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Agenda Date: 5/20/2015

Agenda Placement: 9A

Napa County Planning Commission Board Agenda Letter

TO: Napa County Planning Commission
FROM: John McDowell for David Morrison - Director
Planning, Building and Environmental Services
REPORT BY: SHAVETA SHARMA, PLANNER III - 707-299-1358
SUBJECT: Markham Vineyards Use Permit Major Modification P14-00100

RECOMMENDATION

MARKHAM VINEYARDS-DAVID W. FLANARY- USE PERMIT MAJOR MODIFICATION NO. P14-00100-MOD

CEQA Status: Consideration and possible adoption of a Negative Declaration. According to the proposed Negative Declaration, the 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.

Request: Approval to modify previous project approvals (Use Permit #U-157879, Use Permit #U-28889, Use Permit #U-89-33, and Use Permit #96075-MOD) for an existing Winery to allow the following:

1) Increase production from 300,000 gallons per year up to 429,000 gallons per year. No expansion or increase in floor area, visitation, number of employees, parking spaces, or marketing is proposed.

The project is located on an 9.97 acre site at 2812 St. Helena Highway, St. Helena, approximately 300 feet north of its intersection with Deer Park Road, within the Agriculture Preserve (AP) zoning district, designated Assessor's Parcel Number: 022-200-008.

Staff Recommendation: Adopt the negative declaration and approve the Use Permit major modification, as conditioned.

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

Applicant Contact: Jeff Redding, 2423 Renfrew Street, Napa, CA 94558; (707) 255-7375

EXECUTIVE SUMMARY

Proposed Actions:

That the Planning Commission:

1. Adopt the Negative Declaration, based on Findings 1-6 of Exhibit A; and
2. Approve Use Permit Modification No. P14-00100-MOD based on Findings 7-11 of Exhibit A and subject to the recommended conditions of approval (Exhibit B).

Discussion:

The applicant requests approval of a Use Permit Major Modification to an existing 300,000 gallon per year pre-WDO winery to allow an increase in maximum production capacity to 429,000 gallons. No other changes are proposed. This proposal has been analyzed for its environmental impacts, which were found to be less than significant. The applicant can accommodate the increased production without the need to construct new infrastructure and as a result there is minimal impact to the site or its surroundings. As an existing winery that has sufficient grapes to meet its increased production numbers and a history free of compliance issues, the proposal appears appropriate. Staff believe the proposed project is consistent with the Napa County Zoning Ordinance and General Plan, and recommends approval of the project with standard winery conditions of approval.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

Negative Declaration Prepared. According to the proposed Negative Declaration, the 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

Owner: Markham Vineyards, PO Box 636, St. Helena, CA 94574; (707) 302-2034

Applicant: David W. Flanary, PO Box 636, St. Helena, CA 94574; (707) 302-2034

Representative: Jeffrey Redding, 2423 Renfrew Street, Napa, CA 94558; (707) 255-7375

Zoning: Agriculture Preserve – AP

GP Designation: Agriculture, Watershed and Open Space designations (AWOS) and Agricultural Resource (AR)

Filed: April 2, 2014; **Completed:** April 2, 2015

Parcel Size: 9.97± acres

Existing Development: A total of 59,800 square feet of winery structures, a 6,135 square foot covered crush pad, and five outdoor storage tanks.

Proposed and Existing Winery Characteristics

Winery Size- Approved: 59,800 sq.ft. production building include: 26,956 sq.ft. production area (crush area, fermentation and barrel storage, restrooms); 13,780 sq.ft of accessory use area (offices, tasting rooms, retail storage, catered food prep area, and visitor restrooms), and a 6,135 sq. ft. covered crush pad.

Winery Size-Proposed: No change.

Production Capacity Approved: 300,000 gallons per year.

Production Capacity Proposed: 429,000 gallons per year.

Winery Coverage Existing: 302,478 sq. ft.; 6.9 acres; 74% of the 9.97± acre parcel (As a pre-WDO winery there is no 25% maximum).

Winery Coverage Proposed: No change.

Accessory/Production Ratio Existing: 13,780 sq. ft. accessory and 39,091 sq. ft. production; 35.2% (As a pre-WDO winery there is no 40% maximum).

Accessory/Production Ratio Proposed: No change.

Number of Employees Existing: 22 employees full time; 4 part-time

Number of Employees Proposed: No change.

Visitation - Approved: Public maximum 50 persons per day; 350 per week

Visitation - Proposed: No change.

Marketing Program- Approved: 81 annual events; Average attendance 50 persons; Maximum attendance 390 persons; 7,000 persons annually

Marketing Program - Proposed: No change.

Number of Employees-Approved: Up to 45

Number of Employees-Proposed: No change.

Days and Hours of Operation- Approved: Employee hours: production, 7:30AM to 5:00 PM; hospitality/ tasting room, 10:00 AM to 5:30 PM.

Days and Hours of Operation-Proposed: No change.

Parking- Approved: 35 on-site parking spaces with one ADA space.

Parking-Proposed: No change.

Adjacent General Plan Designation/ Zoning / Land Use:

North:

Agricultural Resource (AR) and Agricultural Watershed and Open Space (AWOS) /Agriculture Preserve Zoning (AP)/Agricultural use (vineyards), and wine production

South:

Agricultural Resource (AR) and Agricultural Watershed and Open Space (AWOS)/City of St. Helena, Agricultural use (vineyards), and wine production

East:

Agricultural Resource (AR) /Agriculture Preserve (AP)/Agriculture (vineyards), and wine production

West:

Agricultural Resource (AR) and Agricultural Watershed and Open Space (AWOS) /Agriculture Preserve (AP)/Agricultural use (vineyards), large lot residential, and wine production

Nearby Wineries (located within 1 mile of the project)

Winery Name	Address	Building Sq. Ft.	Production	Visitors (Ave/Wk)	Total Events/Yr	Employees
BALLENTINE WINERY	2820 ST. HELENA HWY.	7,400	50,000	10	0	4
REVANA WINERY	2910 ST. HELENA HWY.	6,624	15,000	40	12	3
FREEMARK ABBEY	3022 ST. HELENA HWY.	30,232	60,000	1800n/a		12
GRACE FAMILY WINERY	1210 ROCKLAND DRIVE	2,660	7,000	20 n/a		1
VINEYARD 29	2927 ST. HELENA HWY.	17,804	48,500	30	17	4
ST. CLEMENTS VINEYARD	2929 ST. HELENA HWY.	6,600	72,000	490	n/a	13
WILLIAM COLE WINERY	2849 ST. HELENA HWY.	5,040	20,000	20	8	2
CHARLES KRUG WINERY	2800 MAIN STREET	3,360	2,728,000	n/a	n/a	n/a
FANTESCA ESTATE	2600 SPRING MTN RD	4,700	30,000	100	43	8
MORLET FAMILY ESTATE	2825 ST. HELENA HWY.	4,121	20,000	25	8	6

Parcel History and Evolution of this Application

The 9.97 acre parcel consists of a winery building, accessory and equipment and storage buildings totaling approximately 59,800 square feet. The existing winery was originally constructed in the 1870s. Post Prohibition the winery was used as a co-op by the Allied Grape Growers until its purchase by United Vintners in 1969. In 1978, the winery was purchased by H. Bruce Markham and has been operational since that time under the same name.

February 1979- Use Permit #U157879 was approved by the Conservation, Development, and Planning Commission to expand the existing winery by adding a 3,200 square foot addition to accommodate a tasting room, case storage, retail sales, offices, tours and public tastings, and allow production of up to 300,000 gallons per year.

March 1989- Use Permit #U28889 was approved by the Conservation, Development, and Planning Commission to allow demolition of 24,670 square feet of existing structures, reroof the existing stone cellar for use in barrel aging, construction of a new crush area, fermenting room, and aging cellar and bottling facility. No increase in floor area, production, or visitation and marketing was permitted.

March 1990- Use Permit #U89-33 and Variance V-98-5 was approved by the Conservation, Development, and Planning Commission to construct a 36,700 square foot addition to the existing winery consisting of 16,000 square feet for case goods handling and storage, including a loading dock, a 7,700 square foot barrel aging room, and a 13,000 square foot office/employee facility. No increase in floor area, production, or visitation and marketing was

permitted.

October 1996-Use Permit #96075-MOD and was approved by the Conservation, Development, and Planning Commission to install five (5) outdoor wine storage tanks (two 50,000 and three 25,000 gallon tanks). No increase in floor area, production, or visitation and marketing was permitted.

October 2003—Use Permit #03205-UP was approved by the Conservation, Development and Planning Commission for a combined wastewater system serving Markham Vineyards, The Culinary Institute, Freemark Abbey and the Wine Country Inn to allow for the system to be expanded from 9.985 million gallons per year to 16.07 million gallons per year. No increase in floor area, production, or visitation and marketing was permitted.

Code Compliance History

There are no open or pending code violations for the subject site. The winery was in a previous wine audit and found to be compliant.

Discussion Points

Setting - The rectangle-shaped lot is relatively level (0 to 2 percent slopes) and is located on the valley floor trending from west to east toward the Napa River which is located approximately ¼ mile east of the site. The entirety of the project site is within the 100 year floodplain. Vegetation on site is entirely ornamental, with no native species remaining. The majority of the site is developed with buildings, paving, and other improvements, as well as two large wastewater ponds. Surrounding land uses are rural residential, vineyards, and wineries (Ballentine Winery, Revana Winery, Freemark Abbey, Grace Family Winery, Vineyard 29, St. Clements Vineyards, William Cole Winery, Charles Krug Winery, Fantesca Estate, and Morlet Family Estate). The nearest off site residence is approximately 700 feet away from the winery building. Water service for domestic and emergency use is provided by the City of St. Helena for approximately 50% of total water use, an on-site well provides the remaining 50% of water for operation of the winery.

Proposed Production Increase- Markham Vineyards in 2014 produced 365,856 gallons of wine. The applicant first exceeded their allotted production in 2013 and realizing that, the applicant voluntarily submitted a major modification application to their existing use permit in April 2014. An excess of production in any one year is not generally considered as a code violation, as it has been the Department's policy is to average wine production over a three year period to account for productive harvest years. In order to account for future harvests, anticipated growth and ensure compliance with their use permit into the future the applicant is proposing an increase in production to 429,000 gallons of wine. If the proposed increase were to be denied, the applicant could only produce approximately 190,000 gallons in 2015 in order to remain compliant with their current entitlements.

When the project came under use permit in 1979, production was increased from 30,000 gallons annually to 300,000 gallons annually. This existing production level is not subject to the grape sourcing requirements of the Winery Definition Ordinance (WDO). In March of 1990, the site was approved for an expansion of the Winery Development Area. Consequently, as a result of the Winery Development Area expanding beyond what existed at the time the WDO was implemented, expansion in wine production above 300,000 gallons annually are subject to compliance with the 75% rule. Therefore, the 129,000 gallons production increase included in this request is subject to the 75% rule.

No other changes or improvements are proposed as part of this application, as the applicant is capable of processing the additional grapes with the existing infrastructure. The winery has the necessary storage tanks, approved in 1996, to allow for the increased production. The request will allow the winery to produce what the existing infrastructure can already accommodate. Additionally, the winery can produce the requested production without the need for more employees with the use of macro bins and longer

Grape Sourcing - In the 2014 year Napa Valley grapes accounted for 96% of the wine produced at this facility, with 63% of the grapes being estate grown. The applicant currently owns 325 acres of vineyards in Napa County. Using a estimated generation factor assuming 4 tons of grapes per acre, these 325 acres would yield 208,000 gallons annually which is consist with 63% figure the applicant reports for estate grown fruit. Being that this is pre-WDO facility where only the new production is subject to the 75% rule, the applicant presently has substantially more estate grown fruit than required to satisfy the 75% rule for the increased production.

However, in recent years public concerns have been raised on proposed expansion to other pre-WDO wineries that have traditionally not been required to source grapes locally but have historically done so with their pre-WDO level of production. The concern has been labeled as "source shifting" or "forward shifting" because by allowing expansion of in 75% rule compliant production, it enabled pre-WDO production that had historically been sourced voluntarily from Napa County fruit to be "shifted" to the new production opening the pre-WDO production up for processing out of county fruit. Arguably this would mean the expansion results in the creation of new out of county fruit production when viewing the winery's total production.

Although this topic is more a legal question of vested rights, it remains a topic worthy of further exploration with each pre-WDO winery expansion. In theory, Markham winery could shift all 300,000 gallons of existing annual production regardless of this new use permit modification request. If the County mandated that no expansion occur that results in "source shifting" at a pre-WDO facility, then permittees would simply need to shift to out of county production prior to submitting an application to expand. In this case, Staff does not believe the drivers for the applicant's requested expansion are to shift production to enable out of county fruit processing. Since the applicant's reported production is already 96% locally sourced and in excess of the current 300,000 gallon production level, it appears quite evident that the applicant's intention is to maintain the same percentage of grapes from Napa Valley as they do currently moving forward. If all 429,000 gallons of production were subject to the 75% rule, then 321,750 gallons would need to be sourced from Napa County which is presently less than the amount of Napa County fruit the winery produced last year. The applicant has grape purchase agreements with local growers and will continue to purchase local grapes for their wine production.

Visitation and Marketing - As with many wineries that were established prior to 1975 and the requirement to have a use permit, the extent of pre-WDO visitation and marketing entitlement is somewhat vague. Since 2010, it has been the County's practice to determine the full extent of pre-WDO visitation and marketing activities as part of processing use permit expansion requests. In this case, use permit modifications issued in 1979 and the 1980's clearly establish that drop-in visitation was established, with tours and tastings for an average of 50 persons daily and maximum of 350 weekly. The marketing component that has historically occurred is not clear in the use permit history, other than past approvals did contain space for marketing events, inclusive of a kitchen, and the combine sewage system had previously been designed to accommodate marketing commensurate with what the applicant has put forward in this application. The applicant has reported that the winery has 81 annual events, averaging 50 persons per event, and not exceeding 7,000 persons annually. The applicant is not requesting any increases or changes to its existing visitation and existing marketing levels. The increased production will decrease the ratio between the number of visitors and the numbers of gallons produced by the winery. The applicant falls on the low end for daily visitors, while it is just above the average for marketing visitors. Overall, the total number of visitors to the winery is half the average of comparison wineries of similar production levels.

Traffic - The project parcel is located on the east side of St. Helena Highway and 300 feet north of Deer Park Road. Access to the existing winery is from both directions of St. Helena Highway, via a 20 ft. wide driveway. The intersections with St. Helena Highway and Deer Park Road are unsignalized; southbound traffic on St. Helena Highway has a left turn lane. The increase in production will increase the number of trucks arriving to the site, mostly concentrated around harvest times. Per the County's trip generation form, this production increase would amount to 0.8 daily truck trips. However, it is important to note that this is assuming a constant rate of truck deliveries, while the grape deliveries in actuality will be concentrated during harvest. This would result in a daily trip that is more accurately represented as an increase of 9.6 daily truck trip during a one month period. This amount of

traffic increase would not be a significant increase either individually, or cumulatively to St. Helena Highway.

Groundwater Availability - Current water use for the projects relies on the well on the project parcel to provide 50% of the water with the remainder being provided by the City of St. Helena. This percentage will decrease both in total water supplied and percentage with this projects. The City has only committed to serving the site with 1.97 AF/YR moving forward into the future due to water restrictions associated with the drought. The current use on the project site is 5.64 AF/YR. The projected water use for the project is 7.43 AF/YR. Napa County has established a threshold of 9.97 AF/YR for this parcel; therefore the estimated water demand of 7.43 AF/YR is below the threshold established for the parcel. Furthermore the City of St. Helena has provided a will serve letter indicating that they will continue to provide 1.97 AF/YR for the parcel. The remainder of the water will be provided by the on-site well. The County has received no reports or is aware of any issue with groundwater in the project vicinity. In the event that City water supply is limited or unavailable for the project in the future. the applicant can rely on groundwater resources wholly based on their fair share factor. The project has sufficient water supplies to serve projected needs the additional 1.79 AF/YR that is needed as a result of the proposed project.

Greenhouse Gases/Climate Action Plan - The County requires project applicants to consider methods to reduce Green House Gas (GHG) emissions consistent with Napa County General Plan Policy CON-65(e), which requires GHG review of discretionary projects. The applicant has completed the Department's Best Management Practices Checklist for Development Projects, which is attached to this report as part of the application materials. The applicant has already incorporated and plans to continue to implement GHG reduction methods including: energy conserving lighting; water efficient fixtures, connection to recycled water, recycle 75% of waste; implement a sustainable purchasing and shipping programs, certified "Napa Green Winery", certified, "Napa Green Land", use 70-80% cover crop, retain biomass on site.

GHG Emission reductions from local programs and project level actions, such as application of the CalGreen Building Code, tightened vehicle fuel efficiency standards, and more project specific on-site programs including those winery features noted above would combine to reduce emissions.

Public Comments - No comments have been received at this time.

Consistency with Standards

Zoning - The project is consistent with the AP (Agricultural Preserve) zoning district regulations. A winery (as defined in the Napa County Code Section 18.08.640) and uses in connection with a winery (refer to Napa County Code Section 18.16.030) are permitted in the AP District with an approved use permit. The project, as conditioned, complies with the Napa County Winery Definition Ordinance and all other requirements of the Zoning Code as applicable.

Engineering Services Division - Recommends approval with standard conditions in the attached Memorandum dated September 23, 2014.

Environmental Health Division - Recommends approval with standard conditions in the attached memorandum dated September 24, 2014.

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 in an annual increase in wine production from 300,000 gallons to 429,000 gallons.

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. This option has been analyzed for its environmental impacts, which were found to be less than significant. The applicant can accommodate the increased production without the need to construct new infrastructure and as a result there is minimal impact to the site or its surroundings. As an existing winery that has sufficient grapes to meet its increased production numbers and a history free of compliance issues the proposal is appropriate. Additionally, the project meets all County Code requirements and complies with General Plan policies. This proposed increase would not result in any adverse affects and staff supports this option.

Option 2 – Reduced Production Alternative

Disposition – This option could result in a potential decrease in the proposed wine production. The applicant has demonstrated that they have the wastewater system and other infrastructure in place to accommodate the proposal.

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 . Department comments
- D . Previous approvals
- E . Application
- F . CEQA document
- G . Winery Comparison chart

H . GhG BMPs

I . Will serve letter

J . Wastewater Feasibility study

K . Water Availability Analysis

L . Graphics

Napa County Planning Commission: Approve

Reviewed By: John McDowell