



A Tradition of Stewardship  
A Commitment to Service

Agenda Date: 11/15/2017

Agenda Placement: 8B

## 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:** Emily Hedge, Planner II - 259-8226

**SUBJECT:** Shed Creek Winery - Use Permit P14-00346 and Use Permit Exception to the Conservation Regulations P17-00178

---

### **RECOMMENDATION**

#### **WILLIAM MORGAN / SHED CREEK WINERY / USE PERMIT # P14-00346 AND USE PERMIT EXCEPTION TO THE CONSERVATION REGULATIONS P17-00178**

**CEQA Status:** Consideration and possible adoption of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (MMRP). According to the proposed Mitigated Negative Declaration, the proposed project would not have any potentially significant environmental impacts after implementation of mitigation measures. Mitigation measures are proposed for the area of cultural resources. 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 Use Permit for a new 5,000 gallon per year winery to allow: 1) Conversion of an existing, approximately 700 square foot barn into the winery building, including approximately 250 square feet for a tasting room; 2) Addition of approximately 100 square feet of new building, including restroom and cleaning room (to be built on an existing gravel pad); 3) Approximately 1,800 square foot covered crush pad (existing paved area around barn); 4) Tours and tastings by appointment only with a maximum of 15 people per day; 5) An annual marketing program of 10 events for a maximum of 30 people and one event for a maximum of 100 people; 6) Two (2) full-time and two (2) part time employees; 7) Hours of operation daily, Monday – Sunday, 9 am to 5 pm (production) and 10 am to 5 pm (visitation); 8) Seven (7) parking spaces for visitors and employees; 9) Septic systems for process waste and domestic waste; and 10) Water storage tanks. The project includes a request for an exception to the Napa County Road and Streets Standards (RSS) for improvements to Grapevine Lane. The project also includes approval of a Use Permit to allow an Exception to the Conservation Regulations for work within a required creek setback. The project is located on a 287-acre site at the end of Grapevine Lane in Gordon Valley. 80 Grapevine Lane, Napa, CA 94558. APN: 033-170-002.

**Staff Recommendation:** Adopt the proposed Mitigated Negative Declaration; approve the requested Use Permit Exception to the Conservation Regulations; approve the request for an exception to the Napa County Roads and

Street Standards; and approve the Use Permit as conditioned.

**Staff Contact:** Emily Hedge, Planner II, phone 707-299-8226 or email emily.hedge@countyofnapa.org

**Applicant Contact:** Robert Morgan, 450 Oak View Drive, Vacaville, CA; phone 707-718-0044 or email bobm@morgansoutdoorliving.com

## **EXECUTIVE SUMMARY**

### **Proposed Actions:**

That the Planning Commission:

1. Adopt the Mitigated Negative Declaration and MMRP based on recommended Findings 1-6 in Attachment A;
2. Approve the Exception to the Conservation Regulations based on recommended Findings 7-13 in Attachment A and subject to the recommended conditions of approval in Attachment B;
3. Approve the Exception to the RSS based on recommended Findings 14-15 in Attachment A and subject to the recommended conditions of approval in Attachment B; and
4. Approve the Use Permit based on recommended Findings 16-20 in Attachment A, and subject to the recommended conditions of approval in Attachment B.

### **Discussion:**

The project consists of approval of a Use Permit for a new 5,000 gallon per year winery, with tours and tastings by appointment only with a maximum of 15 people per day and an annual marketing program of 10 events for a maximum of 30 people and one event for a maximum of 100 people. The winery would be open daily 9 am to 5 pm (production) and 10 am to 5 pm (visitation) with a maximum of two (2) full-time and two (2) part time employees. The project requires improvements to Grapevine Lane, which is located adjacent to Gordon Valley Creek. Because work is required in the creek setback, the applicant has applied for a Use Permit to allow an exception to the Conservation Regulations. The applicant is also requesting an exception to the Napa County Road and Street Standards (RSS) to limit the work that is proposed in close proximity to the creek and within the required creek setback.

Staff has reviewed the proposal and found it to be consistent with the Zoning Ordinance and applicable General Plan policies. The winery will convert an existing building, and other improvements to the winery site are located outside of the creek setback. The work on Grapevine Lane has been reduced to minimize potential impacts to Gordon Valley Creek, while still meeting the same overall practical effects of the RSS. Implementation of the proposed project, with incorporation of the proposed mitigation measure for protection of cultural resources and conditions, would result in minimal potential environmental impacts. Based on these reasons, staff recommends approval of the project subject to the recommended conditions of approval.

## **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

## **ENVIRONMENTAL IMPACT**

Consideration and possible adoption of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (MMRP). According to the proposed Mitigated Negative Declaration, the proposed project would not have any potentially significant environmental impacts after implementation of a mitigation measure for cultural resources. The project site is not included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.

## **BACKGROUND AND DISCUSSION**

**Property Owner/Applicant:** William Morgan/Robert Morgan

**Zoning:** Agricultural Watershed (AW) District

**General Plan Designation:** Split-designation Agricultural Resource (AR) and Agriculture, Watershed and Open Space (AWOS)

**Application Filed:** October 24, 2014

**Resubmittals Received:** May 29, 2015; November 10, 2015; June 10, 2016; September 27, 2016; April 27, 2017

**Application Complete:** June 2, 2017

**Parcel Size:** 287 acres

### **Winery Characteristics:**

**Proposed Winery Building Size:** Approximately 800 square feet including 250 square foot tasting room

**Proposed Production Capacity:** 5,000 gallons of wine per year

**Proposed Winery Development Area:** Approximately 2,800 square feet

**Proposed Winery Coverage:** Approximately 4,900 square feet or 0.11 acres. Approximately 0.004% of the parcel

**Proposed Accessory to Production Ratio:** 12%

**Proposed Number of Employees:** 2 full-time employees and 2 part-time employees

**Proposed Visitation:** Daily by appointment, for up to 15 visitors per day

**Proposed Marketing Program:** Annually 10 events for a maximum of 30 people and one event for a maximum of 100 people

### **Proposed Hours of Operation:**

Non-harvest production hours - 9:00 a.m. – 5:00 p.m.

Visitation - 10:00 a.m. - 5:00 p.m.

**Proposed On-site Parking:** 7 stalls

### **Setbacks:**

Existing barn/converted winery - 44 feet to closest property line (exceeds minimum 20 feet)

Proposed water tanks - 22 feet to closest property line (exceeds minimum 20 feet)

Gordon Valley Creek - In the proposed winery area, the minimum setback was determined to be 45 feet from the top of bank. The existing barn is within 45 feet from the top of bank of the creek. Proposed improvements to the winery site would take place outside of the creek setback. Improvements to Grapevine Lane would take place within the setback. Refer to the Conservation Regulations discussion below.

**Adjacent General Plan Designations/Zoning Districts/Land Uses:**

The property has a split General Plan Designation of Agricultural Resource (AR) over the majority of the southern two-thirds of the parcel and Agriculture, Watershed and Open Space (AWOS) over the northern boundary of the parcel. Surrounding properties to the north are AWOS, properties to the south are AR, and properties on the east and west are a mix of both. All surrounding properties are zoned AW. Surrounding land uses include residences, vineyards, and other agricultural uses.

**Nearby Wineries (within one mile of project site):**

There are no wineries within one mile of the project.

**Parcel History:**

The parcel is currently developed with a main residence, second residence, garage, two barns (southern barn to be converted to winery), workshop, and two sheds. Approximately 38 acres are planted in vineyards and 0.15 acres in orchards. There are two reservoirs with water rights (Permits #17436 and #19307). These water supplies will not be used by the winery. In December 1994 an agricultural contract (94185-AGK - Type H) was entered into for 260 acres of grazing land, 20 acres of walnuts, and 30 head of beef cattle.

The owner currently sells a portion of their grapes to other wineries and custom crushes a portion at The Wine Foundry in Napa.

**Code Compliance History:**

There are no current or prior code violations related to this property.

**Discussion Points:**

Setting - The 287-acre parcel is located at the end of Grapevine Lane in Gordon Valley. Grapevine Lane is located adjacent to Gordon Valley Creek, with the first 0.25 mile directly adjacent to the creek and within the creek setback. The remaining 0.55 mile portion of the road currently used to access the property is relatively straight along the eastern side of the creek, with the creek coming in close proximity at two locations.

The parcel is currently developed with a main residence, second residence, garage, two barns (southern barn to be converted to winery), workshop, and two sheds. Approximately 38 acres are planted in vineyards and 0.15 acres are planted in orchards.

Exception to the Conservation Regulations - The project requires improvements to Grapevine Lane in order to bring the access road into compliance with the RSS for a commercial project. Because the existing road is located in the stream setback, improvements are subject to the Conservation Regulations. Staff has made the findings, determining that the proposed work on the existing road is the minimum necessary to achieve the same overall effect as the RSS towards providing defensible space, preserving the natural environment and protecting the life, safety and welfare of the public. The proposed work will not adversely impact threatened or endangered plant or animal species and will not disturb the creek. In order to reduce the amount of work necessary in the creek setback, the applicant has submitted a request for an exception to the Napa County Road and Street Standards

(RSS), which staff supports as conditioned by the Engineering Services Division and Fire Marshall.

Exception to the Napa County Road and Street Standards (RSS) - The request is due to the environmental constraints of the location of the existing road adjacent to the creek. The request would assist in minimizing grading in a creek setback, on creek bank slopes, and preserve mature native trees that would otherwise have to be removed. As described in the letter from CMP Civil Engineering, dated April 13, 2017, the request proposes an exception to the minimum commercial driveway width (22 feet) in three locations and an exception to the 22-foot minimum bridge width at the northern, existing bridge. All sections of the common driveway and private driveway not requesting a road exception will meet the Napa County Road and Street Standards. Refer to Attachment F for additional detail. As noted above, staff supports the request as conditioned by the Engineering Services Division and Fire Marshall.

Cultural Resource Evaluation - The winery was originally designed to meet the standards of the County's Local Procedures for Implementing the California Environmental Quality Act, Categorical Exemption for construction and operation of "small wineries", which have been determined to have minimal impacts on the environment. According to CEQA Guidelines, a Categorical Exemption cannot be applied if a project is located in an environmentally sensitive area. Therefore, an Initial Study/Mitigated Negative Declaration was prepared for the project.

Archaeological Resource Service prepared a cultural resources evaluation, dated October 21, 2015, for the location of the winery site and wastewater system improvements. The evaluation found no indications of the presence of prehistoric or historic era archaeological resources within the examined area. In light of the negative finding, no further archaeological evaluation was recommended. The associated literature search indicated that several areas in the immediate vicinity of the project have been examined previously and resources were identified. Due to the fact that cultural resources had previously been identified in close proximity to the access road, there was concern about potential impacts to cultural resources. Although the project met the developmental and operational criteria of the exemption, the exemption could not be utilized and an Initial Study was prepared. A mitigation measure has been incorporated to require a cultural monitor to be onsite during construction and earth disturbing activities.

Tours and Tasting / Marketing Program - The project proposed a maximum of 15 visitors, by-appointment only, per day with an annual marketing program of 10 events for a maximum of 30 people and one event for a maximum of 100 people. The marketing program is the same number as provided in the County's Local Procedures for Implementing the California Environmental Quality Act, Categorical Exemption for construction and operation of "small wineries", excluding the provision that no temporary events would be allowed. The proposed winery has higher visitation and marketing numbers than other permitted 5,000 gallon wineries (Attachment M). However, the proposal meets the design criteria of the County's local exemption for "small wineries".

Traffic and Parking - Winery Traffic Information/Trip Generation was prepared by CMP Civil Engineering (date: November 2, 2015, revised: May 27, 2016). The trip generation calculated traffic for a typical weekday (numbers rounded to the nearest whole number), consisting of trips from one full-time employee and six visitors, as eight total trips with three PM peak trips. Traffic during a typical Saturday was calculated, consisting of trips from one full-time and one part-time employee and eight visitors, as 11 total trips with five PM peak trips. Traffic during a Crush Saturday was calculated, consisting of trips from two full-time and two part-time employee and fifteen visitors, as 21 total trips. Excluding traffic during Crush, the estimated trips are close to the number of trips generally associated with a single family residence (10 daily trips). Napa County Public Works staff reviewed the project and determined that based on the expected trip generation, trip distribution, and the location of the project, a traffic study was not needed. Upon review of the project description, typical trip generation, expected trip distribution, available sight distance, and ADT for nearby roadways, staff concluded that the project is not expected to create any significant impacts related to transportation.

The project is proposing seven parking spaces inclusive of one accessible parking stall. Staff believes this

number of parking spaces is commensurate with the proposed number of employees and visitation. The proposed parking will meet the anticipated parking demand and will avoid providing excess parking, and will therefore have no impact. The parking area is located outside of the 45-foot stream setback. Parking for the large event would occur in the vineyard edges.

Noise - Winery operations would occur between 9:00 a.m. and 5:00 p.m. (excluding harvest). The nearest offsite residences are located approximately 500 feet to the south of the existing barn to be converted to the winery. The tasting area is proposed within the covered patio on the northern side of the winery building. This area would be separated from the closest offsite residence by the winery building. Any outdoor equipment would be subject to standard conditions requiring that any exterior winery equipment be enclosed or muffled and maintained so as not to create a noise disturbance. All events would end by 10:00 p.m. Amplified music or sound systems would not be permitted for outdoor events as identified in standard Condition of Approval Number 4.10.

Grape Sourcing - The grapes for the winery will be provided by the 38 acres of vineyard on the property. The existing vineyard will provide sufficient grapes for the requested annual production of 5,000 gallons.

Groundwater Use - For this project CMP Civil Engineering prepared a Water Availability Analysis (November 2, 2015; revised May 27, 2016) to determine the estimated water use of the existing development and proposed project and a Ground Water Recharge Calculations analysis (May 27, 2016). The project is located in an area denoted as "All Other Areas" as described in the Napa County Water Availability Analysis, requiring a Tier 1 and Tier 2 analysis.

Existing water usage consists of a main residence, second dwelling, 38 acres of vineyards, and an 0.15 acre orchard, and was estimated at 27.90 acre-feet of water per year. The proposed winery is estimated to use approximately 0.23 acre-feet of water per year, inclusive of 0.08 acre-feet of water per year for processing and 0.15 acre-feet of water per year for domestic and landscaping. The analysis estimates approximately 0.08 acre-feet of water per year to be available as recycled process wastewater. Following installation of the winery, the removal of some orchard area, and the re-use of recycled water, estimated water use on the property is 27.89, resulting in a near balance of water use.

The analysis also prepared a groundwater recharge calculation based on the local precipitation, local evaporation transpiration, and run-off. Total annual ground water recharge for the 287 acre parcel was calculated at 173.77 acre-feet per year. Although there is a near balance in the proposed water use, the new water use that would be associated with the winery 0.23 acre feet per year and the total proposed water use of 27.89 acre-feet of water per year, is less than the calculated 173.77 acre feet per year recharge. Therefore, the project further complies with the Napa County Water Availability Analysis requirements.

Wastewater System - There is a septic system installed on site that serves the existing residences. No changes are proposed to the existing system. CMP Civil Engineering prepared wastewater system calculations and plans, dated May 26, 2016, to evaluate the feasibility of treating wastewater flows generated by the winery. New septic systems will be installed to accommodate the winery process waste and the domestic waste. The Division of Environmental Health has reviewed the application materials and determined that the proposed system is adequate to serve the winery. The process waste system will be monitored by the Central Valley Regional Water Quality Control Board. Full design calculations and construction plans will be prepared in accordance with Napa County standards at the time of building permit application submittal.

Greenhouse Gas Reduction Strategies - The applicant has indicated that the project will incorporate the following voluntary best management practices: limited grading and tree removal; energy conserving lighting; water efficient fixtures; retaining and reusing biomass on site; composting 75% of food and garden material; water efficient landscaping; and generation of on-site renewable energy (future). Additional items are included in the Voluntary Best Management Practices Checklist for Development Projects form included with the Use Permit Application.

Public Comments - A New Project Submittal Courtesy Notice was mailed to neighbors within 1,000 feet of the property in July 2015. Following mailing, staff received calls, letters, and emails to discuss the proposed project. Staff received comments from the Middletown Rancheria Tribal Historic Preservation Department. They did not have comments on the proposed project but requested to be contacted if archeological artifacts or human remains are found. Staff included condition of approval 7.5.c. which requires notification of the tribe if evidence of artifacts or remains is identified. One comment letter has been received since the public hearing notice went out (see Attachment N).

### **Decision-Making Options:**

As noted in the Executive Summary Section above, staff is recommending approval of the project with conditions of approval as described in Option 1 below.

#### Option 1: Approve Applicant's Proposal (Staff Recommendation)

Discussion - Approval of the project would permit a new 5,000 gallon per year winery with by-appointment visitation and marketing.

This option has been analyzed for its environmental impacts, which were found to be less than significant with the incorporation of a mitigation measure requiring a cultural monitor to be onsite during earth disturbing work. The exception to the Conservation Regulations is supportable in order to permit necessary improvements to the existing road. The request for an exception to the RSS to minimize work in the creek setback has been analyzed and Engineering Services staff and the Fire Marshal recommend approval as conditioned. Furthermore, the project as proposed meets all County Code requirements and complies with General Plan policies. The zoning analysis, including compliance with all WDO and Zoning Code regulations, and the environmental review, including analysis of sufficient water supply, have led staff to conclude that the project merits approval as proposed and conditioned.

Action Required - Follow the proposed action listed in the Executive Summary.

#### Option 2: Reduced Project Alternative

Discussion - This option could result in a potential decrease in production capacity, visitation, or number of marketing events.

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 the Applicant's Proposal

Discussion - In the event the Commission determines that the project does not, or cannot meet the required findings for grant of an exception to the Conservation Regulations, an exception to the RSS, or a Use Permit, 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 on the General Plan and County Code, setting forth why the proposed use permit modification 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 discretion.

**SUPPORTING DOCUMENTS**

- A . Recommended Findings
- B . Recommended Conditions of Approval and Final Agency Approval Memos
- C . Mitigated Negative Declaration and MMRP
- D . Use Permit Application Packet
- E . Use Permit Exception to the Conservation Regulations Application Packet
- F . Request for an Exception to the Napa County Road and Street Standards
- G . Wastewater System Calculations and Septic Plans
- H . Water Availability Analysis and Groundwater Recharge Calculations
- I . Traffic Calculations
- J . Cultural Resource Evaluation
- K . Historical Resource Report
- L . Graphics
- M . Winery Comparison Analysis
- N . Public Comments

Napa County Planning Commission: Approve

Reviewed By: Vincent Smith