



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 8/29/2017
Agenda Placement: 9B
Set Time: 9:35 AM PUBLIC HEARING
Estimated Report Time: 20 Minutes
Continued From: 8/1/2017

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: David Morrison - Director
Planning, Building and Environmental Services
REPORT BY: David Morrison, Director, Planning, Building & Environmental Servi - (707) 253-4805
SUBJECT: Napa Custom Crush LLC/The Caves at Soda Canyon Appeal Hearing

RECOMMENDATION

Consideration and possible action regarding an appeal filed by Steven Stull to a decision made by the Napa County Planning Commission (Planning Commission) on April 19, 2017 to approve the **Napa Custom Crush LLC / The Caves at Soda Canyon Use Permit Major Modification No. P16-00106** filed by Ryan Waugh.

The Planning Commission's approval of Napa Custom Crush LLC/The Caves at Soda Canyon allows the following: (1) an increase in annual production from 30,000 to 60,000 gallons; (2) construction of an approximately 2,400 sq. ft. cover over an existing outdoor paved area; (3) use of an existing private patio terrace (no construction) for daily tastings, marketing activities, and on-site consumption; (4) removal of internal cave wall to open access from the fourth portal to the patio terrace (wall installed under B15-01427 according to action by the Planning Commission); (5) conversion of approximately 400 sq. ft. of approved cave area to a kitchen (for the storage of refrigerated food and plating of food prepared off site by caterers); (6) a change in the hours of operation for production activities from the existing hours of 8AM – 6PM to proposed hours of 7AM – 6PM; (7) on-premises consumption of wine in the tasting room and on the areas in front of portal 2, the patio terrace, and the two outdoor areas in accordance with Business and Professions Code Sections 23358, 23390 and 23396.5; and (8) installation of a wastewater system and discontinued use of hold and haul. The project also includes an exception to the Napa County Road and Street Standards for improvements to the existing road. The project is within the Agriculture, Watershed and Open Space General Plan land use designation and within the Agricultural Watershed zoning district located on a 41.35 acre site approximately 2,200 feet west of Soda Canyon Road; approximately 4.0 miles north of the Silverado Trail/Soda Canyon Road intersection at 2275 Soda Canyon Road, Napa, California, APN 039-640-013.

ENVIRONMENTAL DETERMINATION: Consideration and possible adoption of an Addendum to the previously adopted 2006 Subsequent Mitigated Negative Declaration prepared for the Napa Custom Crush/Waugh Winery. Pursuant to CEQA Guidelines Section 15164 an addendum to an adopted mitigated negative declaration may be prepared if only minor technical changes or additions are necessary or if none of the conditions contained in Section 15162 calling for preparation of a subsequent negative declaration have occurred. This project site is not

on any lists of hazardous waste sites enumerated under Government Code Section 65962.5.
(CONTINUED FROM AUGUST 1, 2017)

EXECUTIVE SUMMARY

The matter before the Board involves a neighbor's appeal of the Planning Commission's decision on April 19, 2017, to approve an application submitted by Ryan Waugh (Applicant) for a major modification to the existing use permit to allow an increase in production from 30,000 to 60,000 gallons, construction of a cover over an existing outdoor area, use of a patio for tastings and marketing activities, removal of an internal cave wall to open access to a patio terrace, a change in the production hours of operation, installation of a wastewater system, and related improvements the he Napa Custom Crush LLC/The Caves at Soda Canyon Winery (the Project or Caves Winery) located west of Soda Canyon Road, approximately 4 miles north of its intersection with the Silverado Trail.

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 August 1, 2017 the Chair opened and continued the hearing (with the consent of all parties) to August 29, 2017. No testimony was taken on August 1st.

PROCEDURAL REQUIREMENT

1. Chair introduces item and requests Staff report.
2. Chair opens the public hearing and invites testimony from Appellant followed by Applicant and any other interested parties on the options outlined in the Staff report.
3. Motion by a Board Member, and seconded by another Board Member to take one of the actions as described in the Background section.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

Consideration and possible adoption of an Addendum to the previously adopted 2006 Subsequent Mitigated Negative Declaration prepared for the Napa Custom Crush/Waugh Winery. Pursuant to CEQA Guidelines Section 15164 an addendum to an adopted mitigated negative declaration may be prepared if only minor technical changes or additions are necessary or if none of the conditions contained in Section 15162 calling for preparation of a subsequent negative declaration have occurred. This project site is not on any lists of hazardous waste sites enumerated under Government Code Section 65962.5.

BACKGROUND AND DISCUSSION

All documents associated with the Caves Winery including, but not limited to, the application materials, Addendum, Subsequent Mitigated Negative Declaration, Planning Commission Staff report, comments and

correspondence, transcripts of the Planning Commission meeting, the appeal and the supplemental materials submitted by Appellant and Applicant can be accessed at:
<http://www.countyofnapa.org/Pages/DepartmentContent.aspx?id=4294985975> .

This matter involves an appeal of the Planning Commission's approval to allow an increase in the Winery's production from 30,000 to 60,000 gallons, construction of a cover over an existing outdoor area, use of an outdoor patio and terrace for tastings and marketing activities and removal of an internal cave wall to open access to a patio terrace, a change in production hours and related improvements at an existing winery located in Soda Canyon Road.

On May 15, 2017, a timely appeal packet was filed by Steven Stull (Appellant) to the Planning Commission's decision to approve the Project. The appeal can be reviewed online at:
<http://www.countyofnapa.org/Pages/DepartmentContent.aspx?id=4294985975>. 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 August 1, 2017 the Chair opened and continued the hearing (with the consent of all parties) to August 29, 2017. No testimony was taken on August 1st.

Pre-Hearing Conference:

In an effort to clarify the County's procedural requirements and expectations regarding land use appeals, the County Counsel's office has initiated a voluntary program whereby a pre-hearing conference is held with the parties (applicants and appellants) and the Chair of the Board to discuss estimates on presentation lengths, scope of evidence, and testimony to be presented, together with witness lists.

A pre-hearing conference was held on June 9, 2017, with Appellant's counsel, the Applicant and Applicant's counsel, Chair Ramos and members of the County Counsel's office. At that time, Appellant and Applicant agreed to provide a list of their respective witnesses and to provide the Chair with any requests for "good cause" to either supplement the record with new information and/or to have the appeal heard de novo (e.g., a fresh hearing) by June 30, 2017. Appellant submitted additional information and requested that the Chair find "good cause" to allow it as part of the record. Appellant made no such request to augment the record.

The Project generated controversy primarily because of its location, its prior history of noncompliance and code violations, and the use of a generator as a permanent power source for the Winery. A condition of approval imposed by the Commission required that the Applicant obtain a stationary generator permit from the Bay Area Air Quality Management District (Air District) within 30 days of the Commission's approval of the Project. As indicated in the August 10, 2017, letter from Mr. Greenwood-Meinert, attorney to the Applicant (see Attachment A), subsequent to the Commission's approval of the Project, the Applicant applied to the Air District for the permit and thereafter was informed that the existing generator was not capable of being permitted by the Air District and that a new and larger model would be required to serve the Winery. As such the Applicant has submitted information to the County regarding a new Tier 4 generator that it desires to use to serve the Winery. Given this new information, which was only recently submitted, is not yet complete and is still being reviewed, Staff is not in a position to prepare detailed responses to the appeal materials or go forward with a hearing on the merits at this time. Furthermore, the deadline has passed for Staff, Applicant or Appellant to request that the Chair find "good cause" exists to augment the record with new evidence and therefore the new generator information is not part of the administrative record on appeal before the Board. Although this new generator information was not part of the evidence

considered by the Planning Commission and was not known at the time the Commission made its decision, Staff believes it is relevant and that the Board would benefit from having this information as part of the record on appeal. As such, Staff recommends that the Board take one of the following actions:

1. Find that “good cause” exists to allow new information regarding the permanent generator and continue the appeal hearing to a future date to allow Staff sufficient time to prepare a revised CEQA analysis which evaluates the potential environmental impacts associated with the new generator and complete the Staff report;
2. Remand the matter to the Planning Commission for the purpose of issuing an advisory report to the Board on the limited issue of the new generator and its potential environmental impacts; or
3. Remand the matter to the Planning Commission to rehear the entire project in light of the new generator information and any other new material related to the Project.

Because of the need for ample time to prepare a robust Staff report including a revised CEQA analysis and for Appellant and the public to have sufficient time to review the same, Staff, Appellant and Applicant prefer Option No. 1. As of the date of release of this report, Staff is working with Appellant and Applicant to come up with a mutually agreeable date for the continuance and will make that recommendation at the Board hearing on August 29th.

SUPPORTING DOCUMENTS

A . Attachment A - Letter from Scott Greenwood-Meinert

CEO Recommendation: Approve

Reviewed By: Helene Franchi