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## Recommended Findings

**PLANNING COMMISSION HEARING – FEBRUARY 15, 2017  
RECOMMENDED FINDINGS**

**Flynnville Wine Company Use Permit and Variance  
Application Numbers P12-00222-UP and P12-00223-VAR  
1184 Maple Lane, Calistoga, California  
APN(s) #020-320-003; -006; -009; -015; -016; and 020-170-012**

**ENVIRONMENTAL:**

The Planning Commission (Commission) has received and reviewed the proposed Mitigated 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 Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (MMRP) prior to taking action on said Mitigated Negative Declaration and the proposed project.
2. The Mitigated Negative Declaration is based on independent judgment exercised by the Planning Commission.
3. The Mitigated 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 provided that measures to mitigate potentially significant impacts to biological resources, noise, and transportation/traffic are incorporated into the project approval.
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.

**VARIANCE:**

The Commission has reviewed the Variance application and makes the following findings:

8. That the procedural requirements set forth in Chapter 18.128.060 have been met.

Analysis: An application has been submitted for a variance accompanied with a statement from the applicant outlining the reasons for the request. The required processing fees have been included in the processing of the Use Permit application. Site plans depicting the location of the project and elevation drawings showing the appearance of the proposed

structures have also been submitted. Noticing and public hearing requirements have been met. The hearing notice was posted on January 13, 2017, and copies were forwarded to property owners within 1,000 feet of the subject parcel and all other interested parties. The CEQA public comment period ran from January 13, 2017 to February 14, 2017.

9. Special circumstances exist applicable to the property, including size, shape, topography, location or surroundings, because of which strict application of the zoning district regulations deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification.

Analysis: The 10.09-acre parcel has a unique shape with constraints not shared by other properties in the vicinity including: existing physical improvements, buildings, and paving installed over the years in conformance with the pre-existing zoning district; a project site which is surrounded by roadways or driveways on all four sides; and the parcel size. As shown on the map included with the variance application submittal (Attachment G), the subject site is the only parcel within the vicinity that is surrounded on all four sides by existing roads or driveways for which either a 300-foot or 600-foot setback is required. The available area outside of the required setback is too small to construct the proposed winery with the necessary infrastructure to support the project. The limited size of the combined parcels together with the circumstances of the surrounding roads are unique conditions of the property that were not created by the owners. The granting of this variance will not confer a special privilege as the subject parcel contains a unique combination of constraints.

#### Special Circumstances

The applicant provided a comparison to other properties in the vicinity demonstrating that the subject property has a unique combination of characteristics including parcel shape, being surrounded on all four sides by existing roads or driveways for which either a 300-foot or 600-foot setback is required, and smaller than average parcel size that are not shared by other properties in the vicinity of the parcel. These physical constraints are further increased by the requirements of the 300-foot and 600-foot winery setbacks. Overall, approximately 11,475 square feet or 3% of the parcel are free from combined constraints. See summary table on page 12 of Attachment G. [Jeff Redding, letter dated July 22, 2016, Site Coverage and Neighboring Parcel Map Table].

#### Unnecessary Hardship

Meeting the winery setbacks is a regulatory hardship that, together with the circumstance that the subject property is surrounded on all four sides by roads or driveways requiring setbacks, places the owners at a disadvantage versus other landowners in the vicinity because of its location and extent of existing improvements. The combined parcels on which the winery will be constructed (10.09 acres) are smaller than the average size of parcels in the vicinity (16.40 acres). None of the parcels in the vicinity are surrounded on all sides by roads or driveways. The size of the combined parcels together with the surrounding roads is a unique condition of the property, not created by any act of the owners. Imposition of a winery setback will result in insufficient area to develop a conforming use on the property without a variance and will deprive the owner of the ability to develop a use for the property that will conform to existing zoning. As shown on the map in Attachment G, unlike the majority of parcels in the vicinity which are planted in vines or dedicated strictly to agricultural uses, the current state of improvements, buildings, and paving on the subject parcel precludes this site's economic use as a large vineyard or farm because of the years of industrial use and resulting soil compaction. [Jeff Redding, letter dated July 22, 2016].

Approval of the variance will permit the subject property to be converted to an agricultural use conforming to the General Plan and current zoning designations. Denial of the variance will preclude any conforming agricultural use. The potential vineyard development area is limited because of the extent of the existing uses and disturbed area. Such a denial will deprive the applicants of development rights enjoyed by other properties in the vicinity.

10. Grant of the variance is necessary for the preservation and enjoyment of substantial property rights.

Analysis: This finding requires the applicant to demonstrate that grant of the variance is necessary for the preservation and enjoyment of substantial property rights generally enjoyed by other property in the same zone and vicinity but which would be denied to applicant's parcel due to special circumstances and unnecessary hardship.

The property has split zoning, locating it within the Agricultural Watershed and Agricultural Preserve zoning districts in which wineries are permitted upon approval of a use permit. Denial of a variance will deprive the applicant of the ability to develop this property for any conforming agriculture, either agriculture or agricultural processing facility. Approval of the variance will allow the subject property to be converted to an agricultural use consistent with the site's zoning and General Plan land use designations. Further, the variance to the winery setbacks will allow the applicants to achieve a degree of parity with other properties in the vicinity within the same zoning district that are currently in agricultural use and are not constrained by the pre-existing conditions described above. Strict application of the setbacks, results in both practical and financial hardships, which will restrict the ability to obtain a winery use permit. Grant of the variance will bring the parcel into "parity" with other properties zoned AP or AW that have been granted use permits for wineries.

11. Grant of the variance will not adversely affect the public health, safety or welfare of the County of Napa.

Analysis: There is nothing included in the variance proposal that will adversely impact the public health, safety, or welfare of the County of Napa. Construction of the new buildings will be subject to County Codes and regulations including but not limited to California building codes, fire department requirements, and water and wastewater requirements. The granting of the variance to the winery road setbacks will not adversely affect the health or safety of persons residing or working in the neighborhood of the property. The proposed winery structures and site development will be located in the approximate location of the existing non-conforming industrial buildings. Various County departments have reviewed the Project and commented regarding water, waste water disposal, access, building permits, and fire protection. Conditions are recommended which will incorporate these comments into the project to assure protection of public health, safety, and welfare.

12. Grant of the variance in the case of other groundwater basins, or areas which do not overlay an identified groundwater basin, where grant of the variance cannot satisfy the criteria specified for approval or waiver of a groundwater permit under Section 13.15.070 or 13.15.080, substantial evidence has not been presented demonstrating that the grant of the variance might cause a significant adverse effect on any underlying groundwater basin or area which does not overlay an identified groundwater basin.

Analysis: The County requires all Use Permit and Variance applicants to complete necessary water analyses in order to document that sufficient water supplies are available

for the proposed project. The project is categorized as being located within the Valley Floor in an area that has an established acceptable water use criteria of 1.0 acre foot per acre per year based upon current County Water Availability Analysis policies. Based upon those criteria, the Allowable Water Allotment for the project site is 10.09 acre-feet per year (af/yr), determined by multiplying the 10.09 acre Agricultural Preserve zoned site by a one AF/YR/acre fair share water use factor. According to the Water Availability Analysis (WAA) prepared by Summit Engineering, Incorporated on October 23, 2015, five existing wells near the proposed winery facility will remain in service and provide for the domestic, winery process, and irrigation needs of the property. An existing well located on APN 020-170-012 will be abandoned. Three 20,000 gallon water storage tanks are also proposed (*Flynnville Wine Company Use Permit Assistance - Water Availability Analysis, 2015*). As stated in the WAA, total project water demand will be 4.49 AF/YR. Existing water use for the facility is 1.01 AF/YR. The analysis concluded that anticipated total water demand for the project site will be 4.49 AF/YR representing a 3.48 AF/YR increase of the existing water demand. The anticipated peak daily potable water demand for the parcel should be met with five existing potable water supply wells and proposed 20,000 gallon storage tank (*Flynnville Wine Company Use Permit Assistance - Water Availability Analysis, 2015*).

### **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:

13. 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 Agricultural Watershed (AW) and Agricultural Preserve (AP) 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 and 18.20.030) are permitted in the AW and AP Districts 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.

14. 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 Mitigated Negative Declaration were posted on January 13, 2017, and copies were forwarded to appropriate persons on the mailing list. The public comment period ran from January 13, 2017 to February 14, 2017.

15. 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 conditioned will not adversely affect the health, safety or welfare of the County. Various County divisions and departments have reviewed the project and commented regarding modifications to the existing road and driveways, grading, drainage, the proposed wastewater disposal system, parking, building permits, and fire protection. Conditions are recommended which will

incorporate these comments into the project to ensure the protection of the public health, safety, and welfare.

16. 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 Agricultural Watershed (AW) and Agricultural Preserve (AP) 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 and 18.20.030) are permitted in the AW and AP Districts with an approved use permit. The existing site improvements are legally non-conforming uses within the AW and AP Districts. However, the proposed project will comply with the development standards of the AW and AP Districts including the 35-foot maximum building height as prescribed in County Code Sections 18.104.010 and 18.104.220. The project requests a Variance from the 300-foot and 600-foot winery setbacks prescribed in Section 18.104.230.A.1 and 18.104.230.B.2. 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 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 Agricultural Watershed & Open Space and Agricultural Resource.

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 approved 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 allowing the replacement of the existing non-conforming structures with a winery, the proposed Use Permit supports the economic viability of both the vineyard and agricultural product processing uses 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.

Finally, the project is also consistent with General Plan Conservation Policy 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.

17. 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 §'s13.15.070 or 13.15.080 of the County Code.

Analysis: The project is categorized as being located within the Valley Floor in an area that has an established acceptable water use criteria of 1.0 acre foot per acre per year based upon current County Water Availability Analysis policies. Based upon those criteria, the Allowable Water Allotment for the project site is 10.09 acre-feet per year (af/yr), determined by multiplying the 10.09 acre Agricultural Preserve zoned site by a one AF/YR/acre fair share water use factor. According to the Water Availability Analysis (WAA) prepared by Summit Engineering, Incorporated on October 23, 2015, the anticipated total water demand for the project site will be 4.49 AF/YR representing a 3.48 AF/YR increase of the existing water demand. The anticipated peak daily potable water demand for the parcel should be met with five existing potable water supply wells and three proposed 20,000 gallon storage tanks (*Flynnville Wine Company Use Permit Assistance - Water Availability Analysis, 2015*).

The proposed winery water use is less than the property's allowable water allotment of 10.09 acre feet per year. Thus, the proposed Use Permit is consistent with General Plan Goals CON-10 and CON-11, as well as the policies mentioned above that support preservation and sustainable use of groundwater for agricultural and related purposes.

The water availability analysis (WAA) calculations demonstrated that the project will not have a significant impact on groundwater supply and recharge rates. The project will not require a new water system or other improvements and will not have an impact on local groundwater.