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Agenda Date: 6/21/2011
Agenda Placement: 9J
Set Time: 10:30 AM
Estimated Report Time: 10 Minutes

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Minh Tran for Westmeyer, Robert - County Counsel
County Counsel
REPORT BY: Minh Tran, ASSISTANT COUNTY COUNSEL - 8273
SUBJECT: Morlet Family Estate Winery Appeal - Findings of Fact and Decision on Appeal

RECOMMENDATION

Consideration, discussion and possible action to continue the adoption of Findings of Fact and Decision on Appeal for the Morlet Family Estate Winery appeal to the Board's regular meeting on July 12, 2011.

ENVIRONMENTAL DETERMINATION: Mitigated Negative Declaration prepared. According to the Mitigated Negative Declaration, if a mitigation measure is not included, the proposed project would have potentially significant environmental impacts to Biological Resources. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

(APPLICANT REQUESTS CONTINUANCE TO JULY 12, 2011)

EXECUTIVE SUMMARY

On May 10, 2011, the Board of Supervisors heard the appeal of Mr. William Ballentine, Jr. to the Planning Commission's approval of the Morlet Family Estate Winery Use Permit Major Modification (P10-00375). After the close of the public hearing, the Board tentatively voted to deny the appeal, and directed County Counsel to prepare "Findings of Fact and a Decision on Appeal" for formal adoption reflecting the tentative decision.

The project proponent requests that the Board of Supervisors continue the adoption of "Findings of Fact and a Decision on Appeal" to July 12, 2011 to allow additional time for the parties to negotiate a settlement. Staff supports the requested continuance.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

A Mitigated Negative Declaration was prepared and circulated for public review from January 28, 2011 through February 28, 2011. According to the Mitigated Negative Declaration, if a mitigation measure is not included, the proposed project would have potentially significant environmental impacts to Biological Resources. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

Should the Board grant the appeal and deny the Use Permit Major modification, the action is exempt from the California Environmental Quality Act per CEQA Guidelines Section 15270 (Projects Which Are Disapproved), which establishes that CEQA does not apply to projects which a public agency rejects or disapproves. However, should the Board deny the appeal, the Board must adopt the Mitigated Negative Declaration and approve Use Permit Major Modification P10-00375. Lastly, should the Board grant a modified portion of the appeal and modified portion of the Planning Commission's approval of the project, the Board must also adopt the Mitigated Negative Declaration in support of the modified action.

BACKGROUND AND DISCUSSION

On May 10, 2011, the Board of Supervisors heard the appeal of Mr. William Ballentine, Jr. to the Planning Commission's approval of the Morlet Family Estate Winery Use Permit Major Modification (P10-00375). After the close of the public hearing, the Board tentatively voted to deny the appeal, and directed County Counsel to prepare Findings of Fact and a Decision on Appeal for formal adoption reflecting the tentative decision.

Soon after the May 10, 2011 appeal hearing, the project proponent's attorney represented to County staff that representatives of the Morlet Family Estate Winery (Applicant) have engaged in ongoing discussions with Mr. William Ballentine, Jr. (Appellant). The Applicant hopes to reach a compromise which will allow the appeal to be withdrawn and the winery use permit major modification to move forward. Please see Attachments A and B for the Applicant's correspondence with County staff requesting that the Board of Supervisors continue the adoption of "Findings of Fact and a Decision on Appeal" to July 12, 2011 to allow additional time for the parties to negotiate a settlement.

Staff believes that, given the additional 3 weeks to work out their issues, the Applicant and the Appellant will come to terms and the appeal will be withdrawn. Should that not happen, the "Findings of Fact and a Decision on Appeal" will come back before the Board on July 12, 2011 for formal adoption.

SUPPORTING DOCUMENTS

A . Applicant's June 1, 2011 email re potential settlement.pdf

B . Applicant's June 15, 2011 email re request for continuance.pdf

CEO Recommendation: Approve

Reviewed By: Helene Franchi