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Agenda Date: 8/22/2017
Agenda Placement: 9B
Set Time: 9:00 AM
Estimated Report Time: 30 Minutes

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Laura Anderson for Minh Tran - County Counsel
County Counsel
REPORT BY: Laura Anderson, Deputy County Counsel - 259-8252
SUBJECT: Mountain Peak Winery Appeal Findings of Fact

RECOMMENDATION

County Counsel requests consideration and adoption of four resolutions regarding the following:

1. A Resolution of Findings of Fact and Decision on Appeal denying the appeal filed by Appellant Kosta M. Arger in its entirety, adopting the Negative Declaration, and upholding the Planning Commission's approval of **Use Permit No. P13-00320-UP for the Mountain Peak Winery** and the exception to the Road and Street Standards (RSS) for the Mountain Peak Winery subject to the Updated Conditions of Approval (Updated COA);
2. A Resolution of Findings of Fact and Decision on Appeal denying the appeal filed by Appellant Cynthia Grupp in its entirety, adopting the Negative Declaration, and upholding the Planning Commission's approval of Use Permit No. P13-00320-UP and the exception to the RSS for the Mountain Peak Winery subject to the Updated COA;
3. A Resolution of Findings of Fact and Decision on Appeal denying the appeal filed by Appellant William Hocker in its entirety, adopting the Negative Declaration, and upholding the Planning Commission's approval of Use Permit No. P13-00320-UP and the exception to the RSS for the Mountain Peak Winery subject to the Updated COA; and
4. A Resolution of Findings of Fact and Decision on Appeal denying the appeal filed by Appellant Glenn Schreuder in its entirety, adopting the Negative Declaration, and upholding the Planning Commission's approval of Use Permit No. P13-00320-UP and the exception to the RSS for the Mountain Peak Winery subject to the Updated COA.

Adoption of the Resolutions and approval of the Mountain Peak Winery would allow the following: (1) construction of a new 100,000 gallon per year winery including an approximately 33,424 square foot cave, approximately 8,046 square foot tasting and office building, and approximately 6,412 square foot covered outdoor crush pad and work area; (2) demolition of the existing single family residence; (3) installation of 26 parking spaces; (4) construction of 2 new driveways and private access roads with ingress/egress from Soda Canyon Road; (5) installation of a High

Treatment wastewater treatment system and community non-transient potable water supply sourced from on-site private wells including two 100,000 gallon water tanks for vineyard irrigation and one 20,000 gallon water tank for domestic supply; (6) disposal of all cave spoils on-site within existing vineyards; (7) 19 full time employees, 4 part-time employees and 4 seasonal harvest employees; (8) tours and tastings by prior appointment only for a maximum of 60 visitors per day and a maximum of 275 visitors per week; (9) a marketing plan of 2 annual events for a maximum of 75 visitors and 1 event for a maximum of 125 visitors; and (10) on premises consumption of wines produced on site in the tasting room and outdoor terrace. The Project also includes approval of an exception to the Napa County Road and Street Standards (RSS) to increase the maximum slope on a portion of the commercial access road to the covered crush pad and cave portals from 16% to 19.6%. The Project is located on a 41.76-acre parcel on the northwest side of Soda Canyon Road, approximately 6.1 miles north of its intersection with Silverado Trail, 3265 Soda Canyon Road, Napa, CA, 94558; APN: 032-500-033.

ENVIRONMENTAL DETERMINATION: Consideration and possible adoption of a Negative Declaration. According to the proposed Negative Declaration, the proposed Project would not have any potentially significant environmental impacts. The Project site is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5.

(CONTINUED FROM APRIL 18, MAY 23 AND AUGUST 15, 2017)

EXECUTIVE SUMMARY

At the appeal hearing on May 23, 2017, the Board heard and considered evidence submitted from the Appellants, Applicant, Staff, and members of the public regarding the appeals. After considering all of the evidence presented, the Board closed the public hearing and adopted motions of intent to adopt the following:

1. A Resolution of Findings of Fact and Decision on Appeal denying the appeal filed by Appellant Kosta M. Arger, in its entirety, adopting the Negative Declaration, and upholding the Planning Commission's approval of Use Permit No. P13-00320-UP and the exception to the RSS for the Mountain Peak Winery subject to the Updated COA;
2. A Resolution of Findings of Fact and Decision on Appeal denying the appeal filed by Appellant Cynthia Grupp, in its entirety, adopting the Negative Declaration, and upholding the Planning Commission's approval of Use Permit No. P13-00320-UP and the exception to the RSS for the Mountain Peak Winery subject to the Updated COA;
3. A Resolution of Findings of Fact and Decision on Appeal denying the appeal filed by Appellant William Hocker, in its entirety, adopting the Negative Declaration, and upholding the Planning Commission's approval of Use Permit No. P13-00320-UP and the exception to the RSS for the Mountain Peak Winery subject to the Updated COA; and
4. A Resolution of Findings of Fact and Decision on Appeal denying the appeal filed by Appellant Glenn Schreuder, in its entirety, adopting the Negative Declaration, and upholding the Planning Commission's approval of Use Permit No. P13-00320-UP and the exception to the RSS for the Mountain Peak Winery subject to the Updated COA.

The Board directed Staff to return on August 15, 2017, with a Resolution of Findings of Fact and Decision on Appeal (the Resolution) for each of the four appeals. In early June, the Clerk of the Board received direction to schedule a special Board meeting on August 22, 2017. Because of the number of items previously scheduled on the Board's agenda for August 15th, this item was continued on August 15th to today's special meeting with the concurrence of all parties. Staff has prepared four proposed Resolutions that reflect the Board's intent as expressed on May 23rd, which were shared with the Applicant's and Appellants' respective counsel on July 24th. Most but not all of the revisions requested by Applicant's counsel and Appellants' counsel were incorporated into the Resolutions and Updated COA. The public hearing is closed. Public comment is limited to whether or not the

proposed Resolutions and Updated COA accurately reflect the Board's intent as expressed on May 23rd.

PROCEDURAL REQUIREMENTS

1. Staff report.
2. Chair invites Appellants, the Applicant and interested parties to comment on the proposed findings.
3. Motion, second, discussion and vote on the findings. *Note: Because of the multiple appeals, Staff requests that the Board act on each of the four resolutions separately and that the Chair call for a vote on each.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: Consideration and possible adoption of a Negative Declaration. According to the proposed Negative Declaration, the proposed Project would not have any potentially significant environmental impacts. The Project site is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5.

BACKGROUND AND DISCUSSION

On January 4, 2017, after considering the Staff report, Applicant's presentation, and all public comment, the Planning Commission voted (3:1 – AYES: Basayne, Gill, Scott; NOES: Cottrell) to approve the Mountain Peak Winery. On January 30, 2017, timely appeal packets were filed by Appellant Kosta M. Arger, Appellant Cynthia Grupp, Appellant William Hocker, and Appellant Glenn Schreuder to the Planning Commission's decision to approve the Project.

Pursuant to the County's appeals ordinance (Napa County Code Chapter 2.88) a public hearing on the appeal must be scheduled not less than fifteen days nor more than ninety calendar days from submittal of an appeal. To accommodate all parties' schedules, on April 18, 2017 the Chair opened and continued the hearing (with the consent of all parties) to May 23, 2017. No testimony was taken on April 18th.

On May 23, 2017, the Board heard and considered evidence submitted from the Appellants, Applicant, Staff, and members of the public regarding the appeals including a condition of approval volunteered by the Applicant to source at least 75% of the winery's grapes from parcels in the vicinity of Mountain Peak Winery. After considering all of the evidence presented, the Board closed the public hearing and adopted motions of intent to:

1. Deny the appeal filed by Appellant Kosta M. Arger in its entirety, adopt the Negative Declaration, and uphold the Planning Commission's approval of Use Permit No. P13-00320-UP and the exception to the RSS for the Mountain Peak Winery subject to the Updated COA;
2. Deny the appeal filed by Appellant Cynthia Grupp in its entirety, adopt the Negative Declaration, and uphold the Planning Commission's approval of Use Permit No. P13-00320-UP and the exception to the RSS for the Mountain Peak Winery subject to the Updated COA;
3. Deny the appeal filed by Appellant William Hocker in its entirety, adopt the Negative Declaration, and uphold the Planning Commission's approval of Use Permit No. P13-00320-UP and the exception to the RSS for the

- Mountain Peak Winery subject to the Updated COA; and
4. Deny the appeal filed by Appellant Glenn Schreuder in its entirety, adopt the Negative Declaration, and uphold the Planning Commission's approval of Use Permit No. P13-00320-UP and the exception to the RSS for the Mountain Peak Winery subject to the Updated COA.

The Board directed Staff to include the local grape source condition offered by Applicant into the final Updated COA and to return on August 15, 2017, with a Resolution for each of the four appeals. In early June, the Clerk of the Board received direction to schedule a special Board meeting on August 22, 2017. Because of the number of items previously scheduled on the Board's agenda for August 15th, this item was continued on August 15th to today's special meeting with the concurrence of all parties.

Staff has prepared four proposed Resolutions and Updated COA that reflect the Board's intent as expressed on May 23rd. The Applicant's voluntary grape source condition has been included as Updated COA No. 4.20 (h). Just like all of the other conditions of approval, the voluntary condition once adopted by the Board runs with the land and becomes binding on all future owners of the property and Mountain Peak Winery. The proposed Resolutions and Updated COA were shared with the Applicant's and Appellants' respective counsel on July 24th. Most but not all of the revisions requested by Applicant's counsel and Appellants' counsel were incorporated into the Resolutions and Updated COA. In response to comments from Appellants' counsel, Staff revised Updated COA No. 4.20 (a) to clarify that the noise evaluation would be conducted during the harvest period when activities and noise would be at its highest. Applicant has no objection to the clarification.

The public hearing is closed. Public comment is limited to whether or not the proposed Resolutions and Updated COA accurately reflect the Board's intent as expressed on May 23rd. Staff believes the Resolutions and Updated COA accurately reflect the Board's intent and recommends that the Board adopt the proposed Resolutions and Updated COA. All of the documents related to the appeals and the Mountain Peak Winery are available for review online at: <http://www.countyofnapa.org/Pages/DepartmentContent.aspx?id=4294985975>.

SUPPORTING DOCUMENTS

- A . Arger Resolution
- B . Grupp Resolution
- C . Hocker Resolution
- D . Schreuder Resolution

CEO Recommendation: Approve

Reviewed By: Helene Franchi