavation of 8500 cubic yards of earth was not preceded by an environmental assessment such as an initial study and thereafter given public scrutiny, with the possibility of requiring an environmental impact report as provided for in the State Guidelines and CEQA. In fact, it is my understanding that the County does not, as a matter of course, subject grading permits to such a review and the public hearing process, even though they are discretionary permits, as required by law.

2. The action of the Conservation, Development and Planning Commission of July 1, 1987, in adopting a negative declaration for use permit number U-488687 is appealed because it fails to take into consideration the substantial evidence put forth by the proponents for an EIR as reflected in the evidence before said Commission during the public hearing of June 17, 1987. Rather than repeat all the points made during said public hearing by the undersigned and all of the proponents that advocated a full environmental impact report on all of the issues and possible significant environmental effects, including traffic, noise, hydrology, esthetics, and geologic impacts, the undersigned hereby incorporates all of said evidence herein as if fully recited herein.

3. The Conservation, Development and Planning Commission's

EXHIBIT PD-26

PAGE 5 OF 43

decision to grant the use permit request number U-488687 is appealed for the above-mentioned reasons in that said permit is in violation of State law and that it was not preceded by the proper environmental analysis as required by CEQA and the State Guidelines, and said use permit violates the health, safety, and welfare of property owners in and about the proposed project site, including those individuals who have opposed the project and those who requested that a full EIR be prepared. Again, the undersigned hereby incorporates all of the testimony and evidence submitted to said Commission at its meeting of June 17, 1987, with respect to this issue as well.

4. The use permit is also opposed in that it failed to be preceded by a separate public hearing on the use permit request subsequent to the Commission's determination to adopt a negative declaration as required by law, thereby depriving the opponents of the project due process of law.

4. Both the negative declaration for said project and the use permit that was approved thereafter, are both defective in that the Commission violated its own By-laws and procedural guidelines by amending its previous motion of June 17, 1987 to require a focused EIR and deleting said requirement to provide for a negative declaration. This decision to amend said motion during the meeting of July 1, 1987, was defective for two reasons:

(a) The motion can only be amended by a member of the majority who voted for that motion to move to amend said motion. Since no such majority existed, and since the fifth member of the Commission refused to participate, no such motion could be made to amend or reconsider the original motion of June 17, 1987.

EXHIBIT PD-26

(b) The Commission, in reconsidering its vote and thereafter adopting a negative declaration, considered additional information and alleged mitigation measures that were not subject to public scrutiny and further public input in that the public hearing had been previously closed during the meeting of June 17, 1987, and therefore said decision was defective and in violation of due process of law.

ATTACHMENT #2

1. GREGORY RODENO
2140 JEFFERSON ST.
NAPA, CA
2. DICK PETERSON
JAMES BARNES
WHITBREAD OF CALIFORNIA, INC
BOX 5660
NAPA, CA
3. WENDY LOCKWOOD
ENVIRONMENTAL SERVICES
760 HARRISON ST.
SAN FRANCISCO, CA
4. JUNE TOWNSEND
3149 SODA CANYON ROAD
NAPA, CA
5. PAUL DOUCETTE
3240 SODA CANYON ROAD
NAPA, CA
6. HENRY SNYDER
3399 SODA CANYON ROAD
NAPA, CA
7. BILL PHILLIPS
SUMMIT ENGINEERING
1400 N. DUTTON AVE. #22
SANTA ROSA, CA
8. JAMES C. HANSON
444 N. 3RD ST., SUITE 400
SACRAMENTO, CA
9. CHARLES VAN ALSTINE
WALLACE VAN ALSTINE & KUHL
2742 INDUSTRIAL BLVD.
W. SACRAMENTO, CA
10. JERALD HYDE
P.O. BOX 55
ST. HELENA, CA
11. BILL HURRELL
WILBUR SMITH & ASSOCIATES
282 2ND ST., 2ND FLOOR
SAN FRANCISCO, CA
12. GEORGE ALLEN PROUTY
1207 SODA CANYON ROAD
NAPA, CA

EXHIBIT PD-26

PAGE 6-A OF 43



NAPA COUNTY

CONSERVATION — DEVELOPMENT AND PLANNING DEPARTMENT

JAMES H. HICKEY
Director

1195 THIRD STREET, ROOM 210 • NAPA, CALIFORNIA 94559-3092
AREA CODE 707/253-4416

July 7, 1987

Assessor's Parcel # 32-040-40
32-080-29 & 30

Whitbread of California
P.O. Box 5660
Napa, Ca. 94581-0660

Please be advised that Use Permit Application Number U-488687 to
establish a 450,000 gallons per year winery with no public tours or tastings
and to construct related waste disposal ponds

on 680 acres south and east of the terminus of Soda Canyon Rd. in Foss
located Valley within an AW District.
has been approved by the Napa County Conservation, Development and Planning
Commission based upon the following conditions:

(SEE ATTACHED LIST OF CONDITIONS OF APPROVAL)

APPROVAL DATE: July 1, 1987

The use permit becomes effective ten (10) working days from the approval date unless an appeal is filed with the Napa County Board of Supervisors pursuant to Title XIII of the Napa County Code. In the event an appeal is made to the Board, you will be notified.

Pursuant to Section 12806 of the Napa County Code, the use permit must be activated within one (1) year and ten (10) calendar days from the approval date or the use permit shall automatically expire and become void. A one-year extension of time in which to activate the use permit may be granted by the County provided that such extension request is made thirty (30) days prior to the expiration date. A request for an extension of time is subject to payment of a \$190.00 filing fee.

Very truly yours,

SEE ATTACHED NOTES

JAMES H. HICKEY
Secretary/Director

JHH:ml:l

cc: Bill L. Hall, Building Codes Administrator
Assessor's Office

Exhibit PD-26

PAGE 7 OF 43

13. WILSON GODDARD
GODDARD & GODDARD ENGINEERING
P.O. BOX 1096
UPPER LAKE, CA
14. DIANE SCHEPP
3580 SODA CANYON ROAD
NAPA, CA
15. CHERYL HANKINS
2189 CORONADO AVE.
NAPA, CA
16. RICHARD MacCABE
3366 SODA CANYON ROAD
NAPA, CA
17. RAY TOKAREFF
2411 SODA CANYON ROAD
NAPA, CA
18. ED SAWYER
3148 SODA CANYON ROAD
NAPA, CA
19. ALLISON YERKES
675 SODA CANYON ROAD
NAPA, CA
20. JOSEPH SCHRUEDER
2882 SODA CANYON ROAD
NAPA, CA

NAPA COUNTY
CONSERVATION, DEVELOPMENT AND PLANNING DEPARTMENT
1195 Third Street, Room 210, Napa, California 94559 (707) 253-4416

NOTICE OF APPEAL IN PERMIT MATTERS

TO BE COMPLETED BY APPELLANT

Appellant's Name: VS. ED SAWYER, JOE SCHUBBER, DIANE SCHER, JOAN CONERTY
Fletcher Benton by Victor A. Fershko Telephone: (707) 226-9928

Address: c/o Victor A. Fershko, Attorney at Law, 1005 Coombs St., Napa, CA 94559
No. Street City State Zip

Status of Appellant to Project: Adjacent property owner by ^{THEIR VS.} his attorney
project applicant, adjacent property owner, other (describe)
Adoption of a negative declaration and

Action Being Appealed: subsequent approval of use permit Permit No: U-488687
Construction Permits:
Reason for Appeal (Be Specific): (SEE ATTACHMENT #1) 0040072 and 0040100
(attach additional sheet if necessary)

RECEIVED

JUL 14 1987

NAPA CO. CONSERVATION

DEVELOPMENT & PLANNING DEPT.

ATTACH A COMPLETE LIST OF THE NAMES AND ADDRESSES OF ALL PERSONS HAVING AN INTEREST IN THE MATTER. SEE ATTACHMENT #2.

[Signature]
Signature of Appellant

7/14/87
Date

Received by: Julie E. Crundall
Conservation, Development and Planning Department

Date Submitted: July 14, 1987

Receipt #: (\$50.00, if Board hears appeal)

Date Filed: July 20, 1987

FOR OFFICE USE ONLY

File No: U-488687

Project Applicant's Name: Whitbread of CA, Inc.

Assessor's Parcel No's: 32-040-40, 32-080-29 & 30

Project Description: To establish a 450,000 gal/yr winery with no public tours or tastings and to construct related waste disposal ponds on 680 ac. south & east of the terminus of Soda Canyon Rd. in Footh Valley

Action Record

Action By: CDPC
(ZA, CDPC, OR OTHER)

Action: approved
(APPROVED/DENIED)

Date: July 1, 1987

EXHIBIT PD-20

PAGE 3 OF 9

ATTACHMENT #1

1. Construction permits numbers 0040072 and 0040100 are hereby appealed because they were not evaluated for possible environmental effects pursuant to the California Environmental Quality Act of 1970 prior to their issuance. In particular, the grading permit number 0040072 permitting the excavation of 8500 cubic yards of earth was not preceded by an environmental assessment such as an initial study and thereafter given public scrutiny, with the possibility of requiring an environmental impact report as provided for in the State Guidelines and CEQA. In fact, it is my understanding that the County does not, as a matter of course, subject grading permits to such a review and the public hearing process, even though they are discretionary permits, as required by law.

2. The action of the Conservation, Development and Planning Commission of July 1, 1987, in adopting a negative declaration for use permit number U-488687 is appealed because it fails to take into consideration the substantial evidence put forth by the proponents for an EIR as reflected in the evidence before said Commission during the public hearing of June 17, 1987. Rather than repeat all the points made during said public hearing by the undersigned and all of the proponents that advocated a full environmental impact report on all of the issues and possible significant environmental effects, including traffic, noise, hydrology, esthetics, and geologic impacts, the undersigned hereby incorporates all of said evidence herein as if fully recited, herein.

3. The Conservation, Development and Planning Commission's

EXHIBIT PD-20

PAGE 4 OF 9

decision to grant the use permit request number U-488687 is appealed for the above-mentioned reasons in that said permit is in violation of State law and that it was not preceeded by the proper environmental analysis as required by CEQA and the State Guidelines, and said use permit violates the health, safety, and welfare of property owners in and about the proposed project site, including those individuals who have opposed the project and those who requested that a full EIR be prepared. Again, the undersigned hereby incorporates all of the testimony and evidence submitted to said Commission at its meeting of June 17, 1987, with respect to this issue as well.

4. The use permit is also opposed in that it failed to be preceeded by a separate public hearing on the use permit request subsequent to the Commissions's determination to adopt a negative declaration as required by law, thereby depriving the opponents of the project due process of law.

4. Both the negative declaration for said project and the use permit that was approved thereafter, are both defective in that the Commission violated its own By-laws and procedural guidelines by amending its previous motion of June 17, 1987 to require a focused EIR and deleting said requirement to provide for a negative declaration. This decision to amend said motion during the meeting of July 1, 1987, was defective for two reasons:

(a) The motion can only be amended by a member of the majority who voted for that motion to move to amend said motion. Since no such majority existed, and since the fifth member of the Commission refused to participate, no such motion could be made to amend or reconsider the original motion of June 17, 1987.

(b) The Commission, in reconsidering its vote and thereafter adopting a negative declaration, considered additional information and alleged mitigation measures that were not subject to public scrutiny and further public input in that the public hearing had been previously closed during the meeting of June 17, 1987, and therefore said decision was defective and in violation of due process of law.

EUGENE AND DOROTHY CHOPPING
1806 JEFFERSON ST.
NAPA, CA 94558

ERNEST AND KAREN ERSKINE
3000 SODA CANYON RD.
NAPA, CA 94558

White Bread
~~JAMES BARNES~~
P. O. BOX 5660
NAPA, CA 94581-0660

JOHN SUTRO
P. O. BOX 7880
SAN FRANCISCO, CA 94120

ALLEN AND CAROL LILLEBERG
2470 WEST PUEBLO AVE.
NAPA, CA 94558

White Bread Pg 1 of 1
APN 32-080-29430
+ 32-090-40 # U-455687

ROSSANNE AND CURTIS OSULLIVAN
480 MARKHAM
SAN BRUNO, CA 94066

FLETCHER AND ROBERTA BENTON
2100 PINE ST.
SAN FRANCISCO, CA 94115

22
mailed 4-23-87
pic

FOSS VALLEY WINE COMPANY
C/O WILLIAM HILL & CO.
P. O. BOX 3989
NAPA, CA 94558

EDMUND AND JEANNETTE SAWYER
2915 SODA CANYON RD.
NAPA, CA 94558 *Duplicate*

mailed
Appeal; Both high
7/23/87 pic

~~32-080-11~~
JASMINE SCHWANER
1964 MOUNTAIN AVE.
OAKLAND, CA 94611
*notice ret 7/27/87
no forwarding address*

JOSEPH AND MARY SCHREUDER
2882 SODA CANYON RD.
NAPA, CA 94558

Napa Valley Unified School
District
Attn: General Counsel
2425 Jefferson St
Napa, CA 94558

~~FOSS VALLEY SCHOOL DISTRICT
NAPA, CA 94558~~
see NVUSD

~~ROSEANNE AND CURTIS OSULLIVAN
480 MARKHAM
SAN BRUNO, CA 94066~~ *Duplicate*

Muriel Hankins
3354 Soda Canyon Road
Napa, CA 94558

ZORKA ASTEN
207 BARTLETT
SAN FRANCISCO, CA 94110

NO. CA CONF ASSN OF THE 7th
DAY ADVENTISTS
C/O JUNE TOWNSEND
3149 SODA CANYON RD.
NAPA, CA 94558

Vic Fershko
1005 Coombs
Napa, CA 94558

EDMUND AND JEANNETTE SAWYER
2915 SODA CANYON RD.
NAPA, CA 94558

HENRY AND REBECCA SNYDER
3399 SODA CANYON RD.
NAPA, CA 94558

7/23/87
Note: Unable to locate
Joan Cohen address;
Research thru other
Whitebread file. pic

RAYMOND AND JANA MARTINEZ
3150 SODA CANYON RD.
NAPA, CA 94558

RONDALD AND CAROLYN LECAIR
472 FOOTHILL BLVD.
NAPA, CA 94558

Jeannette Sawyer
3148 Soda Canyon Rd.
Napa, CA 94558

STEVEN TURNER
1320 TRANCAS ST. BOX 101
napa, ca 94558

DONALD AND JANET WHITMAN
3520 SODA CANYON RD.
NAPA, CA 94558

D. P & F
Attn: Daniel Mayers
809-Coombs
Napa, CA 94559

JOE AND PAULA SAVAGE
P. O. BOX 971
RENO NV. 89504

CURTIS AND SHIRLEY WINN
1507 MAXWELL AVE.
NAPA, CA 94558

EXHIBIT PD-20
PAGE 7 OF 9

ATTACHMENT #2

Notice of Appeal + Appeal

1. GREGORY RODENO
2140 JEFFERSON ST.
NAPA, CA
2. DICK PETERSON
JAMES BARNES
WHITBREAD OF CALIFORNIA, INC
BOX 5660
NAPA, CA
3. WENDY LOCKWOOD
ENVIRONMENTAL SERVICES
760 HARRISON ST.
SAN FRANCISCO, CA 94107
4. JUNE TOWNSEND
3149 SODA CANYON ROAD
NAPA, CA
5. PAUL DOUCETTE
3240 SODA CANYON ROAD
NAPA, CA
6. HENRY SNYDER *Duplicate*
3399 SODA CANYON ROAD
NAPA, CA
7. BILL PHILLIPS
SUMMIT ENGINEERING
1400 N. DUTTON AVE. #22
SANTA ROSA, CA 93041
8. JAMES C. HANSON
444 N. 3RD ST., SUITE 400
SACRAMENTO, CA 95813-14
9. CHARLES VAN ALSTINE
WALLACE VAN ALSTINE & KUHL
2742 INDUSTRIAL BLVD.
W. SACRAMENTO, CA 95814
10. JERALD HYDE
P.O. BOX 55
ST. HELENA, CA
11. BILL HURRELL
WILBUR SMITH & ASSOCIATES
282 2ND ST., 2ND FLOOR
SAN FRANCISCO, CA 94105
12. GEORGE ALLEN PROUTY
1207 SODA CANYON ROAD
NAPA, CA

EXHIBIT PD-20

PAGE 8 OF 9

13. WILSON GODDARD
GODDARD & GODDARD ENGINEERING
P.O. BOX 1096
UPPER LAKE, CA 95485

14. DIANE SHEPP
3580 SODA CANYON ROAD
NAPA, CA

15. CHERYL HANKINS
2189 CORONADO AVE.
NAPA, CA

16. RICHARD MacCABE
3366 SODA CANYON ROAD
NAPA, CA

17. RAY TOKAREFF
2411 SODA CANYON ROAD
NAPA, CA

18. ED SAWYER
3148 SODA CANYON ROAD
NAPA, CA

19. ALLISON YERKES
675 SODA CANYON ROAD
NAPA, CA

20. JOSEPH SCHRUEDER *duplicate*
2882 SODA CANYON ROAD
NAPA, CA

21. Victor A. Ferishko
1005 Coombs St
Napa, CA 94559

Notice of Appeal only

NAPA COUNTY BOARD OF SUPERVISORS

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN, that on Tuesday morning, the 1st day of September, 1987, at the hour of 10:00 A.M. in the County Administration Building, 1195 Third Street, Room 305, Top Floor, Napa, California, a public hearing will be conducted by the Board of Supervisors of the County of Napa regarding the appeal identified below. All interested persons are invited to attend the hearing and be heard.

APPEAL BY VICTOR FERSHKO, ON BEHALF OF BENTON, SAWYER, SCHREUDER, SHEPP AND COHEN, to: (1) the issuance of construction permits #0040072 for grading on May 19, 1987 and #0040100 for winery (phase 1-A) on May 26, 1987 to Whitbread of California for Assessor's Parcel #32-080-05 and (2) a decision by the Conservation, Development and Planning Commission on July 1, 1987 to adopt a Negative Declaration and approve Use Permit #U-488687 of Whitbread of California, Inc. to establish a 450,000 gallons per year winery with no public tours or tastings and to construct related waste disposal ponds located on 680 acres south and east of the terminus of Soda Canyon Road in Foss Valley within an AW (Agricultural Watershed) District. (Assessor's Parcels #32-040-40, 32-080-29 and 30)

Comments regarding the project or the environmental effects of the project are solicited. All new written material to be considered must be submitted by 5:00 PM, August 24, 1987. All rebuttals to be submitted by 5:00 PM, August 26, 1987.

Copies of all documents which relate to the above described project, including the environmental document, may be examined at the Napa County Conservation, Development and Planning Department, 1195 Third Street, Room 210, Napa, California.

IF YOU CHALLENGE ANY OF THESE PROCEEDINGS IN COURT, YOU MAY BE LIMITED TO RAISING ONLY THOSE ISSUES YOU OR SOMEONE ELSE RAISED AT THE PUBLIC HEARING DESCRIBED IN THIS NOTICE, OR IN WRITTEN CORRESPONDENCE DELIVERED TO THE PLANNING COMMISSION OR BOARD OF SUPERVISORS AT OR PRIOR TO THE PUBLIC HEARING.

DATED: August 18, 1987

JAMES H. HICKEY, Director

PUBLISH: Thursday, August 20, 1987, Napa County Record

EXHIBIT PD-21
PAGE 1 OF 1



NAPA COUNTY

CONSERVATION — DEVELOPMENT AND PLANNING DEPARTMENT

JAMES H. HICKEY
Director

1195 THIRD STREET, ROOM 210 • NAPA, CALIFORNIA 94559-3092
AREA CODE 707/253-4416

August 18, 1987

Rodeno, Robertson & Associates
2140 Jefferson Street
Napa, CA 94559

Re: Whitbread Use Permit #U-488687
Supervisors hearing on appeal

Dear Mr. Rodeno:

I am returning to you pages of the corrected Whitbread transcript upon which I have noted corrections that were overlooked or incorrectly completed by your transcriber. I also noted a few corrections which were errors during my first proofreading.

Please have the noted corrections completed and return the corrected transcript so that I may certify it for the upcoming appeal hearing.

We have made arrangements to have the July 1 hearing prepared by an outside transcriber.

Sincerely yours,

A handwritten signature in cursive script that reads "Patricia L. Gaskell".

Patricia L. Gaskell

EXHIBIT PD-22
PAGE 1 OF 4



NAPA COUNTY

CONSERVATION — DEVELOPMENT AND PLANNING DEPARTMENT

JAMES H. HICKEY
Director

1195 THIRD STREET, ROOM 210 • NAPA, CALIFORNIA 94559-3092
AREA CODE 707/253-4416

August 13, 1987

Margaret Devers
4220 Shady Creek Road
Vacaville, CA 95688

Dear Ms. Devers:

Enclosed you will find an excerpt from the summary minutes of the meeting of July 1, 1987, of the Conservation, Development and Planning Commission, as well as two sample title pages (as requested): one for Commission discussion only and one for public hearings. Please use the sample for the "Commission discussion" (no public hearing) when preparing this transcript.

As we discussed, "false starts" are to be included in this and all future verbatim transcripts. While I realize editing is a widespread practice, even in the legal field, such latitude is determined by the person who controls the production of the transcript. In this case, that determination is made by the Planning Department Minutes Clerk who ultimately certifies the transcript as complete and accurate.

To aid you in preparation of the transcript, I have listened to the hearing and identified voices in order as follows: Crundall, Nord (interjecting but not completing statement), Crundall, Nord, Hickey, Kay, Crundall, Nord, Kay, Hickey, Nord, Hickey, Nord, Luce, Kay, Nord, O'Loughlin, Luce, O'Loughlin, Nord, Crundall, Luce (motion), Kay (second), Nord, (all ayes), Luce (motion), McGrew (second), Nord (false start), Kay, Luce, Kay, Luce, Crundall, Lober, Kay, Crundall, Lober, Kay, Lober, Luce (muttering), Nord, Kay, Lober, Kay, Lober, Kay, Lober, Luce, Hickey, Crundall, Lober, Crundall, Hickey, Nord, Luce, Kay, Luce, Kay, Nord, (all ayes).

One name mentioned in the hearing is "Gregory Rodeno," attorney representing the applicant.

The certified transcript has been requested by Mr. Rodeno and needs to be completed prior to the Board of Supervisor's mailout date of August 27, 1987. If you have any questions, feel free to contact me at 253-4633 or Jeanne Miller at 253-4634.

Sincerely yours,

Patricia L. Gaskell

Patricia L. Gaskell

EXHIBIT

PD-22

PAGE

2

OF

4



NAPA COUNTY

CONSERVATION — DEVELOPMENT AND PLANNING DEPARTMENT

JAMES H. HICKEY
Director

1195 THIRD STREET, ROOM 210 • NAPA, CALIFORNIA 94559-3092
AREA CODE 707/253-4416

August 12, 1987

Rodeno, Robertson & Associates
2140 Jefferson Street
Napa, CA 94559

Attn: Gregory Rodeno

Re: Whitbread Use Permit No. U-488687

Dear Mr. Rodeno:

As requested, I have reviewed the tape recording of the June 17th meeting of the Napa County Conservation, Development and Planning Commission concerning the Whitbread Use Permit application and have noted corrections to be made by your transcriber to the transcript you submitted for certification. I will need to review the corrected transcript prior to preparing the document certifying the transcript as complete and accurate.

We are in the process of arranging to have the July 1st hearing prepared as requested and will notify you as soon as that is accomplished.

The cost of the initial review of the June 17th hearing amounts to \$172.50, minus the \$30.00 deposit (Check #2699), for a balance of \$142.50. There will be a further charge to review the corrected transcript prior to certification.

Please return the corrected transcript as soon as possible so that it may be certified prior to the Board of Supervisor's September 1, 1987 hearing on the appeal.

Sincerely yours,

A handwritten signature in cursive script that reads "Patricia L. Gaskell".

Patricia L. Gaskell

EXHIBIT PD-22
PAGE 3 OF 4

CASH RECEIPT PAYOR

COUNTY OF NAPA

NAPA, CALIFORNIA

OFFICE OF Planning

Date 8-7 1987

Received from Bidens, Robertson & Assoc

In Payment of deposit on

certification of 6-17-87

hearing and preparation

of 7-1-87 hearing. (Whittred)

AMOUNT RECEIVED

30 ⁰⁰/₁₀₀

DOLLARS

DOLLARS	CENTS
30	00

Received by:

RECEIPT NUMBER

GC 84040

P. Asbell

EXHIBIT PD-22

PAGE 4 OF 4

WHITBREAD OF CALIFORNIA
P.O. BOX 5660
NAPA, CA 94581
707-252-7971

August 27, 1987

Jim Hall
Napa County Planning Department
1195 Third St., 2nd Floor
Napa, CA 94559

Re: Cave Construction

Dear Jim:

During our discussion yesterday afternoon, you expressed some concern that we might be starting work on the winery for which we are seeking a use permit near the caves that we are building. This is absolutely not true. In fact the small amount of dirt that we are moving is to prepare a staging area to access the caves. If we are successful in acquiring our permit to build our winery at that site, the dirt that we have moved to get access to the caves will have to be moved again. We do not have grading plans drawn up for the winery at this site and so even if we did want to start work, we would not know where to grade. The work that we are presently doing has absolutely no connection with any winery.

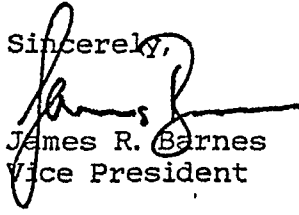
As you are aware, we have been forced to build part of the winery that has already been permitted to allow us to crush this year's grapes. This is the only winery on our site and it is well removed from the caves.

I would like to note that we have asked the County on several occasions about whether there are any requirements for any kind of permits to tunnel caves into our hillside. We have always been told that there are no County permits required to tunnel caves except for an electrical permit which would be required prior to hooking up permanent lighting to P G & E lines. Specifically Messrs. Jim Hickey, Bill Hall and Phil Crundle were present at a meeting earlier this year in which we were told categorically that a permit was not needed from the County for us to build caves on our property on any location other than the electrical permit mentioned above. This has been confirmed in discussions with Bern Klein of Public Works and Bill Crenshaw of the Building Department among others.

I have asked the engineer who has designed the caves, Dick Harding of Earth Science Associates, to contact you today to answer any technical questions you may have.

Please call me if you have any questions. Thank you for all your help.

Sincerely,


James R. Barnes
Vice President

JRB:rmw

cc: Ken Johanson ✓

EXHIBIT PD-23

PAGE 1 OF 1