



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 3/7/2017
Agenda Placement: 9G
Set Time: 10:30 AM
Estimated Report Time: 1 Hour

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: David Morrison - Director
Planning, Building and Environmental Services
REPORT BY: Charlene Gallina, SUPERVISING PLANNER - 299-1355
SUBJECT: Adoption of 2017 Standard Conditions of Approval

RECOMMENDATION

Director of Planning, Building and Environmental Services requests the following actions regarding the 2017 Standard Conditions of Approval:

1. Adoption of the 2017 Standard Conditions of Approval as recommended by the Planning Commission on December 21, 2016 and as subsequently revised to incorporate public comments, regarding the following types of applications: winery related projects, other residential and non-residential development, and all non-winery related projects located in the Specific Plan Area (Napa Valley Business Park);
2. Consideration of expanding standard conditions to include: (a) variance related requests; (b) conservation regulation exceptions; (c) viewshed projects; (d) road modifications in conjunction with use permits or building permits; and (e) tentative parcel map applications;
3. Approval of a review process not to exceed every five (5) years through a public process to ensure that the standard conditions continue to reflect current policy, regulations, and requirements;
4. Direction to staff to begin implementation on March 22, 2017 for those projects that are authorized by the PBES Director and/or the Zoning Administrator, and on April 19, 2017 for projects going to the Planning Commission; and
5. Discussion of a future agenda consideration of whether or not to amend Resolution No. 2010-48, to allow the issuance of Temporary Certificates of Occupancy (TCOs) for hospitality areas within a winery, as requested by the Napa Valley Vintners and Winegrowers of Napa County.

EXECUTIVE SUMMARY

A red-lined document comparing the adopted 2012 standard conditions with the recommended 2017 Standard Conditions, and to enable additional stakeholder review of the final changes recommended by the Planning Commission. The revised recommendation incorporates the requested changes by the Napa Valley Vintners

(NVV) and Winegrowers of Napa Valley (Winegrowers) received on February 7, 2017, as well as, additional corrections recommended by staff. While these recent changes have not been presented to the Planning Commission for consideration, staff believes that they clarify and refine without altering the intent of the Commission's recommendation.

Standard conditions differ from project specific conditions in that standard conditions are requirements, regulations and policies that apply broadly to all discretionary applications (where applicable) and are unrelated to the circumstances of any individual proposal. In contrast, project specific conditions arise from the unique characteristics and/or from mitigation measures related to a particular application. Once adopted, these standard conditions would not be changed by staff, the Planning Commission, or the Board for an individual project unless the set of conditions have first been formally modified by the Board. However, project specific conditions (and mitigation measures if required) would continue to be applied and/or modified on a case-by-case basis.

PROCEDURAL REQUIREMENT

1. Staff Report.
2. Public Comments.
3. Motion, Second, Discussion and Vote on the Item.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

General Rule. It can be seen with certainty that there is no possibility that the proposed action would have a significant effect on the environment and therefore CEQA is not applicable. [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].

BACKGROUND AND DISCUSSION

History

Since the mid-1980's, the County has relied upon a template of standard conditions of approval in applying uniform requirements to development approvals consistent with current standards. Due to the unique and complex regulations associated with wineries, over time a separate set of standard conditions specific to wineries has evolved. The last update to the standard conditions occurred in December 2012, primarily to reflect the Department's structural reorganization, clarify regulatory intent, and improve overall disclosure for customers. A set of standard conditions was also adopted at that time for other (non-winery related) projects associated with commercial, residential, institutional, and industrial development. A copy of the standard conditions adopted in 2012 is provided in Attachment H.

Since 2012, there has been increased focus on both winery development and compliance, resulting in an interest in making the standard conditions clearer and more explicit. This interest has applied to the specific uses and intensities proposed under new approvals, as well as the vested rights associated with previous legally established entitlements. In addition, there have been new requirements, such as the 2015 Water Availability

Analysis (WAA) Policy that need to be addressed. Consequently, staff initiated a comprehensive update to the standard conditions in early 2016.

On June 22, 2016, the proposed draft standard conditions were provided to regular customers and stakeholders of the PBES Department to solicit feedback and comment prior to bringing the conditions to the Planning Commission for formal consideration. On August 3, 2016, staff presented their recommended conditions to the Planning Commission, as well as a proposed outline of how the conditions could be reorganized to make them more effective during project implementation. At that time, staff requested a continuance of the item to address concerns expressed by stakeholders and the general public. The Planning Commission directed staff to follow the proposed outline when updating conditions.

On December 7, 2016, staff presented the revised conditions to the Planning Commission. Comments were received from the Napa Valley Vintners and Winegrowers of Napa County requesting revisions in response to the new proposal. On December 21, 2016, the Planning Commission considered staff's response to the comments and the revised standard conditions. After receipt of public testimony and Commission discussion, the Planning Commission voted unanimously to recommend that the Board adopt the proposed set of Standard Conditions as modified.

A copy of the abbreviated Planning Commission staff reports and all public comments are provided in Attachments F and G for review. A full copy of the Commission staff reports can be found on the County's website at http://napa.granicus.com/ViewPublisher.php?view_id=21

A clean version of the recommended winery Standard Conditions of Approval is provided in Attachment A. In addition, a red-lined version of the same document is provided in Attachment I, which shows the minor corrections and clarifications that have since been added by staff to the Planning Commission's recommendation. Staff has also included a tracked change version comparing the recommended 2017 changes with the currently approved 2012 Standard Conditions of Approval (Attachment D). Attachments B (Other Projects) and C (Specific Plan Area) have similarly been updated to reflect applicable changes similar to those changes provided in the Winery Standard Conditions.

Proposed Standard Conditions

Each of the proposed three sets of Standard Conditions of Approval (Winery; Other Non-Residential/Residential projects; and Specific Plan Area - Napa Valley Business Park) have been reorganized into the following format (Part I, Part II, and Part III): [Please refer to Attachments A, B, & C]

Introduction

Part I

1. Project Scope
2. Statutory & Code References
3. Monitoring Costs

Part II

4. Operational Characteristics of the Project

Part III

5. Prerequisite for Issuance of Permits
6. Grading/Demolition/Environmental/Building Permit/Other Permit Prerequisites
7. Project Construction
8. Temporary Certificate of Occupancy - Prerequisites

9. Final Certificate of Occupancy - Prerequisites

This format presents the permittee with the project scope and operational requirements up front, followed by a logical sequence of phasing that includes preconstruction, construction, temporary occupancy, and final occupancy requirements for a project. Wording of the conditions has been modified to standardize the language, ensure consistency, and avoid duplication. Many stakeholder and general public comments were also incorporated into the revised conditions to provide greater clarification. Furthermore, the conditions have been reorganized into project categories for ease of use by the property owner, the permittee, engineers/architects, contractors, the public, and County staff. In those instances where a comment requested a change in adopted policy and/or Zoning Code regulation, the conditions were not revised because changes in policy or zoning code regulations require prior direction from the Board of Supervisors.

Proposed Application of Previous Conditions of Approval

There are a vast number of private properties within the unincorporated area of the County that contain some form of existing discretionary land use entitlement. The most common entitlements are winery use permits. Many of these land use entitlements are quite complex involving companion actions such as a parcel map, viewshed, road and/or conservation exception, and/or variance. Layered entitlements are also quite common where a use permit has subsequently been modified with major, minor and/or very minor use permit modifications. In many cases there are multiple subsequent modifications, each associated with specific regulatory rights. Generally, as a winery becomes older and larger, its land use entitlement becomes more complex. This raises a general customer service question of how to best manage this increasing challenge.

To date, the County has looked at each subsequent entitlement independently, with a condition of approval declaring that if a conflict exists between a newer condition and a previous condition, then the newer condition prevails. The most evident drawback of this approach is the potential for conflict between subsequent entitlements. During development of the updated standard conditions, staff looked into the possibility of changing how use permit modifications and other subsequent land use actions could be addressed to reduce these conflicts. Staff presented two conceptual approaches to the Planning Commission. The first was the concept of "consolidation", which simply means that all previous use permit conditions would be compiled into a single document as part of a new use permit modification action. This would essentially be a comprehensive list of all prior entitlements included with the conditions of the new entitlement. Duplicated conditions would remain but all conditions (new and old) would be in a single document for ease of reference. The second concept of "integration" involves a labor intensive effort for systematically updating all previously adopted conditions to eliminate duplicative information, eliminate inconsistencies/conflicting information, and refine conditions into a single more manageable document. The concept of integration provides the greatest degree of clarity for permittees and staff, but could compromise existing vested and legally established entitlements and would require a substantial work effort.

As recommended by the Commission, staff modified the proposed conditions to implement the concept of "consolidation", so that all previous use permit conditions will be compiled into a single document as part of any new use permit modification action. Duplicated conditions would remain as part of the approval, including prior non-construction and/or operational related conditions of approval. The Commission recommended this option, given the current high volume of workload and available staff resources.

Recent Public Comments

On January 26th, staff distributed the draft standard conditions as recommended by the Planning Commission to the stakeholders and general public. In response to the new version, comments were submitted by the Napa Valley Vintners and the Winegrowers of Napa County on February 7, 2017 (please refer to Attachment E). The final Winery Standard Conditions of Approval version presented for current consideration in Attachment A fully

addresses their concerns, except for Condition No. 8.1: Temporary Certificate of Occupancy, where they request the following change:

"Temporary Certificate of Occupancy, 8.1. We request that the Board allow TCOs for hospitality buildings upon a showing that the building may be safely occupied prior to completion and that the winery has made, and will continue to make, a concerted and diligent effort to complete all outstanding work, as determined by the PBES Director."

Resolution No. 2010-48, adopted by the Board of Supervisors on May 11, 2010, is directly relevant to this request. Exhibit A of the Resolution states the following:

V. Temporary Certificates of Occupancy

The Building Department will continue their practice of allowing new wineries to produce wine after a temporary certificate of occupancy (TCO) has been granted, and to prohibit wineries from opening to the public for tours and tasting or for marketing events until they have a final certificate of occupancy. TCOs are generally not to be used to allow production of wine for more than one year.

Staff acknowledges the comment and notes that proposed Standard Condition No. 8.1 requires no further changes, since it is currently in compliance with County Code and Board policy direction. Therefore, the changes requested would require a change in policy direction by the Board of Supervisors and amendment of Resolution No. 2010-48. As this item is not currently noticed, should the Board choose to consider this request, staff requests that it be placed on a future agenda for discussion and direction.

Next Steps

Upon adoption by the Board, staff proposes to implement the new set of standard conditions beginning March 22nd for those projects that are authorized by the PBES Director and/or the Zoning Administrator. For projects going to the Planning Commission, staff proposes implementing the conditions on April 19th. There are six applications that could potentially be heard by the Planning Commission before this deadline. This would enable staff to accommodate applicants whose projects are ready to go to hearing and to provide time for all Department staff to be trained in the new template.

Staff believes that the Standard Condition update has been a very useful process, that has allowed clear definition of both the legally established rights and privileges that accrue to the property owner, as well as the limits and obligations to be enforced by the County. Given the dynamic nature of the wine industry, as well as the rapidly changing State and Federal regulatory environment, staff recommends that this process occur on a regular basis, not to exceed five years. This would allow potential issues to be identified and addressed as they arise, providing certainty to staff, applicants, and the general public.

The vast majority of planning projects processed by PBES are Use Permits and Modifications. As a result, this effort has focused on updating the Standard Conditions for those types of applications. However, the benefits of this process could be applied to other applications, such as variances, conservation regulation exceptions, view shed requests, road modifications, and parcel maps. Staff recommends that the Board direct that the conditions of approval be standardized and updated for these other categories of projects as well.

SUPPORTING DOCUMENTS

A . Recommended Winery Standard Conditions of Approval (clean version), dated 3-1-17

B . Recommended Draft Other Project Standard Conditions of Approval, Dated 2-28-17

- C . Recommended Draft SPA-NonWinery Standard Conditions of Approval, Dated 2-28-17
- D . Tracked Proposed Changes Compared with 2012 Winery Conditions, Dated 3-1-17
- E . Public Comments - Napa Valley Vintners & Winegrowers of Napa County
- F . Previous Planning Commission Staff Report & Public Comments - December 21, 2016
- G . Previous Planning Commission Staff Report & Public Comments - August 3, 2016
- H . Adopted 2012 Winery & Other Project Standard Conditions, Dated 12-5-12
- I . Recommended Winery Standard Conditions of Approval (red-lined version), 3-1-17

CEO Recommendation: Approve

Reviewed By: Helene Franchi