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Recommended Findings

**RECOMMENDED FINDINGS
PLANNING COMMISSION HEARING – JANUARY 4, 2017**

**MOUNTAIN PEAK WINERY
USE PERMIT P13-00320-UP & ROAD & STREET STANDARDS EXCEPTION REQUEST
3265 SODA CANYON ROAD, NAPA, CA 94574
APN #032-500-033**

ENVIRONMENTAL:

The Planning Commission (Commission) has received and reviewed the proposed Negative Declaration pursuant to the provisions of the California Environmental Quality Act (CEQA) and of Napa County's Local Procedures for Implementing CEQA, and finds that:

1. The Planning Commission has read and considered the Negative Declaration prior to taking action on said Negative Declaration and the proposed project.
2. The Negative Declaration is based on independent judgment exercised by the Planning Commission.
3. The Negative Declaration was prepared and considered in accordance with the requirements of the California Environmental Quality Act (CEQA).
4. There is no substantial evidence in the record as a whole, that the project will have a significant effect on the environment.
5. There is no evidence, in considering the record as a whole that the proposed project will have a potential adverse effect on wildlife resources or habitat upon which the wildlife depends.
6. The site of this proposed project is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5 and is not within the boundaries of any airport land use plan.
7. The Secretary of the Commission is the custodian of the records of the proceedings on which this decision is based. The records are located at the Napa County Planning, Building & Environmental Services Department, 1195 Third Street, Second Floor, Napa, California.

EXCEPTION TO ROAD AND STREET STANDARDS:

The Commission has reviewed the attached described Road and Street Standards (RSS) Exception request in accordance with RSS Section 3 and makes the following findings:

8. The exception will preserve unique features of the natural environment which includes, but is not limited to, steep slopes, heritage oak trees, or other trees of at least 6"dbh and found by the decision-maker to be of significant importance, but does not include man made environmental features such as vineyards, rock walls, ornamental or decorative landscaping, fences or the like.

Analysis: The road exception request consists of allowing a less than 500 ft. section of the service access driveway to exceed the 16% maximum slope requirement for a private road. The slope of the road will reach a maximum of 19.6%. This slope is necessary because the existing terrain where the road will be constructed slopes away from the public road at grades of 15% and greater. Because design standards require a gently slope driveway where it connects to the public road, the proposed design features a relatively level driveway (less than 3% slope) for the first 75+/-ft. extending from Soda Canyon Road, and thus a road slope greater than 15% up to a 19/6% maximum is necessary for the remainder of the driveway. This 15% and greater existing slope represents a unique natural feature.

9. Grant of the RSS Exception will provide the same overall practical effect as the Standards do in providing defensible space, and does not adversely affect the life, safety, and welfare of the public or persons coming to the property.

Analysis: The County Engineering Division has reviewed the request with the Napa County Fire Department and has conducted a site visit. Engineering staff recommends approval of the requested road exception, subject to recommended conditions in their memo of July 1, 2016. The proposed improvements will meet the same overall practical effect of the RSS accommodating the slope differences of the site. The proposed road is an employee only access designed to full 20 ft. paved width. The RSS exception would allow this road to be constructed to a maximum slope of 19.6% where 16% is the standard. This road serves only employees and business vehicles, is separated from the customer access road, and the distance of road where slopes exceed 16% is less than 500 ft. in length. The proposed improvements will serve as an alternate method by which adherence to the RSS may be achieved and will provide the same overall practical effect as the RSS towards providing defensible space, preserving the natural environment and protecting the life, safety and welfare of the public.

PLANNING AND ZONING ANALYSIS:

USE PERMIT:

The Commission has reviewed the use permit request in accordance with the requirements of the Napa County Code §18.124.070 and makes the following findings:

10. The Commission has the power to issue a Use Permit under the Zoning Regulations in effect as applied to property.

Analysis: The project is consistent with the AW (Agricultural Watershed) 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 18.20.030) are permitted in the AW District with an approved use permit. The project, as conditioned, complies with the Napa County Winery Definition Ordinance (WDO) and all other requirements of the Zoning Code as applicable.

11. The procedural requirements for a Use Permit set forth in Chapter 18.124 of the Napa County Code (zoning regulations) have been met.

Analysis: The use permit application has been appropriately filed and notice and public hearing requirements have been met. The hearing notice and intent to adopt a Negative Declaration was posted by the Governor's Office of Planning and Research State

Clearinghouse and published in the Napa Valley Register on June 29, 2016. Copies were forwarded to property owners within 1,000 feet of the subject parcel, as well as other interested parties. The public comment period ran from June 29, 2016 to July 19, 2016. The project was continued to a date certain off of the July 20, 2016, August 17, 2016, October 19, 2016, and November 2, 2016 regular meetings, to the January 4, 2017 regular meeting.

12. The grant of the Use Permit, as conditioned, will not adversely affect the public health, safety or welfare of the County of Napa.

Analysis: Granting the Use Permit for the project as proposed and amended by the applicant, and conditioned will not adversely affect the health, safety or welfare of the County. Affected County divisions and departments have reviewed the project and commented regarding the proposed driveway, grading, drainage, the proposed septic system, parking, building permits, and fire protection. Conditions are recommended which will incorporate these comments into the project to assure the protection of the public health, safety, and welfare.

13. The proposed use complies with applicable provisions of the Napa County Code and is consistent with the policies and standards of the Napa County General Plan and any applicable specific plan.

Analysis: Compliance with the Zoning Ordinance

The project is consistent with the AW (Agricultural Watershed) 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 18.20.030) are permitted in the AW District subject to an approved use permit. The proposed site improvements will comply with the development regulations of the AW District, including the minimum 300-foot road setback for winery buildings and 35-foot maximum building height as prescribed in County Code Sections 18.104.010, 18.104.220 and 18.104.230. The project, as conditioned, complies with the Napa County Winery Definition Ordinance (WDO) and all other requirements of the Zoning Code as applicable.

Analysis: Compliance with the General Plan

As proposed and amended by the applicant, and as conditioned, the requested Use Permit is consistent with the overall goals and objectives of the General Plan (2008). The General Plan land use designation for the subject parcel is Agriculture, Watershed and Open Space.

General Plan Agricultural Preservation and Land Use Goal AG/LU-1 guides the County to “preserve existing agricultural land uses and plan for agriculture and related activities as the primary land uses in Napa County.” General Plan Goal AG/LU-3 states that the County should “support the economic viability of agriculture, including grape growing, winemaking, other types of agriculture, and supporting industries to ensure the preservation of agricultural lands.” Goal AG/LU-3 and Policy AG/LU-2 recognize wineries as agricultural uses.

The proposed use of the property for fermenting and processing of grape juice into wine supports the economic viability of agriculture within the County, consistent with Goal AG/LU-3 and Policy AG/LU-4 (“The County will reserve agricultural lands for agricultural use including land used for grazing and watershed/open space...”). By authorizing a winery at the project site the requested Use Permit supports the economic viability of both the vineyard use on the property, consistent with Economic Development Goal E-1 and Policy E-1.

The “Right to Farm” is recognized throughout the General Plan and is specifically called out in Policy AG/LU-15 and in the County Code. “Right to Farm” provisions ensure that agriculture remains the primary land use in Napa County and is not threatened by potentially competing uses or neighbor complaints. Napa County’s adopted General Plan reinforces the County’s long-standing commitment to agricultural preservation, urban centered growth, and resource conservation.

Applicable Napa County General Plan goals and policies:

Goal AG/LU-1: Preserve existing agricultural land uses and plan for agriculture and related activities as the primary land uses in Napa County.

Goal AG/LU-3: Support the economic viability of agriculture, including grape growing, winemaking, other types of agriculture, and supporting industries to ensure the preservation of agricultural lands.

Policy AG/LU-2: “Agriculture” is defined as the raising of crops, trees, and livestock; the production and processing of agricultural products; and related marketing, sales and other accessory uses. Agriculture also includes farm management businesses and farm worker housing.

Policy AG/LU-4: The County will reserve agricultural lands for agricultural use including lands used for grazing and watershed/open space, except for those lands which are shown on the Land Use Map as planned for urban development.

Policy AG/LU-8: The County’s minimum agricultural parcel sizes shall ensure that agricultural areas can be maintained as economic units.

Policy AG/LU-15: The County affirms and shall protect the right of agricultural operators in designated agricultural areas to commence and continue their agricultural practices (a “right to farm”), even though established urban uses in the general area may foster complaints against those agricultural practices. The “right to farm” shall encompass the processing of agricultural products and other activities inherent in the definition of agriculture provided in Policy AG/LU-2.

Goal CON-10: Conserve, enhance and manage water resources on a sustainable basis to attempt to ensure that sufficient amounts of water will be available for the uses allowed by this General Plan, for the natural environment, and for future generations.

Goal CON-11: Prioritize the use of available groundwater for agricultural and rural residential uses rather than for urbanized areas and ensure that land use decisions recognize the long-term availability and value of water resources in Napa County.

Policy CON-53: The County shall ensure that the intensity and timing of new development are consistent with the capacity of water supplies and protect groundwater and other water supplies by requiring all applicants for discretionary projects to demonstrate the availability of an adequate water supply prior to approval. Depending on the site location and the specific circumstances, adequate

demonstration of availability may include evidence or calculation of groundwater availability via an appropriate hydrogeologic analysis or may be satisfied by compliance with County Code “fair-share” provisions or applicable State law. In some areas, evidence may be provided through coordination with applicable municipalities and public and private water purveyors to verify water supply sufficiency.

Policy CON-55: The County shall consider existing water uses during the review of new water uses associated with discretionary projects, and where hydrogeologic studies have shown that the new water uses will cause significant adverse well interference or substantial reductions in groundwater discharge to surface waters that would alter critical flows to sustain riparian habitat and fisheries or exacerbate conditions of overdraft, the County shall curtail those new or expanded water uses.

Policy CON-60.5 All aspects of landscaping from the selection of plants to soil preparation and the installation of irrigation systems should be designed to reduce water demand, retain runoff, decrease flooding, and recharge groundwater.

Policy CON-72: The County shall seek to reduce the energy impacts from new buildings by applying Title 24 energy standards as required by law and providing information to the public and builders on available energy conservation techniques, products, and methods available to exceed those standards by 15 percent or more.

Policy CON-77: All new discretionary projects shall be evaluated to determine potential significant project-specific air quality impacts and shall be required to incorporate appropriate design, construction, and operational features to reduce emissions of criteria pollutants regulated by the state and federal governments below the applicable significance standard(s) or implement alternate and equally effective mitigation strategies consistent with BAAQMD’s air quality improvement programs to reduce emissions. In addition to these policies, the County’s land use policies discourage scattered development which contributes to continued dependence on the private automobile as the only means of convenient transportation. The County’s land use policies also contribute to efforts to reduce air pollution.

Policy CON-81: The County shall require dust control measures to be applied to construction projects consistent with measures recommended for use by the BAAQMD [Bay Area Air Quality Management District].

Goal E-1: Maintain and enhance the economic viability of agriculture.

Policy E-1: The County’s economic development will focus on ensuring the continued viability of agriculture in Napa County.

Policy SAF-20: All new development shall comply with established fire safety standards. Design plans shall be referred to the appropriate fire agency for comment as to:

- 1) Adequacy of water supply.
- 2) Site design for fire department access in and around structures.

- 3) Ability for a safe and efficient fire department response.
 - 4) Traffic flow and ingress/egress for residents and emergency vehicles.
 - 5) Site-specific built-in fire protection.
 - 6) Potential impacts to emergency services and fire department response.
14. That the proposed use would not require a new water system or improvement causing significant adverse effects, either individually or cumulatively, on the affected groundwater basin in Napa County, unless that use would satisfy any of the other criteria specified for approval or waiver of a groundwater permit under Sections 13.15.070 or 13.15.080 of the County Code.

Analysis: The project, as amended by the applicant, is consistent with General Plan Conservation Policies CON-53 and CON-55, which require that applicants, who are seeking discretionary land use approvals, prove that adequate water supplies are available to serve the proposed use without causing significant negative impacts to shared groundwater resources. The project's net water use "delta" (existing conditions without the project versus existing conditions plus project conditions) will result in a net delta of 0.5 AF/YR less water use than under current non-discretionary conditions. The removal of 2.96 acres of vineyard as part of the project will result in a reduction of existing vineyard irrigation by 2.1 AF/YR using data from the Bartelt March 2016 report, calculated as follows: (50,826 existing vines - 45,440 future vines) x 129 gal/vine existing water use = 694,794-gallon reduction each year (or 2.1 AFY). Since the actual existing permitted use is 129 gallons/vine, it is appropriate to calculate any reduction from taking out the three acres of vineyards based on the 129 gallons/vine existing use, not a proposed (voluntary) future use of 104 gallons/vine. But even if the 104 gallons/vine were used in lieu of 129 gallons/vine in any reduction calculation, there would still be a 1.7 AF/YR vineyard water use reduction as opposed to 2.1 AF/YR, or a reduction from 0.5 AF/YR to 0.1 AF/YR less water use than under existing conditions.

The reuse of winery process water will result in an additional 1.84 AF/YR reduction in water use. While it is true that the amount of winery process water that will be used for the project in the first instance would not be directly reused in the project winery itself, the reuse of winery process water will offset water use that would have otherwise been used for vineyard irrigation (an existing "of right" water use that will continue if the project were not approved). Thus, the reuse of process water with the LYVE or comparable systems is a water-neutral situation. Slade's calculations of net groundwater demand change (the delta set forth on page 2 of Slade's November 30, 2016 response). The 1.84 AF/YR of project process water use is completely offset by the 1.84 feet of reuse for vineyard irrigation. Thus if winery process water demand is proportionately less, reuse would also be correspondingly less, and thus there would not be any net change in the project-favorable delta.

Subsequent analysis of water loss in the recycled water system was also evaluated. Bartelt's experience and available data regarding the LYVE system (though the project has not definitively committed to LYVE versus other pre-treatment systems) indicates at most a 3-5% water reuse reduction factor for "sludge removal" would be reasonable, and even then, additional sludge de-watering presses are available that could be used, if needed, to bring the reuse closer to 100%. In reference to the calculations set forth in page 3, item (f)(i) of Slade's November 30, 2016 response, a 3-5% reduction of the 1.84 AF/YR process water

reuse is only 0.05-0.09 AF/YR (against a total delta of 0.5 AF/YR). Again, the project would result in less groundwater use than under existing conditions. Because the projected water demand for the project and property are below the existing water use for the property, due in large part to the removal of 2.96 acres of existing vineyards, the requested Use Permit is consistent with General Plan Goals CON-10 and CON-11, as well as the policies mentioned above that support reservation and sustainable use of groundwater for agricultural and related purposes. The project's new water system and other improvements and will not have a negative impact on local groundwater.