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Agenda Date: 10/21/2015

Agenda Placement: 9B

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission
FROM: Charlene Gallina for David Morrison - Director
Planning, Building and Environmental Services
REPORT BY: SHAVETA SHARMA, PLANNER III - 707-299-1358
SUBJECT: Ca'Nani Use Permit Minor Modification #P15-00153

RECOMMENDATION

CA'NANI WINERY-DAVE DEL DOTTO- USE PERMIT MINOR MODIFICATION NO. P15-00153

CEQA Status: Consideration and possible adoption of a Categorical Exemption. Pursuant to the California Environmental Quality Act, Section 15301 [See Class 1 ("Existing Facilities")]; Section 15303 [See Class 3 ("New Construction or Conversion of Small Structures")]; and Appendix B, Class 1 (minor modifications to existing use permits), of the Napa County's Local Procedures for Implementing the California Environmental Quality Act, which may be found in the guidelines for the implementation of the California Environmental Quality Act. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

Request: Approval of a Minor Modification to a winery Use Permit to allow a winery currently under construction to be modified as follows: 1) modify an existing two-story hospitality building to convert an existing 374 s.f existing storage area to kitchen space and tasting area on the first floor; 2) increase of roof area over an existing electrical pad of 119 s.f. within an existing hospitality building; 3) addition of 54 s.f.of storage space within an existing hospitality building; 4) addition of a tasting bar area accessible from the outdoor patio in an existing hospitality building; and 5) allow for on premise consumption of wines produced on site within the hospitality building and outdoor patio consistent with Business and Professions Code §§23356, 23390, and 23396.5. located on a 10.08 acre parcel and zoned AP (Agricultural Preserve) at the southeast corner of St. Helena Highway and Yount Mill Road, at 7466 St. Helena Highway, APN: 031-120-029.

Staff Recommendation: Find the project Categorically Exempt and approve the Use Permit Minor Modification as conditioned.

Staff Contact: Shaveta Sharma, (707) 299-1358 or shaveta.sharma@countyofnapa.org

Applicant Contact: Dave Del Dotto, 1291 W. Zinfandel Lane, St, Helena, CA 94574, (707) 963-2134

EXECUTIVE SUMMARY**Proposed Actions:**

That the Planning Commission:

1. Find the project Categorical Exempt, as set forth in Finding No. 1 of Exhibit A;
2. Approve Minor Modification Use Permit (P15-00153) based on Findings 2-6 of Exhibit A and subject to the recommended Conditions of Approval (Exhibit B).

Discussion:

This use permit modification request will allow the conversion of an existing 374 s.f. storage space to kitchen area and tasting bar, increase of roof cover over 119 s.f. electrical room, and addition of 54 s.f. of storage space all within the existing hospitality building, addition of a tasting bar accessible from the outdoor patio, and on premise consumption in accordance with AB 2004. This modification would be the third modification to the original winery Use Permit which was approved in October 2010. The application as proposed qualifies as a Minor Modification which would normally be processed at the staff level, as did the previous two Minor Modifications processed. This is the first modification to come before the Commission due to neighbor concerns and request for a hearing before the Planning Commission.

Staff is recommending approval of the project, subject to the attached conditions of approval. The proposal to add a total of 54 s.f. to an existing 5,352 s.f. hospitality building is relatively minor in overall scale and would not appear to affect any adjacent neighbors, and thus the project appears supportable. The permittee is not requesting changes to approved visitation and marketing.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

The project is Categorical Exempt pursuant to the California Environmental Quality Act, Section 15301 [See Class 1 ("Existing Facilities")]; Section 15303 [See Class 3 ("New Construction or Conversion of Small Structures")]; and Appendix B, Class 1 (minor modifications to existing use permits), of the Napa County's Local Procedures for Implementing the California Environmental Quality Act, which may be found in the guidelines for the implementation of the California Environmental Quality Act. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

The project would add an additional 54 s.f. to an existing 5,352 s.f. hospitality building. The area to be expanded is already disturbed and consists of impervious surface. As such, it can be seen that the minor modification proposed qualifies for both local, and State Exemptions. A Negative Declaration was prepared for the original winery Use Permit and was adopted by the Planning Commission. The two previous Minor Modifications were also Categorical Exempt pursuant to the California Environmental Quality Act, Section 15301 [See Class 1 ("Existing Facilities")]; Section 15303 [See Class 3 ("New Construction or Conversion of Small Structures")]; and Appendix B,

Class 1 (minor modifications to existing use permits), of the Napa County's Local Procedures for Implementing the California Environmental Quality Act.

BACKGROUND AND DISCUSSION

Owner: Yountville Vineyards, LLC

Applicant: Yountville Vineyards, LLC / Ca'Nani Winery

Representative: Dan Westphal, 555 Fifth Street, Santa Rosa, CA 95405

General Plan Designation: Agricultural Resource (AR)

Zoning: AP (Agricultural Preserve)

Filed: May 5, 2015

Declared Complete: August 28, 2015

Code Compliance History:

There are no open, pending code enforcement issues on this property.

Property History:

May 1970 - Agricultural Preserve Contract # AP 89/70 was approved for APN 031-12-010

February 2010 - Agricultural Preserve Contract # P06-01375, Type A, approved, and replaced # AP 89/70 to conform with the new property boundaries.

October 2010 - The Planning Commission approved the original Ca' Nani Winery Use Permit P09-00185-UP and Variance P09-00492-UP. This approval entitled a new, 48,000 gallon per year winery with a two-story, 16,243 s.f. winery building with 5,800 s.f. of offices, 1,670 s.f. of tasting/sales area; 2,281 s.f. of barrel storage, total 2,410 s.f. roof deck areas and 15,970 s.f. of cave area with four portals for a winery totaling 56,370 s.f.; conversion of an existing 1,460 s.f., detached garage to a farm equipment storage building and a new 375 s.f. utility building; 13 full-time and 2 part-time employees; 44 on-site parking spaces; new entrance monument and sign; up to 75 visitors per day (Fri-Sun) and 40 visitors per day (Mon-Thurs) by appointment only; a marketing plan with 27 events per year with a maximum of 24 people (10 as evening events ending at 10:00 PM), two events per year with a maximum 49 people, one event per year with 100 people, and one event per year with 300 people; and a new process wastewater septic system. Approval of a Variance was also granted to reduce the minimum 600 foot winery setback from SR 29/St. Helena Highway to 235 feet.

August 2013 - The Director approved Use Permit Modification No. P13-00054-MOD for the winery to allow phased development of the winery, replacement of a 1,460 s.f. equipment storage building with a 2,311 s.f. tasting room and installation of an interim 6,908 s.f. uncovered crush pad. A subsequent building permit, No. B13-02129, showing the improvements authorized by the Minor Modification was submitted in December 2013.

October 2014 - The Director approved Use Permit Modification No. P14-00141-MOD for the winery to modify an existing one-story Tasting Room to add a 1,680 s.f. second story, relocate the fire tank and fire access road, reconfigure the parking lot, revise design of the entry gate and structure, replace existing garden trellis, add a crush

pad to the south of the winery pad area, enlarge the mechanical room, and to construct a soil nail wall for the winery building.

May 2015- The current Minor Modification request was submitted.

Discussion:

Process:

After mailing public notification of the pending Use Permit Minor Modification application, a neighbor expressed concern that it seemed that the project had changed substantially from the winery that was approved in 2009 and also spoke under public comments at the June 17, 2015 Planning Commission hearing and requested the project be heard before the Commission (see attachment). This request asks for conversion of the 374 s.f. of an existing storage area to kitchen and tasting bar within the existing hospitality building, additional roof cover for an 119 s.f. electrical room to the existing hospitality building, and addition of a 54 s.f. storage space to an existing hospitality building, which qualifies for processing as a minor use permit modification, but only for "noncontroversial" projects.

Regulation:

County Code Section 18.124.130, Use permit modifications - Procedure - Size limitation, sets forth the parameters for processing changes to previously approved use permits. Projects that result in no increase in intensity, density, environmental affect, and that do not affect overall concept or substantially alter or delete environmental mitigations can qualify as either a minor modification or very minor modification. Minor modifications allow increases in building sizes up to 25% of the original structure(s), whereas very minor modifications are limited to no greater the 10% of an increase in structure(s). Minor modifications are processed at a Zoning Administrator level but only require a hearing if after public notice is sent a hearing is requested by an interested party. Very minor modifications are processed administratively and public notice is not required. However, a courtesy notice is often provided to gauge the degree of controversy that may be present on the application. Staff is obligated to evaluate the level of controversy because minor modifications are limited to "noncontroversial" projects. In practice, after a courtesy notice is sent, Staff attempts to work through any controversial items between the applicant and interested parties but if that is not achievable the item is referred to the Commission to follow the same process as for major modifications and new use permits.

Analysis:

The use permit modification is the third request for a modification to the original use permit. Staff agreed to refer the matter to the Planning Commission for a formal public hearing following a request from the public.

It is very common, in fact almost a given, that winery projects will be modified to some degree during the construction process. Unlike many typical urban developments, like residential tract development where the same floor plan is used repeatedly in community after community, each winery follows a unique vision, and as such it is a fairly regular occurrence that the owner's vision will change to some degree as the project moves forward. Mid-construction project changes can have huge consequences for a permittees on schedule and costs. As such, it is a common for a permittee to apply for very minor and minor modification use permits to allow for continued construction and progress on the winery. While this request is the third request to modify the original approval, all prior requests qualified for processing as administrative applications. While the square footage of the overall winery has increased, the winery's production, visitation, marketing, and employee numbers have remained constant. The slight increase in square footage will grant additional space for activity to take place, but does not increase the intensity of activity that was approved by the Planning Commission.

Conclusions: Referral of this project to the Commission addresses concerns about the project being heard only at a staff level.

Decision Making Options

As noted in the Executive Summary Section above, Staff is recommending approval of the project with conditions of approvals as described in Option 1 below. Decision making options also include a reduced development alternative and no project alternative.

Option 1 – Approve Applicant's Proposal

Disposition – This option would result is the conversion of the 374 s.f. of an existing storage area to kitchen and tasting bar within the existing hospitality building, addition of 119 s.f. of roof cover for an electrical room to an existing 5,352 s.f. two story hospitality building; and addition of a 54 s.f. storage space to an existing 5,352 s.f. two story hospitality building can qualify for processing as a minor use permit modification. No changes to production, employees, visitation, or marketing are requested.

Action Required – Follow proposed action listed in the Executive Summary. If conditions of approval are to be amended, specify conditions to be amended at time motion is made. The project as proposed meets all County Code requirements and complies with General Plan policies.

Option 2 – Reduced Construction Alternative

Disposition – This option could result in a potential decrease in the proposed construction/conversion proposed in the project.

Action Required- Follow proposed actions listed in the Executive Summary and amend scope and project specific conditions of approval to place limits on use. If major revisions of conditions of approval are required, the item will need to be continued to a future date.

Option 3 – Deny Proposed Modification

Disposition – In the event the Commission determines that the project does not, or cannot meet the required findings for grant of a use permit and modification, Commissioners should articulate what aspect or aspects of the project are in conflict with required findings. State law requires the Commission to adopt findings, based in the General Plan and County Code, setting forth why the proposed use permit is not being approved. Based on the administrative record as of the issuance of this staff report, there does not appear to be any evidence supporting denial of the project.

Action Required – Commission would take tentative motion to deny project and remand the matter to staff for preparation of required finding to return to the Commission on specified date.

Option 4 –Continuance Option

The Commission may continue an item to a future hearing date at its own discretion.

SUPPORTING DOCUMENTS

A . Exhibit A-Findings

- B . Exhibit B-Conditions of Approval
- C . Original Winery Approval
- D . Public comments
- E . Project area tabulations
- F . Graphics

Napa County Planning Commission: Approve

Reviewed By: Charlene Gallina