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Recommended Findings

**PLANNING COMMISSION PUBLIC HEARING – OCTOBER 19, 2016
RECOMMENDED FINDINGS**

**Jessel Gallery and Prime Solum Tasting Room and Barrel Storage
Use Permit Application P12-00194 – UP
1019 Atlas Peak Road, Napa
Assessor's Parcel No. 039-320-008**

ENVIRONMENTAL:

The Planning Commission has received and reviewed the proposed Mitigated Negative Declaration pursuant to the provisions of the California Environmental Quality Act (CEQA, Public Resources Code Section 21000 *et seq.*) and Napa County's Local Procedures for Implementing CEQA, and finds that:

1. The Planning Commission has read and considered the Initial Study and proposed Mitigated Negative Declaration, as well as any comments received thereon, prior to taking action on said Mitigated Negative Declaration and the proposed project.
2. The Mitigated Negative Declaration is based on independent judgment exercised by the Planning Commission.
3. The Initial Study and Mitigated Negative Declaration were prepared and considered in accordance with the requirements of CEQA.
4. There is no substantial evidence in the record as a whole, that the project will have a significant effect on the environment; provided, that mitigation pertaining to potential impacts to off-site bicycle use is incorporated as a condition of approval of the project.
5. There is no evidence, in considering the record as a whole that the proposed project will have a potential adverse effect on wildlife resources or habitat upon which the wildlife depends.
6. The site of this proposed project is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5 and is not within the boundaries of any airport land use plan.
7. The Secretary of the Planning Commission is the custodian of the records of the proceedings on which this decision is based. The records are located at the Napa County Planning, Building & Environmental Services Department, 1195 Third Street, Room 210, Napa, California.

USE PERMIT:

The Planning Commission has reviewed the use permit request in accordance with the requirements of the Napa County Code Section 18.124.070 and makes the following findings:

8. The Planning Commission has the power to issue approval for the requested Use Permit, Application P12-00194, under the Zoning Regulations in effect as applied to property.

Analysis: The property is located in the CL (Commercial Limited) District, where art studios/galleries and bars (tasting rooms) with up to 100 seats are allowed upon Planning Commission approval of a use permit (Napa County Code Section 18.28.030). The current request for use permit for both uses is therefore consistent with the conditionally permitted uses of the property's zoning, and County Code Section 18.124.010 identifies the Planning Commission as the decision-making body regarding requests for use permits. There is no companion action necessary for the requested Use Permit, that would require action by the Board of Supervisors.

9. The procedural requirements for a Use Permit set forth in Chapter 18.124 of the Napa County Code (zoning regulations) have been met.

Analysis: The Use Permit application has been appropriately filed, and notice and public hearing requirements have been met. In accordance with the requirements of Napa County Code Section 18.124.040.B and CEQA Guidelines Section 15072, the notice of public hearing and intent to adopt a Mitigated Declaration was published in the Napa Valley Register and posted with the Napa County Clerk on September 28, 2016, and copies of the notice were mailed via first class or electronic mail to: 1) the property owner; 2) the applicant and the applicant's representative; 3) owners of property within 1,000 feet of the subject parcel; 4) the City of Napa, as water purveyor to the property; and 5) other parties who had expressed interest in the project or submitted written requests for such notification. The public comment period on the proposed Mitigated Negative Declaration commenced on September 29, 2016, and ended on October 18, 2016.

10. The grant of the Use Permit, as conditioned, will not adversely affect the public health, safety or welfare of the County of Napa.

Analysis: Granting the Use Permit as proposed and conditioned will not adversely affect the health, safety or welfare of the County. The Use Permit will correct existing issues of zoning noncompliance with respect to the Jessel Gallery and accessory residence and would additionally permit operation of a 100-seat wine tasting room and barrel storage establishment. Site improvements proposed are consistent with applicable development regulations of Title 8 (Health and Safety), Title 16 (Environment), and Title 18 (Zoning) of Napa County Code. Daily vehicle trips to the property will increase as visitation to the wine bar in the warehouse building will occur with granting of the Use Permit; however, proposed site improvements also include construction of a new, paved off-street vehicle parking for patrons, with the number of stalls to be provided in accordance with minimum requirements of the Zoning Code. Approval of the proposed project would also facilitate accessibility and sustainability improvements to the buildings, including energy-efficiency and/or water-efficiency enhancements to both buildings, in addition to construction of a covered trash enclosure, a stormwater pollution prevention measure not currently in place on the property.

Various County divisions and departments have also reviewed the project and commented regarding stormwater quality preservation and off-site improvements related to the proposed project. Conditions are identified that will incorporate these comments and mitigations into the project to assure the protection of the public health, safety, and welfare.

11. 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.

Analysis: Consistency with the General Plan

As proposed and as conditioned, the requested Use Permit is consistent with the overall goals and objectives of the General Plan (2008).

The General Plan land use designation for the subject parcel is Rural Residential. As described in General Plan Agriculture and Land Use Policy AG/LU-35, the primary land use envisioned for properties so designated is low density residential; however, Rural Residential lands near public recreational areas that also have minimum fire hazard and are proximate to services and access roads are also potentially suitable for tourist- and resident-serving commercial development. The property is in the vicinity of the Silverado Resort, a large-scale, privately-owned but publicly-accessible hospitality business with a variety of recreational amenities including golf and tennis. The proposed project site has recently received potable water service from the City of Napa, and has direct access to Atlas Peak Road, a four-lane street in front of the property that narrows to two-lanes further north and provides access to the Silverado neighborhood and resort. The proposed uses, as tourist-serving businesses described in Policy AG/LU-35, are consistent with the General Plan description of the Rural Residential land use designation.

The proposed project, which includes recognition of and allowance for continued use (art gallery) within an existing building that is potentially eligible for listing on a historic register, is consistent with Community Character Goal CC-5 encouraging reuse of historic structures. Water demand generated by the requested uses would be in line with General Plan goals supporting prioritization of groundwater for agricultural purposes (Goal CON-11), as the commercial, non-agricultural uses would be served by municipal water and would reduce groundwater needs to landscape irrigation and a one-time extraction for storage of water for emergency fire suppression. Although the requested uses are non-agricultural, the operation of the wine tasting room and barrel storage in the warehouse building would support the county's agricultural activities by providing a means to sell and promote wine as an agricultural processing product of the county, consistent with General Plan Economic Development Policy E-1. Operation of Jessel Gallery is also consistent with Policy E-7, which "encourages a healthy and thriving arts and culture community, recognizing that it enhances the aesthetic appeal of Napa County, enriches the quality of life of all residents, and contributes to a vital economy."

Recognition of the existing apartment unit above Jessel Gallery is likewise consistent with Housing Element goals, policies and programs in support of mixed use development and efforts to achieve preservation and code compliance, rather than removal, of existing residential units in areas where services are available (Housing Element Goal H-4 and Policy H-1a, Program H-4d). Proposed modifications to the residential unit to replace existing plumbing fixtures with water-efficient ones, as noted in the use permit application greenhouse gas best management practice checklist, is also consistent with Housing Element policy to retrofit existing buildings to enhance efficient use of resources (Policy H-6d).

Lastly, it is noted that the applicant's intent to install a roof-mounted photovoltaic array on the warehouse building is consistent with adopted General Plan goals (CON-68,

CON-70) that encourage the county and permittees to pursue use of renewable energy sources as a means to reduce greenhouse gas emissions, and his agreement to stripe on-street bicycle facilities on Atlas Peak Road is consistent with Policy CON-69 encouraging use of transportation alternatives to the single-occupant automobile.

Analysis: Compliance with the Zoning Ordinance

Bars (tasting rooms) with up to 100 seats, art studios/galleries, and accessory residences are all identified as conditionally permitted uses in the CL (Commercial Limited) District in which the property is located (Napa County Code Section 18.28.030).

Modifications to both buildings are proposed in order to provide access for persons with disabilities and install utility improvements interior to both structures. Although no exterior additions to the Jessel Gallery building are proposed, the use permit request includes additions of two covered seating areas on the eastern and western sides of the existing warehouse building proposed to be occupied by Prime Solum. The areas of these spaces would be 1,438 square feet and 2,023 square feet, respectively. The CL District includes no minimum yards or maximum lot coverage requirements with which the additions must comply, and there are no adjoining residential uses that would dictate larger landscaped setbacks than otherwise required for the perimeter of surface parking lots (County Code Sections 18.28.050 and 18.110.050). With a height of 14 feet at their highest point, the proposed additions would be compliant with the 35-foot maximum building height required by County Code Section 18.104.010.

On-site improvements include installation of a new septic system to serve both proposed uses. General site improvements also include construction of a trash enclosure, installation of parking lot landscaping, paving and striping for 62 vehicular parking stalls adjacent to the two buildings, and placement of bicycle racks in the proposed courtyard. Such improvements are generally consistent with County Code Sections 8.52.100 and 16.28.100 (stormwater quality preservation and management of solid waste); and Sections 18.110.030 and 18.110.040 (off-street parking, with reduction taken for shared uses as described on project plan sheet UP1.0). In order to fully comply with County Code Section 18.110.040, racks for parking of at least 10 bicycles must be included with the improvements. Additionally, while the landscape plan identifies Italian cypress trees spaced every three to five parking stalls in the parking lot (County Code Section 18.110.050.D), the proposed use of this species as a parking lot tree is challenging in terms of meeting the intent of the zoning regulations to provide shade and reduce the heat island effect of the parking lot, particularly along the southern and western property lines.

12. The proposed use would not require a new water system or improvement causing significant adverse effects, either individually or cumulatively, on an affected groundwater basin in Napa County, unless that use would satisfy any of the other criteria specified for approval or waiver of a groundwater permit under Sections 13.15.070 or 13.15.080 of the County Code.

Analysis: The property is within the Milliken-Sarco-Tulocay (MST) water-deficient basin of the County (County Code Chapter 13.15, map 13-1). Historically, uses on the property, including Jessel Gallery, have been served by water drawn from existing wells on-site. Pursuant to a December 2014 agreement between the property owner and City of Napa, water to the property is currently provided from the City of Napa municipal

supply, via a two-inch commercial service line and a six-inch service line for suppression of fire within the existing structures. The applicant has proposed to install a 10,000-gallon tank northwest of the warehouse building, as a means to store supplemental water for suppression of fire within the expanded areas (covered patios) of the warehouse building. This tank would be filled with water drawn from the existing on-site well.

Although the proposed project would utilize groundwater in the MST water-deficient basin, the water drawn from the well would be limited to that used for on-site landscape irrigation and a one-time extraction to fill the tank described above. Groundwater use would therefore decrease from an estimated 80,000 gallons per year, to an estimated 51,000 gallons of water per year for landscape irrigation plus a one-time extraction of 10,000 gallons to fill the storage tank. (Estimated water use for irrigation is based on the 2015 California Modified Water-Efficient Landscape Ordinance, Appendix B, and conservatively assumes that all landscaping is irrigated according to the demands of moderate water-consuming plants.) If all landscaping is low or very-low in its water demands, groundwater use for irrigation would decrease to 25,000 gallons per year. Thus, ongoing operations of both uses, once fully established, would require less daily groundwater extraction compared the current water demand for Jessel Gallery. The proposed project, therefore, is not anticipated to have a significant negative impact on groundwater supplies but should be conditioned to incorporate a modified plant palette that further reduces groundwater demand resulting from landscape irrigation.

Applicable Napa County General Plan Goals and Policies:

Goal AG/LU-1: Preserve existing agricultural land uses and plan for agriculture and related activities as the primary land uses in Napa County.

Policy AG/LU-36 The following standards shall apply to lands designated as Rural Residential on the Land Use Map of this General Plan.

Intent: Provide for low density residential use in neighborhoods that are in proximity to existing urbanized areas but that are currently in agriculture or where further parcelization will be discouraged. On some lands suitable for increased population density near major medical care facilities, large residential care homes may be permitted. Other land near major public recreational areas which, because of its location in relation to existing or future community services, facilities, and access roads, and because of underlying soil and geological characteristics, land slope, and minimum fire hazard, is suitable for low density residential or mixed-use development, tourist-serving commercial development, and resident-serving commercial development.

General Uses: Single-family dwellings, day care centers, large residential care homes, existing major medical care facilities (facilities licensed with a minimum of 100 beds), private schools, agriculture, stables (and others under specified conditions). In Capell Valley and Berryessa Areas, tourist-serving commercial uses and mixed uses will also be allowed.

Minimum Parcel Size: 10 acres, except that all permitted commercial development, and legal residential structures in Deer Park existing on December 31, 1994, and master planned as part of St. Helena Hospital may be allowed on smaller parcels, depending on the type of facility, services available, and surroundings.

Maximum Dwelling Density: One dwelling per parcel (except as specified in the Housing Element).

Goal CC-5 Encourage the reuse of historic buildings by providing incentives for their rehabilitation and reuse.

Policy CC-19 The County supports the identification and preservation of resources from the County's historic and prehistoric periods.

Policy CC-24 Promote the County's historic and cultural resources as a means to enhance the County's identity as the nation's premier wine country and a top tourist designation, recognizing that "heritage tourism" allows tourists to have an authentic experience and makes good business sense.

Goal CON-11 Prioritize the use of available groundwater for agricultural and rural residential uses rather than for urbanized areas and ensure that land use decisions recognize the long-term availability and value of water resources in Napa County.

- Policy CON-68: The County shall promote research and the development and use of advanced and renewable energy technology through the following actions:
- a) Use expedited permit processing or other incentives as promotion mechanisms.
 - b) Assist in securing grants to support the implementation of photovoltaic, wind, and other renewable energy technologies to provide a portion of the county's energy needs.
 - c) Encourage the use of renewable energy resources in residential, commercial, industrial, and agricultural projects and uses.
- Policy CON-69: The County shall provide incentives and opportunities for the use of energy-efficient forms of transportation such as public transit, carpooling, walking, and bicycling. This shall include the provision and/or the extension of transit to urban areas where development densities (residential and nonresidential) would support transit use, as well as bus turnouts/access, bicycle storage, and carpool/vanpool parking where appropriate.
- Policy CON-70: The County shall seek to increase the amount of energy produced through locally available energy sources, including establishing incentives for, and removing barriers to, renewable and alternative energy resources (solar, wind) where they are compatible with the maintenance and preservation of environmental quality.
- Goal E-1: Maintain and enhance the economic viability of agriculture.
- Policy E-1: The County's economic development will focus on ensuring the continued viability of agriculture in Napa County.
- Policy E-7: The County encourages a healthy and thriving arts and culture community, recognizing that it enhances the aesthetic appeal of Napa County, enriches the quality of life of all residents, and contributes to a vital economy. The County will promote and advance public policies aimed at maintaining a vibrant cultural community.
- Goal H-4: Maintain and upgrade the County's housing stock and reduce the number of housing units lost through neglect, deterioration, or conversion from affordable to market-rate or to non-residential uses.
- Goal H-8: Increase energy efficiency and water conservation in new and existing residential structures in unincorporated Napa County.
- Policy H-1a: Improve the quality of the County housing stock over time by ensure that new units meet applicable codes and existing units found to be in violation are brought into compliance as opposed to removed, whenever possible.
- Policy H-6d: Use the County building code, including the County's implementation of the CalGreen code, to encourage and provide incentives for retro-fitting existing buildings and designing new buildings that reduce the use of fossil fuels and water through energy conservation and the utilization of renewable resources.

Program H-4d: Continue to allow accessory residential uses in commercial zones where compatible with neighboring land uses, and where infrastructure is available to support the residential units.