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Agenda Date: 9/20/2017

Agenda Placement: 8C

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: Dana Ayers, Planner III - (707) 253-4388

SUBJECT: Rodde Residence Private Access Road – Use Permit Conservation Regulations Exception
Request #P16-00383 - UP

RECOMMENDATION

YAHOME VINEYARDS, LLC / RODDE RESIDENCE PRIVATE ACCESS ROAD / USE PERMIT EXCEPTION TO CONSERVATION REGULATIONS APPLICATION #P16-00383

CEQA Status: 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 included on a list of hazardous materials sites enumerated under Government Code Section 65962.5.

Request: Approval of a request for an exception to the Napa County Conservation Regulations (County Code Chapter 18.108), in the form of a Use Permit, in order to allow portions of a new, 20-foot wide, asphalt-paved driveway and adjacent retaining walls to encroach into the minimum required 45- and 55-foot creek setbacks from the top of bank of Hagen Creek. The proposed new driveway would provide access from Hagen Road to the Rodde Residence located at 4100 Hagen Road, Napa (Assessor's Parcel No. 049-270-013), within a 25-foot wide access easement adjacent to the southern boundary of an adjoining vineyard parcel at 4028 Hagen Road, Napa (Assessor's Parcel No. 049-270-014). Both properties are approximately two miles east of the City of Napa municipal boundary, have a General Plan land use designation of Agriculture, Watershed and Open Space (AWOS), and are located in the Agricultural Watershed (AW) zoning district.

Staff Recommendation: Adopt the Negative Declaration and approve the Use Permit Exception request, subject to conditions.

Staff Contact: Dana Ayers, Planner III; phone (707) 253-4388; email dana.ayers@countyofnapa.org

Applicant: Scott Rodde; phone (707) 486-3950; email srodde@napanet.net

EXECUTIVE SUMMARY**Proposed Actions:**

That the Planning Commission:

1. Adopt the Negative Declaration for the Rodde Residence Private Access Road, Conservation Regulations Exception, Use Permit Application #P16-00383, based on Findings 1-6 of Attachment A; and
2. Approve an Exception to the Conservation Regulations in the form of a Use Permit (#P16-00383), based on Findings 7-18 of Attachment A and subject to the Conditions of Approval listed in Attachment B.

Discussion:

The proposed project is a request for an exception to the Napa County Conservation Regulations (County Code Chapter 18.108), in the form of a Use Permit, in order to allow portions of a new, 20-foot wide, asphalt-paved driveway to encroach into the 45- to 55-foot minimum required creek setback from the top of bank of Hagen Creek (Napa County Code Section 18.108.025). The proposed new driveway would provide access from Hagen Road, a public County road, to the Rodde Residence located at 4100 Hagen Road, within a 25-foot wide access easement next to the southern boundary of a 167-acre adjacent vineyard parcel. In addition to grading and paving, construction of the roadway project would include, on either side of the roadway, two- to four-foot tall retaining walls and bioswales for treatment of stormwater runoff from the roadway prior to discharge of the runoff into Hagen Creek. No other development is proposed.

The new, asphalt-paved roadway would follow the alignment of an existing dirt and gravel vineyard road that is currently used for vineyard maintenance vehicles, and the area surrounding the roadway is substantially disturbed through prior activities related to vineyard planting and private road construction. Staff believes that the necessary findings can be made to approve the requested exception to the Conservation Regulations and recommends approval of the request. No other exceptions to County standards are requested or are necessary for the proposed project.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

Consideration and adoption of a Negative Declaration. According to the Negative Declaration, the proposed project would not have any potentially significant 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

Property Owner: Yahome Vineyards, LLC

Applicant: Scott Rodde, phone 707-486-3950 or email srodde@napanet.net

Zoning: Agricultural Watershed (AW) District

General Plan Designation: Agriculture, Watershed and Open Space (AWOS)

Parcel Size: 167 acres

Setback (Required): 45 feet and 55 feet from top of Hagen Creek bank, depending on slope

Setback (Proposed): Varies, from as much as 110 feet from, to as little as 26 feet from top of Hagen Creek bank

Application Filed: September 16, 2016; **Supplemental submittal:** April 7, 2017; **Revision submitted:** June 29, 2017;

Application Complete: July 28, 2017; **Revision submitted:** September 12, 2017

Adjacent General Plan Designations, Zoning Districts and Land Uses:

North: An approximately 14-acre, single-family residential parcel adjoins the northern property line of the parcel on which the roadway is proposed to be constructed. North of the Rodde residence is a 34-acre parcel owned by the Napa County Land Trust. All parcels to the north of the project parcel and residence have a General Plan land use designation of AWOS and are zoned AW District.

West: Beyond the 167-acre parcel on which the roadway is proposed is a neighborhood of large-lot (one acre or larger), single-family residences with and without vineyards, and the 97-acre Napa Valley Country Club and golf course. The Napa Valley Country Club has a General Plan land use designation of AWOS and is zoned AW District. The neighborhood of single-family residences has a General Plan land use designation of Rural Residential and is zoned RC (Residential Country) District.

South: The 122-acre, Palmaz Vineyards and winery parcel adjoins the southern property line of the parcel on which the roadway is proposed to be built. Further south of that parcel are single-family residential parcels ranging in size from seven to 160 acres. All parcels to the south of the proposed roadway have a General Plan land use designation of AWOS and are zoned AW District.

East: A three-acre parcel and a 220-acre parcel are east of the proposed roadway. Both parcels are developed with single-family residences. The larger of the two parcels also has approximately three acres of vineyard plantings and vineyard access roads but is predominantly undeveloped woodland. All parcels to the east of the Project site have a General Plan land use designation of AWOS and are zoned AW District.

Property History:

The project proponent resides on the 17.7-acre parcel located at 4100 Hagen Road (Assessor's Parcel No. 049-270-013). The property is developed with a single-family residence that was constructed in 1990, with issuance of County building permit #43515. Subsequent to construction of the residence, the property owner obtained permits to construct a swimming pool and a subterranean cave for display of art and sculptures (County building permits 51537 obtained in 1992, and B00-01108 obtained in 2000); the pool and cave are accessory amenities to the residence on-site. The property is planted with approximately 0.6 acres of vineyards, plus ornamental landscaping.

In May 1990, the applicant and resident owner of the property at 4100 Hagen Road recorded an agreement with the owner of the adjacent parcel (Assessor's Parcel No. 049-270-014). The adjacent parcel, roughly 167 acres in size, is predominantly planted in grapevines. The recorded agreement provided for a 25-foot wide access easement across the vineyard parcel at APN 049-270-014 to the property at 4100 Hagen Road. The easement, which is as close as 25 feet to the top of bank of Hagen Creek at one point, preceded adoption of the County's Conservation

Regulations in 1991.

Compliance History:

Grading for construction of improvements to the roadway began in 2011. The County opened a code compliance case in October of that year, noting: 1) failure of the contractor or property owner to obtain a grading permit prior to commencing work; and 2) grading within the required creek setback. Work on the project subsequently stopped. The current use permit request, if approved, would facilitate the property owner pursuing grading permits to re-start construction in compliance with County requirements.

Discussion Points:

Project Setting – The property at 4100 Hagen Road lacks any frontage on a public street. Instead, access to the parcel is from Hagen Road via a 0.22-mile long, asphalt-paved, private roadway within an easement across an adjacent parcel (APN 049-270-019) owned by Cedar Knolls Vineyards. The existing, approximately quarter-mile long private roadway is a shared facility providing access to the project proponent's residence, a separately-owned residence at located 4031 Hagen Road, and the Palmaz Winery located at 4029 Hagen Road. The existing roadway has an average width of 10 feet, narrowing to as little as 8.5 feet in some areas, and does not meet Napa County Road and Street Standards, Design Criteria for Common Drives, in that it lacks shoulders, intermittent vehicle turnouts, and has a paved width narrower than 20 feet.

Conservation Regulations – Among the purposes of the Conservation Regulations (County Code Section 18.108.010) are the County's intent to: 1) minimize the effects of cut, fill, earthmoving, grading operations and similar activities on the natural terrain; 2) minimize soil erosion caused by human modifications to the natural terrain; 3) maintain and improve water quality by regulating stormwater quality and quantity; 4) preserve riparian areas and other natural habitat near streams; and 5) encourage development that minimizes impacts to existing land forms, avoids steep slopes and preserves existing vegetation and unique geologic features.

The requested use permit would allow portions of the improved roadway to encroach into the County's minimum required creek setback but is generally consistent with the intent of the Conservation Regulations. It is noted that approximately 492 feet of the 1,170-foot long roadway would be within the required stream setbacks, such that over half of the roadway would not require an exception. The area within the vicinity of the roadway, while much of it lies within the County-established setback from top of bank of Hagen Creek, has been significantly disturbed through prior activities, including vineyard planting, removal of non-native eucalyptus trees, and construction of the existing 10-foot wide driveway that serves the nearby Palmaz Winery. Thus, there is negligible or no remaining riparian or woodland habitat that would be disturbed by the project. Existing vegetative landcover along the road alignment is ruderal grassland, and there are no wetlands in the project area.

Slopes in the vicinity of the project area are relatively shallow, not exceeding 15 percent. The proposed project also includes construction of landscaped bioswales alongside the improved roadway, which would serve to capture and treat stormwater runoff before it is conveyed to Hagen Creek.

A revision to the project design, submitted on September 12, 2017, after release of the public notice for this project, reflected: 1) a reduction in the quantity of earthwork associated with the project; and 2) a proposed increase in the width of the existing easement, from 25 feet to 28.5 feet, to accommodate roadside improvements. No other changes to the alignment of the road were specified in the revision. The environmental analysis previously prepared for the project estimated a greater quantity of soil movement (1,100 cubic yards of soil exported from the site) as compared to this September 2017 revision (36 cubic yards of soil imported to the site). The air quality and traffic impacts of the revised project are therefore greatly reduced from the impacts anticipated with the prior iteration of the project as analyzed in the initial study. Thus, with less severe anticipated environmental impacts, the revised project remains within the scope of the previously-prepared analysis, and no new analysis or recirculation

of the initial study is necessary.

Use Permit Findings – County Code Section 18.108.040 allows exceptions to the requirements of the County's Conservation Regulations made in the form of a use permit application, which is subject to approval or denial by the Planning Commission. Pursuant to County Code Section 18.124.070, the Commission's decision to grant or deny a use permit must be based on findings that the use permit would not adversely affect public health, safety or welfare of the county, and that the request is consistent with the policies and standards of the county's General Plan. To justify an exception to the Conservation Regulations, additional findings are necessary, including findings that the proposed project would complement natural landforms; would require minimal grading, minimal removal of vegetation, and minimal disturbance to watercourses; and would not result in significant adverse impacts to sensitive species or stormwater quality.

Compliance with Other County Standards – Slope within the vicinity of the proposed roadway ranges from four to 14 percent, and the property is not located on any ridgeline, so that the proposal is not subject to the County's Viewshed Protection Program. Similarly, the proposed project has been designed in accordance with the most recent amendments to the Napa County Road and Street Standards and does not require an exception to those Standards.

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. Decision making options also include a no project alternative and a redesign alternative.

Option 1 – Approve Applicant's Proposal (Staff Recommendation)

This option would allow approximately 492 feet of the 1,170-foot long private roadway to encroach into the County's minimum required creek setback. The improved roadway would meet County standards for roads and streets and stormwater quality and would follow the alignment of the existing access easement on the property. The roadway would be parallel to the existing, 10-foot wide private driveway that currently provides vehicular access to the applicant's residence but would eliminate the need for the applicant and the applicant's guests to share the use of that driveway with visitors and winery traffic associated with the Palmaz Winery.

Action Required – Follow the proposed action listed in the Executive Summary. If recommended condition(s) of approval are to be amended, identify the condition and specify the desired revision thereto.

Option 2 – Improve Existing Access Road

This option would require that the applicant coordinate with the owner of the property (Cedar Knoll Vineyards) on which the existing access road has been built, so as to widen and improve the existing road in compliance with the RSS. This option would still require a use permit, as the existing road is also within the required setback from top of bank of Hagen Creek, and the applicant would still need to obtain grading permits to construct the road. Staff does not support this option, as the existing roadway lies between the creek and the proposed road. Thus, this option would require grading, new construction, and new impervious surfaces closer to Hagen Creek than would the proposed project, with the road surface potentially as close as 15 feet to the top of bank in the closest location.

Action Required – Commission would make a tentative action to approve the revised project and to increase the degree of exception request. The item would need to be continued to a future date to complete CEQA review on the necessary improvements to the existing access road, as well as, to draft revised findings and conditions of approval that are reflective of the revised project scope.

Option 3 - Deny the Requested Use Permit

Denial of the requested use permit would preclude construction of any roadway improvement within the required creek setback. This option result in continuation of the existing condition, wherein the applicant shares a substandard access roadway with the adjacent residence and the Palmaz Winery. With this option, the applicant could also attempt to re-design the roadway and subsequently submit requests for grading permits to build the road in a new alignment that completely avoids the creek setback; such an effort would rely on the applicant's success in modifying the existing easement with the owner of the property on which the easement lies. It is possible that construction of the roadway within a new easement alignment that fully avoids the creek setback would require shorter or no retaining walls, as the terrain becomes shallower with increased distance from Hagen Creek. However, with a wall height of four feet, the loss of retaining walls on an already generally flat area would not significantly improve the already nominal visual impacts of the roadway. Shifting the road alignment outside of the creek setback might consequently also result in some removal of existing vineyard.

Disposition – In the event the Commission determines that the project does not or cannot with conditions meet the required findings for grant of a use permit exception, the Commissioners should articulate what aspect or aspects of the project are in conflict with the 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 exception is not being approved. Based on the administrative records 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 make a tentative action to deny the project and remand the matter to staff for preparation of required findings to return to the Commission at a future meeting 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 . Initial Study / Negative Declaration
- D . Conservation Regulations Exception Request
- E . Graphics

Napa County Planning Commission: Approve

Reviewed By: Charlene Gallina