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Planning Commission Mtg.

OCT 18 2016

Agenda Item #

9B

October 18, 2016

via email

Jason R. Hade
AICP, Planner III
Napa County Planning Department
Building & Environmental Services Department
1195 Third Street, Suite 210
Napa CA

RE: McVicar Vineyards
P15-00020-UP

Dear Mr. Hade:

On behalf of Preserve Rural Agricultural Napa County (PRANC) and Michael Clark, please consider these comments on the proposed exemption for this project.

The Project

This project located at 6155 Solano Avenue would consist of a new 20,000 gallon winery consisting of the conversion of an existing 1,131 square foot building for winery production including a 300 square foot tasting room and 831 square foot production area, a 600 square foot covered crush pad and an 800 square foot patio, and six (6) parking spaces. The winery would employ seven (7) full time employees and hours of operation would be 8:30 am to 5:00 pm for production and 10:00 am to 6:00 pm for hospitality. Visitation would be a maximum of 12 visitors per day, 84 visitors per week, and 4,368 per year, plus 10 catered events per year with a maximum of 30 guests per event equaling 300 more visitors per year for a total of 4,668 per year.

Categorical Exemptions in General

The California Secretary of Natural Resources is entitled to create classes or categories of projects that the Secretary has found *typically* do not have a significant effect on the environment and that are, thus, exempt from review under the California Environmental Quality Act (CEQA). The Secretary's determination is that "the environmental changes *typically* associated with projects in that class are no significant effects within the meaning of CEQA."¹

The exemptions are *classes* or *categories* of projects and, thus, certain projects may or may not fit within the scope of the category,² may or may not factually fit within the category,³ and/or may or may not be excepted from the category.

The Project is Not Exempt

The Class 3 exemption is found in the CEQA Guidelines (14 Cal Code Regs) § 15303 and states:

Class 3 consists of construction and location of *limited numbers* of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the *conversion of existing small structures from one use to another where only minor modifications are made in the exterior* of the structure. The numbers of structures described in this section are the maximum allowable on any legal parcel. Examples of this exemption include but are not limited to:

(a) One single-family residence, or a second dwelling unit in a residential zone. In urbanized areas, up to three single-family residences may be constructed or converted under this exemption.

¹ *Berkeley Hillside Preservation v. City of Berkeley* (2015) 60 Cal.4th 1086, 1104 [emphasis supplied]

² *Save Our Carmel River v. Monterey Peninsula Water Mgmt. Dist.* (2006) 141 Cal.App.4th 677, 793.

³ *San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School District* (2006) 139 Cal.App.4th 1356, 1382.

(b) A duplex or similar multi-family residential structure totaling no more than four dwelling units. In urbanized areas, this exemption applies to apartments, duplexes, and similar structures designed for not more than six dwelling units.

(c) *A store, motel, office, restaurant or similar structure not involving the use of significant amounts of hazardous substances, and not exceeding 2500 square feet in floor area.* In urbanized areas, the exemption also applies to up to four such commercial buildings not exceeding 10,000 square feet in floor area on sites zoned for such use if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.

(d) *Water main, sewage, electrical, gas, and other utility extensions, including street improvements, of reasonable length to serve such construction.*

(e) *Accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences.*

(f) An accessory steam sterilization unit for the treatment of medical waste at a facility occupied by a medical waste generator, provided that the unit is installed and operated in accordance with the Medical Waste Management Act (Section 117600, et seq., of the Health and Safety Code) and accepts no offsite waste.

[Emphasis supplied]

A new, 20,000 gallon winery in a currently unoccupied building, totaling 3,662 square feet of production and hospitality area does not fit into a categorical exemption from CEQA review. This is a new project which would accommodate nearly 4,700 visitors per year. It does not fit into the scope of this limited exemption nor does it factually fit within the definition of the category.⁴

⁴ This writer, in her near 30 years of experience, is personally aware of no wineries that have been approved on an exemption. A search of "15303 and winery and exempt" in Lexis online research reveals no cases fitting these search terms

Examples of projects that are within the exemption include a small commercial structure in an urban environment,⁵ a residence,⁶ closure of two elementary schools,⁷ expansion of fiber-optic network,⁸ installation of wireless telecommunications equipment on utility poles,⁹ and a rodeo at a fairgrounds.¹⁰

Again, a new 20,000 gallon winery, tasting room, and event center is not a Class 3, or any other, exempted project.

In Any Event, the Project is Excepted from the Exemption

The CEQA Guidelines provide for exceptions to exemptions, as follows and as is relevant here:

* * *

(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.

(c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.¹¹

Here, this project will create cumulative impacts in combination with, among other projects, the approved Bell Winery project at 6200 Washington

⁵ *Fairbank v. City of Mill Valley* (1999) 75 Cal. App. 4th 1243

⁶ *Association for Protection etc. Values v. City of Ukiah* (1999) 2 Cal. App. 4th 720

⁷ *San Lorenzo Valley Community Advocates for Responsible Education v. San Lorenzo Valley Unified School Dist.* (2006) 139 Cal. App. 4th 1356

⁸ *San Francisco Beautiful v. City and County of San Francisco* (2014) 226 Cal. App. 4th 1012

⁹ *Robinson v. City and County of San Francisco* (2012) 208 Cal. App. 4th 950

¹⁰ *Citizens for Environmental Responsibility v. State ex rel. 14th Dist. Ag. Assn.* (2015) 242 Cal. App. 4th 555

¹¹ Guidelines, § 15300.1

Street (in litigation) and the concurrently proposed Yountville Washington Street Winery at 6170 Washington Street.

The Bell Winery project consists of a 60,000 gallon winery in a 9,959± square foot winery including a tasting room, a commercial kitchen, and other uses; a 1,450 square foot exterior covered crush pad; 15 employees; visitation of 100 persons per day, 420 persons per week, and 21,840 per year, and on-site consumption.

The Yountville Washington Street project would add a 3,460 square foot winery production building including a 480 square foot covered crush pad; a 1,324 square foot hospitality building with up to 10 employees; daily visitation for a maximum of 25 persons per day, 175 per week, and 9,100 per year; 10 events of up to 30 persons and one (1) event of up to 100 persons for a total of 400 persons annually for events and 9,500 per year for tasting and events; and on-site consumption.

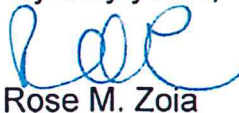
These three projects alone would add 35,640 visitors per year to the area, resulting in sure cumulative impacts to traffic, noise, light pollution, and other areas. There also is a reasonable possibility that this project will have a significant effect on the environment due to unusual circumstances.

Use Permit Findings Cannot be Made

PRANC and Mr. Clark respectfully request that the Planning Commission deny the project based on the inability to make user permit findings. In the alternative, they request that Planning Commission find the project is not exempt from CEQA and require the preparation of an Initial Study.

Thank you for your close attention to this matter.

Very truly yours,



Rose M. Zoia

cc: Planning Commission

Hade, Jason

From: Michael Clark <mclarkdesign@sbcglobal.net>
Sent: Tuesday, October 18, 2016 10:03 PM
To: Hade, Jason
Subject: Mcvicar Vineyards Use Permit P15-00020-UP

Planning Commission Mtg.

OCT 19 2016

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Hello Jason,

I am requesting a continuance regarding the McVicar Vineyards Use Permit P15-00020-UP. I received notice on October 17, 2016. I would like to have a chance to meet with you and discuss the cumulative impact of traffic at the intersection of Hoffman Lane and Highway 29.

Thank you,
Michael Clark

