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Recommended Findings

**PLANNING COMMISSION HEARING JUNE 7, 2017
RECOMMENDED FINDINGS**

**ROBERT BIALE VINEYARDS USE PERMIT MODIFICATION
USE PERMIT MAJOR MODIFICATION #P16-00396-MOD
4038 BIG RANCH RD, NAPA, 94558
APN 0036-190-007**

ENVIRONMENTAL DETERMINATION:

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. 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, and Environmental Services Department, 1195 Third Street, Room 210, Napa, California.
5. There is no substantial evidence in the record as a whole, that the project will have a significant effect on the environment.
6. 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.
7. The site of this proposed project is not on the California Environmental Protection Agency's list of hazardous sites (Government Code Section 65962.5).

USE PERMIT MODIFICATION REQUIRED FINDINGS:

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

8. The Commission has the power to issue a use permit under the zoning regulations in effect as applied to the property.

Analysis: The project is consistent with AP (Agricultural Preserve) zoning district regulations. A winery (as defined in Napa County Code Section 18.08.640) and uses in connection with a winery (see Napa County Code Section 18.16.030) are permitted in an AP zoned district with an approved use permit. The project complies with the requirements of the Winery

Definition Ordinance (Ord. No. 947, 1990) and the remainder of the Napa County Zoning Ordinance (Title 18, Napa County Code) as applicable.

9. The procedural requirements for a use permit set forth in Chapter 18.124 of the Napa County Code (Use Permits) have been met.

Analysis: The use permit modification application has been filed, noticed and public hearing requirements have been met. The hearing notice was posted on May 6, 2017 and copies were forwarded to property owners within 1000 feet of the subject parcel and all other interested parties. The CEQA public comment period ran from May 17, 2017 to June 5, 2017.

10. The granting of the use permit, as conditioned, will not adversely affect the public health, safety or welfare of the County of Napa.

Analysis: Various County departments have reviewed the project and commented regarding water, waste water disposal, traffic and access, and fire protection. Conditions are recommended which will incorporate these comments into the project to assure the ongoing protection of the public health and safety.

11. 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.

Analysis: 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. The Winery Definition Ordinance (WDO) was established to protect agriculture and open space and to regulate winery development and expansion in a manner that avoids potential negative environmental effects. The project complies with the requirements of the Winery Definition Ordinance (Ord. No. 947, 1990) and the applicable provisions of the Napa County Zoning Ordinance (Title 18, Napa County Code).

The proposed use requests to repurpose an existing residential structure on the property into a winery accessory use. The existing residence is located less than the 600 foot winery from Big Ranch Road. NCC Section 18.104.230(A) (1) provides a 600 winery setback from any arterial county road. However, NCC Section 18.104.230 (C) provides that: "Legally constructed structures, existing prior to the enactment of the Winery Definition Ordinance (January 23, 1990), may be exempted from the setback provisions of subsection A of this section if it is found that use of this exemption will result in a more environmentally beneficial placement of the winery. The winery may not encompass or expand beyond the legally established footprint of the structure as it existed on the above stated date. Any expansion of such structure beyond the footprint that legally existed on the above date shall comply with the setback provisions of subsection A of this section." The project proposes to repurpose an existing residential structure, legally constructed prior to the WDO, which would be more environmentally beneficial than constructing additions to the winery in compliance with the required setback. The project does not include any expansion of the footprint of the existing building. Therefore, granting of the proposed use would be in compliance with the requirements of the Winery Definition Ordinance (Ord. No. 947, 1990) and the applicable provisions of the Napa County Zoning Ordinance (Title 18, Napa County Code).

This proposal is consistent with the *Napa County General Plan 2008*. The subject parcel is located on land designated Agricultural Resource (AR) on the County's adopted General Plan Land Use Map. This project is comprised of an agricultural processing facility (winery), along with wine storage, bottling, and other WDO-compliant accessory uses as outlined in and limited by the approved project scope. (See Exhibit 'B', Conditions of Approval.) These uses fall within the County's definition of agriculture and thereby preserve the use of agriculturally designated land for current and future agricultural purposes.

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 Agricultural Preservation and Land Use Goal AG/LU-3 states 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."

As approved here, the use of the property for the "fermenting and processing of grape juice into wine" (NCC Section 18.08.640) supports the economic viability of agriculture within the county consistent with General Plan Agricultural Preservation and Land Use Policy AG/LU-4 ("The County will reserve agricultural lands for agricultural use including lands used for grazing and watershed/ open space..."). Policy AG/LU-8 also states, "The County's minimum agricultural parcel sizes shall ensure that agricultural areas can be maintained as economic units and General Plan Economic Development Policy E-1 (The County's economic development will focus on ensuring the continued viability of agriculture...). Approval of this project furthers these key goals.

The General Plan includes two complimentary policies requiring that new wineries, "...be designed to convey their permanence and attractiveness." (General Plan Agricultural Preservation and Land Use Policy AG/LU-10 and General Plan Community Character Policy CC-2). The proposed winery, to the extent that it will be publicly visible, will convey permanence and attractiveness.

Agricultural Policy AG/LU-13 of the County General Plan recognizes wineries, and any use clearly accessory to a winery, as agriculture. The Land Use Standards of the General Plan Policy AG/LU-21 list the processing of agricultural products as one of the general uses recognized by the AR land use designations. The proposed project allows for the continuation of agriculture as a dominant land use within the county and is consistent with General Plan Agricultural Policy AG/LU-13.

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 the availability of adequate water supplies, which can be appropriated without significant negative impacts on shared groundwater resources. As analyzed below, the proposed winery will not interfere substantially with groundwater recharge based on the criteria established by Napa County Public Works Department.

Finally, 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. On balance, this project is consistent with the General Plan's overall policy framework and with the Plan's specific goals and policies.

12. The proposed use would not require a new water system or improvements 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 Napa County Code Section 13.15.070 or Section 13.15.080.

Analysis: The project 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 subject project is located in the Napa Valley Floor-Napa Subarea. A Water Availability Analysis-Phase One Study was prepared for the ±10.84 acre parcel (APN: 036-190-007) by Nichols, Melburg and Rossetto Architects/Engineers (dated November 14, 2016), which states that the Napa County Allowable Water Allotment for the property is 10.84 acre-feet/year (af/yr). This allotment is determined by multiplying the acreage of the parcel by the one (1) af/yr fair share water use factor. Minimum thresholds for water use have been established by the Department of Public Works using reports by the United States Geological Survey (USGS). These reports are the result of water resources investigations performed by the USGS in cooperation with the Napa County Flood Control and Water Conservation District. Any project which reduces water usage or any water usage which is at or below the established threshold is, for purposes of the application of the County's Groundwater Conservation Ordinance, assumed not to have a significant effect on groundwater levels.

The report indicates that the existing total water demand on the property is 6.18 af/yr, specifically: residence,.50 af/yr; winery process,.83 af/yr; employees,.17 af/yr; visitors,.09 af/yr; event visitors,.01 af/yr; landscape irrigation,.30; vineyard irrigation, 4.20 af/yr.; and water used not entering wastewater system,.07 af/yr. Total groundwater demand by the project will be 5.95 af/yr., specifically: winery process,1.16 af/yr; employees,.17 af/yr; visitors,.09 af/yr; event visitors,.01 af/yr; kitchen/tastings,.03; landscape irrigation,.30; 6.86 acres vineyard irrigation,4.05 af/yr.; and water used not entering wastewater system,.07 af/yr. The change in water use results from: the removal of the residence, repurposed for tasting room use; the re-purposing of the storage building into a tasting room with kitchen/with catering; additional visitation and marketing events; and a reduction of vines being replanted with the relocation of the driveway. Therefore there will be a .23 af/yr reduction in water demand, less than the 10.84 af/yr threshold established for the parcel.

According to Napa County environmental resource mapping (Water Deficient Areas/Storage Areas), the project site is not located within a water deficient area, however, the area is being studied and the project will be required to provide well monitoring information to aid the study. However, because the projected water demand for the project is far below the estimated mean estimated groundwater availability acre feet per year for the parcel, and since the project will result in a decrease in the existing groundwater demand, the requested Use Permit modification 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 will not require a new water system or other improvements and will not have a negative impact on local groundwater.