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Recommended Findings

**PLANNING COMMISSION HEARING – APRIL 19, 2017
RECOMMENDED FINDINGS**

**THE CAVES AT SODA CANYON
USE PERMIT (P16-00106) & EXCEPTION TO THE ROAD AND STREET STANDARDS
2275 SODA CANYON ROAD, NAPA, CALIFORNIA
APN #039-640-013**

ENVIRONMENTAL:

1. The Planning Commission (Commission) has received and reviewed the proposed Addendum to the Napa Custom Crush/Waugh Winery Subsequent Mitigated Negative Declaration pursuant to the provisions of the California Environmental Quality Act (CEQA) and of Napa County's Local Procedures for Implementing CEQA as further described in the attached Addendum.

EXCEPTION TO THE ROAD AND STREET STANDARDS:

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

2. 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 manmade environmental features such as vineyards, rock walls, ornamental or decorative landscaping, fences or the like.

Analysis: The Exception request is proposed in order to minimize environmental impacts by reducing earth disturbances on steep slopes. These exceptions have been reviewed by the County Engineering Services Division and the Fire Marshal. As stated in the Engineering Services Division memoranda, dated December 22, 2016, it has been determined that the requested Exception will preserve unique features in the natural environment and staff is recommending approval of the request.

3. 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 existing roadway configuration and proposed improvements in the request, subject to recommended conditions of approval by Engineering Services Division, 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. See Engineering Services Division memorandum dated March 8, 2017, for further analysis and proposed conditions.

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:

4. 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) 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.

5. 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 modification application has been appropriately filed and notice and public hearing requirements have been met. The hearing notice and intent to adopt an Addendum to the adopted Subsequent Mitigated Negative Declaration for the winery were posted on April 8, 2017, and copies were forwarded to appropriate persons on the mailing list.

6. 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 modification 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 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 ensure the protection of the public health, safety, and welfare.

7. 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) 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 Sections 18.20.030) are permitted in the AW District with an approved use permit. The existing and proposed site improvements currently comply with the development regulation of the AW District, including the minimum 600-foot road setback for winery buildings, maximum parcel coverage, property line setbacks, and the 35-foot maximum building height as prescribed in County Code Sections 18.104.230.A.1, 18.104.220, and 18.104.010.

County Code Section 18.106, Viewshed Protection Program, applies to all land development activities on hillside areas exceeding 15% in slope or located on or in close proximity to a minor and major ridge line, when potentially visible from Viewshed designated roads.

The cave portal and outdoor visitation areas are on a hillside area generally visible to Silverado Trail and Highway 29, on the western hillside with a slope of greater than 15%, making the areas subject to the County's Viewshed Protection Program (County Code Chapter 18.106).

The applicant prepared an exhibit with photos of the site taken from viewshed roads (submitted with P14-00288) and a site visit was attended by staff. Based on materials provided by the applicant it has been determined that the cave portal, patio terrace, outdoor visitation areas, and access walkway will not be visible from Silverado Trail or Highway 29 because of the surrounding topography and existing vegetation.

In compliance with County Code Section 18.106.040.B, prior to the issuance of a building permit, the property owner shall be required to execute and record in the county recorder's office a use restriction, in a form approved by county counsel, requiring the existing covering vegetation to be maintained, or replaced with equivalent vegetation, by the owner or the owner's successors, so as to prevent the project from being viewed from any designated public road.

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

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

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..."). The proposed Use Permit modification supports the economic viability of the winery, 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.

8. 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 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.

A water use analysis has been completed by CMP Civil Engineering and Land Surveying on June 2, 2016, in accordance with the updated Water Availability Analysis adopted by the Board of Supervisors on May 12, 2015. The analysis estimates that groundwater use will increase from 0.7 acre feet per year to 1.08 acre feet per year. This is equivalent to 0.026 acre feet per acre of land, or about 1/3 of an inch of water. The report includes an analysis of groundwater recharge utilizing the average annual rainfall, evapotranspiration, and runoff based on the parcel location and soil types. The conclusion is that out of the approximate 100 acre feet of rainfall the parcel receives per year there is an estimated 27.69 acre feet of groundwater recharge. This represents a recharge rate of approximately 0.67 acre feet per acre. The amount of water that would be used by the project is less than 4% of the amount of recharge.

The proposed Use Permit modification 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 use analysis calculations demonstrated that the project would not have a significant impact on groundwater supply and recharge rates. The project would not require a new water system or other improvements and would not have an impact on local groundwater.

Other 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-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.